

JAMES HAWKINS APLC
 James R. Hawkins, Esq. (#192925)
 Gregory Mauro, Esq. (#222239)
 Michael Calvo, Esq. (#314986)
 Lauren Falk, Esq. (#316893)
 Ava Issary, Esq. (#342252)
 9880 Research Drive, Suite 200
 Irvine, CA 92618
 Tel.: (949) 387-7200
 Fax: (949) 387-6676
 Email: James@jameshawkinsaplc.com
 Email: Greg@jameshawkinsaplc.com
 Email: Michael@jameshawkinsaplc.com
 Email: Lauren@jameshawkinsaplc.com
 Email: Ava@jameshawkinsaplc.com

ELECTRONICALLY FILED
 Superior Court of California,
 County of Solano
09/17/2026 at 05:09:08 PM
 By: N. Shaw, Deputy Clerk

Attorneys for Plaintiff ERIBERTO CAZARES,
 Individually and on behalf of all others similarly situated

[Additional Counsel Listed on Next Page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SOLANO**

ERIBERTO CAZARES and CHRISTIAN
 SEPULVEDA, individually and on behalf of
 all others similarly situated,

Plaintiffs,

v.

AMERICAN AUTO WORKS, LLC, an
 Illinois Limited Liability Company; and
 DOES 1-50, inclusive,

Defendant.

CASE NO.: CU24-02345

**FIRST AMENDED CONSOLIDATED
 CLASS ACTION COMPLAINT
 PURSUANT TO CALIFORNIA CODE
 OF CIVIL PROCEDURE §382:**

1. **Failure to Pay Wages Including Minimum Wages and Overtime as Required by Labor Code §§ 510, 1194, 1197, 1197.1**
2. **Failure to Provide Meal Periods as Required by Labor Code §§ 226.7, 512 and IWC Wage Orders**
3. **Failure to Provide Rest Periods as Required by Labor Code §§ 226.7, 512 and IWC Wage Orders**
4. **Failure to Pay Timely Wages Required by Labor Code §§ 201, 202, and 203**
5. **Failure to Provide Accurate Itemized Wage Statements as Required by Labor Code § 226**
6. **Violation of Business & Professions Code § 17200, et seq.**
7. **Failure to Accurately Record and Pay Sick Leave as Required by Labor Code 201-203, 233 and 246;**

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

8. **Failure to Indemnify Necessary Business Expenses as Required by Labor Code § 2802**
9. **Civil Penalties Under The Private Attorneys General Act of 2004 (“PAGA”)**

DEMAND FOR JURY TRIAL

BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP
Norman B. Blumenthal (State Bar
#068687)
Kyle R. Nordrehaug (State Bar #205975)
Aparajit Bhowmik (State Bar #248066)
Nicholas J. De Blouw (State Bar #280922)
Jeffrey S. Herman (State Bar #280058)
jeffrey@bamlawca.com
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858)551-1223
Facsimile: (858) 551-1232
Website: www.bamlawca.com

Attorneys for Plaintiff CHRISTIAN
SEPULVEDA

1 Plaintiffs ERIBERTO CAZARES and CHRISTIAN SEPULVEDA (“Plaintiffs”), individually
2 and on behalf of all others similarly situated (hereinafter collectively referred to as the “Class” or
3 “Class Member”), hereby file this First Amended Consolidated Complaint against Defendants
4 AMERICAN AUTO WORKS, LLC, an Illinois Limited Liability Company and DOES 1-50,
5 inclusive (“Defendant”) and alleges on information and belief as follows:

6 **I. INTRODUCTION**

7 1. This is a consolidated Class Action, pursuant to California Code of Civil Procedure
8 section 382, on behalf of Plaintiffs and any and all persons who are or were employed by
9 Defendant, either directly or indirectly, at distribution or warehouse facilities in the State of
10 California at any time from four years prior to the filing of this Complaint through resolution or
11 trial of the matter. (“Class Members” or “Non-Exempt Employees”).

12 2. Further, this is also representative action for recovery of penalties under the Private
13 Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits
14 “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public
15 as private attorney general and all other current and former aggrieved employees, to recover civil
16 penalties and address an employer’s violations of the California Labor Code.

17 3. In this case, Defendant violated various provisions of the California Labor Code.
18 As set forth below, Defendant implemented policies and practices which led to unpaid wages
19 resulting from Defendant’s: (a) failure to pay wages including overtime, (b) failure to provide
20 meal periods for every work period exceeding more than ten (10) hours per day and failure to pay
21 an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a
22 meal period; (c) failure to provide rest breaks for every four hours or major fraction thereof
23 worked and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay
24 in lieu of providing a rest period; (d) failing to provide accurate itemized wage statements, (e)
25 failing to timely pay wages; (f) failure to indemnify necessary business expenses; and (g) failure to
26 accurately record and pay sick leave. As a result, Plaintiffs seek penalties under Labor Code 2698,
27 *et. seq.* on behalf of the general public as private attorney general and all other aggrieved
28 employees.

1 4.

2 5. During the liability period, as defined in the applicable statute of limitations for
3 each and every cause of action herein, Plaintiffs allege Defendant consistently maintained and
4 enforced against Defendant's Non-Exempt Employees unlawful practices and policies in violation
5 of California state wage and hour laws as detailed more extensively herein.

6 6. The California Labor Code and IWC Wage Orders require employers to provide to
7 their employees, among other things, lawful meal and rest periods, properly calculated meal, and
8 rest period premiums when meal or rest periods are not lawfully provided, and accurate, lawful
9 itemized wage statements.

10 7. Defendant implemented uniform policies and practices that deprived Plaintiffs and
11 Class Members of earned wages at the appropriate rate of pay, including minimum wages; straight
12 time wages; overtime wages; premium wages; sick pay; lawful meal and rest breaks; and timely
13 payment of wages.

14 8. Such actions and policies, as described above and further herein, were and continue
15 to be in violation of the California Labor Code. Plaintiffs, on behalf of themselves and all Class
16 Members, bring this action pursuant to the California Labor Code, including sections 201-204,
17 210, 218, 218.5, 218.6, 221-224, 226 *et seq.*, 226.3, 226.7, 227.3, 233, 245-249, 432, 510, *et seq.*,
18 512, 516, 558 *et seq.*, 1174, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 1198.5, 2802, applicable
19 IWC California Wage Orders and California Code of Regulations, Title 8, section 11000 *et seq.*,
20 seeking unpaid wages, unpaid meal and rest period compensation, penalties, liquidated damages,
21 and reasonable attorneys' fees and costs, California Code of Regulations, Title 8, Section 11040
22 Subdivision 5(A)-(B), California Code Regulations, Title 8, Section 1 1070(14) (Failure to
23 Provide Seating), and the applicable Wage Order(s).

24 9. Plaintiffs, on behalf of themselves and others similarly situated, pursuant to
25 Business and Professions Code sections 17200-17208, also seek restitution from Defendant for
26 their failure to pay to Plaintiffs and Class Members all of their wages, including overtime and
27 premium wages.

28 **II. JURISDICTION AND VENUE**

10. This class action is brought pursuant to California Code of Civil Procedure §382.

1 The monetary damages and restitution sought by Plaintiffs exceed the minimum jurisdiction limits
2 of the California Superior Court and will be established according to proof at trial.

3 11. This Court has jurisdiction over this action pursuant to the California Constitution
4 Article VI §10, which grants the California Superior Court original jurisdiction in all causes
5 except those given by statute to other courts. The statutes under which this action is brought do not
6 give jurisdiction to any other court.

7 12. This Court has jurisdiction over Defendant because, upon information and belief,
8 each Defendant either has sufficient minimum contacts in California, or otherwise intentionally
9 avails itself of the California market so as to render the exercise of jurisdiction over it by the
10 California Courts consistent with traditional notions of fair play and substantial justice.

11 13. The California Superior Court also has jurisdiction in this matter because the
12 individual claims of the members of the Classes herein are under the seventy-five-thousand-dollar
13 (\$75,000.00) jurisdictional threshold for Federal Court and the aggregate claim, including attorneys'
14 fees, is under the five million dollar (\$5,000,000.00) threshold of the Class Action Fairness Act of
15 2005. Further, there is no federal question at issue, as the issues herein are based solely on California
16 statutes and law, including the Labor Code, IWC Wage Orders, CCP, California Civil Code ("CC")
17 and B&PC.

18 14. Venue is proper in this Court because upon information and belief, one or more of
19 the Defendants reside, transact business, or have offices in this County and/or the acts or
20 omissions alleged herein took place in this County.

21 **II. PARTIES**

22 15. Plaintiff, ERIBERTO CAZARES, was at all times relevant to this action, a resident
23 of California. Plaintiff Cazares was employed by Defendant in January 2021 as a Non-Exempt
24 Employee with the title of Car Unloader and worked during the liability period for Defendant, at
25 Defendant's Milpitas, CA location until Plaintiff's separation from Defendant's employ in
26 approximately January 2024. Plaintiff's duties included but were not limited to unloading
27 vehicles from delivery trucks.

28 16. Plaintiff, CHRISTIAN SEPULVEDA, was employed by DEFENDANT in

1 California from April of 2023 to September of 2023 and was at all times classified by
2 DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally
3 required meal and rest periods and payment of minimum and overtime wages due for all time
4 worked.

5 17. Defendant AMERICAN AUTO WORKS, LLC, is an Illinois Limited Liability
6 Company that operates as an operator of intermodal, finished vehicle, and depot service terminals.
7 Defendant operates nationwide and internationally. Plaintiff estimates there are in excess of one
8 hundred (100) Non-Exempt Employees who work or have worked for Defendant over the last four
9 years.

10 18. Other than identified herein, Plaintiffs is unaware of the true names, capacities,
11 relationships, and extent of participation in the conduct alleged herein, of the Defendant sued as
12 DOES 1 through 50, but are informed and believe and thereon alleges that said Defendant is
13 legally responsible for the wrongful conduct alleged herein and therefore sues these Defendant by
14 such fictitious names. Plaintiffs will amend this complaint when their true names and capacities
15 are ascertained.

16 19. Plaintiffs are informed and believe and thereon alleges that each defendant,
17 directly or indirectly, or through agents or other persons, employed Plaintiffs and other members
18 of the Class, and exercised control over their wages, hours, and working conditions. Plaintiffs is
19 informed and believes and thereon alleges that each Defendant acted in all respects pertinent to
20 this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy
21 in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other
22 Defendant.

23 **III. CLASS ACTION ALLEGATIONS**

24 20. Plaintiffs bring this action individually and on behalf of all others similarly
25 situated as a class action pursuant to Code of Civil Procedure § 382. The members of the Class are
26 defined as follows:

27 All persons who have been employed by Defendant as Non-Exempt Employees or
28 equivalent positions, however titled, in the state of California within four (4) years from

1 the filing of the Complaint in this action until its resolution (collectively referred to as the
2 “Class” or “Plaintiffs’ Class” or “Class Members”).

3 21. Plaintiffs also seek to represent the subclass(es) composed of and defined as
4 follows:

5 **Sub-Class 1:** All Class Members who were not provided paid overtime and minimum
6 wages by Defendant (hereinafter collectively referred to as the “Overtime Subclass”).

7 **Sub-Class 2:** All Class Members who are or were employed by Defendant who worked in
8 excess of six or ten hours in a work-day but were not provided with a timely,
uninterrupted, duty-free thirty-minute meal period (hereinafter collectively referred to as
the “Meal Period Subclass”).

9 **Sub-Class 3:** All Class Members who are or were employed by Defendant who worked in
10 excess of three and a half (3.5) or ten hours in a work-day but were not authorized and
permitted a rest period (hereinafter collectively referred to as the “Rest Period Subclass”).

11 **Sub-Class 4:** All Class Members who are or were employed by Defendant at any time
12 between October 2022 and the present and who received wage statements from Defendant
13 (hereinafter collectively referred to as the “Wage Statement Subclass”).

14 **Sub-Class 5:** All Class Members who have been employed by Defendant at any time
15 between October 2020 and the present and have separated their employment (hereinafter
collectively referred to as the “Waiting Time Penalty Subclass”)

16 **Sub-Class 6:** All Class Members who are or were employed by Defendant who incurred
17 work related expenses as a result of the discharge to their duties and who did not receive
reimbursements from Defendants for such expenses (hereinafter collectively referred to as
the “Reimbursement Subclass”).

18 **Sub-Class 7:** All Class Members who are or were employed by Defendant and subject to
19 Defendant’s Unfair Business Practices (hereinafter collectively referred to as the “Unfair
20 Business Practice Subclass”).

21 22. Plaintiffs reserve the right under California Rule of Court 3.765(b) and other
22 applicable laws to amend or modify the class definition with respect to issues or in any other
23 ways. Plaintiff is a member of the Class as well as each of the Sub-Classes.

24 23. The term “Class” includes Plaintiffs and all members of the Class and each of the
25 Sub-Classes, if applicable. Plaintiffs seek class-wide recovery based on the allegations set forth in
26 this complaint.

27 24. There is a well-defined community of interest in the litigation and the proposed
28 Class is easily ascertainable through the records Defendant is required to keep.

1 25. Numerosity. The members of the Class are so numerous that individual joinder of
2 all of them as Plaintiffs is impracticable. While the exact number of the Class members is
3 unknown to Plaintiffs at this time, Plaintiffs are informed and believe and thereon allege that there
4 are at least 100 (one hundred) Class members.

5 26. Commonality. Common questions of law and fact exist as to all Class members
6 and predominate over any questions that affect only individual members of the Class. These
7 common questions include, but are not limited to:

- 8 i. Whether Defendant failed to pay minimum wage compensation to Plaintiffs and
9 Class Members for all hours worked;
- 10 ii. Whether Defendant failed to accurately pay overtime to Plaintiffs and Class
11 Members;
- 12 iii. Whether Defendant violated Labor Code §§ 226.7, 512, and applicable IWC Wage
13 Orders, by failing to authorize and permit daily rest periods to Plaintiffs and Class
14 Members for every four hours or major fraction thereof worked and failing to
15 compensate said employees one hour's wages in lieu of rest periods;
- 16 iv. Whether Defendant violated Labor Code §§ 226.7, 512 and applicable IWC Wage
17 Orders, by failing to provide a meal period to Plaintiffs and Class Members on days
18 they worked work periods in excess of five and ten hours and failing to compensate
19 said employees one hour wages in lieu of meal periods;
- 20 v. Whether Defendant failed to maintain accurate time record including recording
21 Plaintiffs' and Class Members' meal periods pursuant to Labor Code § 1174.5 and
22 the applicable IWC Wage Orders;
- 23 vi. Whether Defendant provided accurate itemized wage statements pursuant to Labor
24 Code section 226;
- 25 vii. Whether Plaintiffs and Class Members were not paid timely upon separation from
26 their employ with Defendant, pursuant to Labor Code section 203;
- 27 viii. Whether Plaintiffs and the Class Members are entitled to retroactive pay for unpaid
28 wages;

- ix. Whether Plaintiffs and Class Members were not properly compensated for off the clock security checks;
- x. Whether Defendant failed to accurately and properly pay sick pay to Plaintiffs and Class Members pursuant to Labor Code sections 201-203, 233, 246;
- xi. Whether Defendants failed to reimburse necessary business expenses to Plaintiffs and Class Members;
- xii. Whether Plaintiffs and the Members of the Class were provided adequate seating pursuant to California Code Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating) and the applicable Wage Order(s);
- xiii. Whether Defendant violated Business and Professions Code and Labor Code §§ 201-204, 226, 510, 512, 558, 226, 226.3, 226(b), 226.7, 233, 246, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 1198.5, 1785, 1786, 2802 and applicable IWC Wage Orders which violation constitutes a violation of fundamental public policy;
- xiv. Whether Plaintiffs and the Members of the Class are entitled to equitable relief pursuant to Business and Professions Code §§ 17200, *et. seq.*;
- xv. Whether Plaintiffs and the Members of the Class are entitled to relief in the form of back wages, penalties and interest for failure to pay minimum wages pursuant to Labor Code §§ 558, 1194 and 1197.

27. Typicality. Plaintiffs' claims herein alleged are typical of those claims which could be alleged by any member of the Class and/or Subclass, and the relief sought is typical of the relief which would be sought by each member of the Class and/or Subclass in separate actions. Plaintiff and all members of the Class and or Subclass sustained injuries and damages arising out of and caused by Defendant's common course of conduct in violation of California laws, regulations, and statutes as alleged herein.

28. Adequacy. Plaintiffs are qualified to, and will fairly and adequately protect the interests of each member of the Class and/or Subclass with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs acknowledge an obligation to make known to the Court any relationships, conflicts, or differences with any

1 member of the Class and/or Subclass. Plaintiffs' attorneys and the proposed Counsel for the Class
2 and Subclass are versed in the rules governing class action discovery, certification, litigation, and
3 settlement and experienced in handling such matters. Other former and current employees of
4 Defendant may also serve as representatives of the Class and Subclass if needed.

5 29. Superiority. A class action is superior to other available means for the fair and
6 efficient adjudication of the claims of the Class and would be beneficial for the parties and the
7 court. Class action treatment will allow a large number of similarly situated persons to prosecute
8 their common claims in a single forum, simultaneously, efficiently, and without the unnecessary
9 duplication of effort and expense that numerous individual actions would require. The damages
10 suffered by each Class member are relatively small in the sense pertinent to class action analysis,
11 and the expense and burden of individual litigation would make it extremely difficult or
12 impossible for the individual Class Members to seek and obtain individual relief. A class action
13 will serve an important public interest by permitting such individuals to effectively pursue
14 recovery of the sums owed to them. Further, class litigation prevents the potential for inconsistent
15 or contradictory judgments raised by individual litigation.

16 30. Public Policy Considerations: Employers in the state of California violate
17 employment and labor laws every day. Current employees are often afraid to assert their rights out
18 of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because
19 they believe their former employers may damage their future endeavors through negative
20 references and/or other means. The nature of this action allows for the protection of current and
21 former employees' rights without fear or retaliation or damage.

22 **IV. FACTUAL ALLEGATIONS**

23 31. At all times set forth herein, Defendant employed Plaintiffs and other persons in the
24 capacity of non-exempt positions, however titled, throughout the state of California.

25 32. Plaintiffs are informed and believe Class Members have at all times pertinent
26 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
27 rules and regulations of the IWC California Wage Orders.

28 33. Defendant continues to employ Non-Exempt Employees, however titled, in

1 California and implement a uniform set of policies and practices to all non-exempt employees, as
2 they were all engaged in the job duties related to Defendant's business.

3 34. Plaintiffs are informed and believe, and thereon allege, that Defendant is and was
4 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of
5 the requirements of California's wage and employment laws.

6 35. Plaintiffs are informed and believe that during the relevant time-frame, all Class
7 Members are citizens of the state of California.

8 36. During the relevant time-frame, Defendant compensated Plaintiffs and Class
9 Members based upon an hourly rate.

10 37. During the relevant time frame, Defendant exercised a non-discretionary incentive
11 program that paid Plaintiffs and other California Class Members incentive wages based on their
12 performance for Defendant. The non-discretionary incentive program provided all employees paid
13 on an hourly basis with incentive compensation when the employees met the various performance
14 goals set by Defendant. However, when calculating the regular rate of pay in order to pay
15 overtime and meal and rest break premiums to Plaintiffs and other California Class Members,
16 Defendant failed to include the incentive compensation as part of the employees' "regular rate of
17 pay" for purposes of calculating overtime pay and meal and rest break premium pay, and sick pay.
18 Management and supervisors described the incentive program to potential and new employees as
19 part of the compensation package. As a matter of law, the incentive compensation received by
20 Plaintiffs and other California Class Members must be included in the "regular rate of pay." The
21 failure to do so has resulted in an underpayment of overtime compensation and meal and rest
22 break premiums to Plaintiffs and other California Class Members by DEFENDANT.

23 38. On information and belief, Defendant required Plaintiffs and Class Members to
24 undergo security inspections after being clocked out from work. Defendant failed to compensate
25 Plaintiff and Class Members for the overtime spent performing these off-the-clock tasks.

26 39. Indeed, during the relevant time, as a consequence of Defendant's staffing and
27 scheduling practices, work demands, and Defendant's policies and practices, Defendant frequently
28 failed to provide Plaintiff and the Class Members timely, legally compliant uninterrupted 30-

1 minute meal periods on shifts over five hours as required by law.

2 40. On information and belief, Plaintiffs and Class Members did not waive their rights
3 to meal periods under the law.

4 41. Plaintiffs and the Class Members were not provided with valid lawful on-duty meal
5 periods.

6 42. Despite the above-mentioned meal period violations, Defendant failed to
7 compensate Plaintiffs, and on information and belief, failed to compensate Class Members, one
8 additional hour of pay at their regular rate as required by California law when meal periods were
9 not timely or lawfully provided in a compliant manner.

10 43. Plaintiffs are informed and believe, and thereon allege, that Defendant knows,
11 should know, knew, and/or should have known that Plaintiff and the other Class Members were
12 entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but
13 were not receiving such compensation.

14 44. In addition, during the relevant time frame, Plaintiffs and the Non-Exempt
15 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
16 period for every four hours worked or major fraction thereof, including third rest breaks which is a
17 violation of the Labor Code and IWC wage order.

18 45. The applicable California Wage Order requires employers to provide employees
19 with off-duty rest periods, which the California Supreme Court defined as time during which an
20 employee is relieved from all work-related duties and free from employer control. In so doing, the
21 Court held that the requirement under California law that employers authorize and permit all
22 employees to take rest period means that employers must relieve employees of all duties and
23 relinquish control over how employees spend their time which includes control over the locations
24 where employees may take their rest period. Employers cannot impose controls that prohibit an
25 employee from taking a brief walk - five minutes out, five minutes back. Here, Defendant's
26 policy restricted Plaintiffs and other California Class Members from unconstrained walks and is
27 unlawful based on Defendant's rule which states Plaintiffs and other California Class Members
28 cannot leave the work premises during their rest period.

1 46. Defendant maintained and enforced scheduling practices, policies, and imposed
2 work demands that frequently required Plaintiff and Class Members to forego their lawful, paid
3 rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
4 requisite rest periods were not timely authorized and permitted as a result of Defendant's failure to
5 provide relief for Plaintiff and Class Members to take their lawfully required breaks.

6 47. Despite the above-mentioned rest period violations, Defendant did not compensate
7 Plaintiffs, and on information and belief, did not pay Class Members one additional hour of pay at
8 their regular rate as required by California law, including Labor Code section 226.7 and the
9 applicable IWC wage order, for each day on which lawful rest periods were not authorized and
10 permitted.

11 48. Defendant also failed to provide accurate, lawful itemized wage statements to
12 Plaintiff and the Class Members in part because of the above-specified violations. In addition,
13 upon information and belief, Defendant omitted an accurate itemization of total hours worked,
14 including premiums due and owing for meal and rest period violations, overtime pay, gross pay
15 and net pay figures from Plaintiff and the Class Members' wage statements.

16 49. Plaintiffs are informed and believe, and thereon allege, that at all times herein
17 mentioned, Defendant knew that at the time of termination of employment (or within 72 hours
18 thereof for resignations without prior notice as the case may be) they had a duty to accurately
19 compensate Plaintiffs and Class Members for all wages owed including minimum wages, meal
20 and rest period premiums, and that Defendant had the financial ability to pay such compensation,
21 but willfully, knowingly, recklessly, and/or intentionally failed to do so in part because of the
22 above-specified violations.

23 50. Plaintiffs are informed and believe, and based thereon allege, that Defendant knew
24 or should have known that Plaintiffs and the other Class Members were entitled to receive all
25 wages owed to them during their employment. Plaintiffs and the other Class Members did not
26 receive payment of all wages, including overtime and minimum wages and meal and rest period
27 premiums, all at the appropriate rate of pay, within any time permissible under California Labor
28 Code section 204.

1 51. Further, Defendant underpaid sick pay wages to Plaintiffs and other California
2 Class Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
3 Code Section 246. Specifically, Plaintiffs and other non-exempt employees earn non-
4 discretionary remuneration. Rather than pay sick pay at the regular rate of pay, Defendant
5 underpaid sick pay to Plaintiff and other California Class Members at their base rates of pay.

6 52. Defendant violated Cal. Lab. Code Section 246 by failing to pay sick pay at the
7 regular rate of pay. Plaintiffs and California Class Members routinely earned non-discretionary
8 incentive wages which increased their regular rate of pay. However, when sick pay was paid, it
9 was paid at the base rate of pay for Plaintiffs and members of the California Class, as opposed to
10 the correct, higher regular rate of pay, as required under Cal. Lab. Code Section 246.

11 53. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to
12 collect or receive from an employee any part of wages theretofore paid by said employer to said
13 employee." Defendant failed to pay all compensation due to Plaintiffs and other California Labor
14 Sub-Class Members, made unlawful deductions from compensation payable to Plaintiffs and
15 California Labor Sub-Class Members, failed to disclose all aspects of the deductions from
16 compensation payable to Plaintiffs and California Labor Sub-Class Members, and thereby failed to
17 pay these employees all wages due at each applicable pay period and upon termination. Plaintiffs
18 and members of the California Labor Sub-Class seek recovery of all illegal deductions from wages
19 according to proof, related penalties, interest, attorney fees and costs.

20 54. In the course of their employment Plaintiffs and other California Class Members as
21 a business expense, were required by Defendant to use their own personal cellular phones as a
22 result of and in furtherance of their job duties as employees for Defendant but are not reimbursed
23 or indemnified by Defendant for the cost associated with the use of their personal cellular phones
24 for Defendant's benefit. Specifically, Plaintiffs and other California Class Members were required
25 by Defendant to use their personal cellular phones. As a result, in the course of their employment
26 with Defendant, Plaintiffs, and other members of the California Class incurred unreimbursed
27 business expenses which included, but were not limited to, costs related to the use of their
28 personal cellular phones all on behalf of and for the benefit of Defendant.

1 55. Further, Defendant acted in violation of the applicable sections of the California
2 Labor Code and the requirements of the applicable wage order as Defendant failed to provide
3 Plaintiffs suitable seating when the nature of Plaintiffs' work reasonably permitted sitting.

4 56. Upon information and belief, Defendant knew and or should have known that it is
5 improper to implement policies and commit unlawful acts such as:

6 (a) requiring employees to work four (4) hours or a major fraction thereof without
7 being provided a minimum ten (10) minute rest period and without compensating the employees
8 with one (1) hour of pay at the employees' regular rate of compensation for each workday that a
9 rest period was not provided;

10 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
11 without being provided an uninterrupted thirty-minute meal period and/or a second meal period,
12 and without compensating employees with one (1) hour of pay at the regular rate of compensation
13 for each workday that such a meal period was not provided;

14 (c) failing to pay overtime and minimum wages;

15 (d) failing to provide accurate itemized wage statements;

16 (e) failing to timely pay Plaintiffs and Class Members upon separation from
17 Defendant's employment;

18 (f) failing to timely pay Plaintiffs and Class Members during their employment;

19 (g) failing to pay sick leave pay;

20 (h) failing to provide suitable seating;

21 (i) failing to reimburse necessary business expenses;

22 (j) conducting and engaging in unfair business practices.

23 57. In addition to the violations above, and on information and belief, Defendant knew
24 they had a duty to compensate Plaintiffs and Class Members for the allegations asserted herein,
25 and that Defendant had the financial ability to pay such compensation, but willfully, knowingly,
26 recklessly, and/or intentionally failed to do so.

27 58. Plaintiffs and Class Members they seek to represent are covered by, and Defendant
28 is required to comply with, applicable California Labor Codes, Industrial Welfare Commission

1 Occupational Wage Orders (hereinafter “IWC Wage Orders”) and corresponding applicable
2 provisions of California Code of Regulations, Title 8, section 11000 *et seq.*

3 **FIRST CAUSE OF ACTION**

4 **FAILURE TO PAY WAGES INCLUDING OVERTIME**

5 **(Against All Defendants)**

6 59. Plaintiffs incorporate and re-allege each and every allegation contained above as
7 though fully set forth herein.

8 60. At all times relevant, the IWC wage orders applicable to Plaintiff’s and the Class
9 require employers to pay their employees for each hour worked at least minimum wage. “Hours
10 worked” means the time during which an employee is subject to the control of an employer, and
11 includes all the time the employee is suffered or permitted to work, whether or not required to do
12 so, and in the case of an employee who is required to reside on the employment premises, that
13 time spent carrying out assigned duties shall be counted as hours worked.

14 61. At all relevant times, Labor Code §1197 provides that the minimum wage for
15 employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a
16 lesser wage than the established minimum is unlawful. Further, pursuant to the IWC Wage Order
17 and Labor Code, Plaintiffs and Class Members are to be paid minimum wage for each hour
18 worked, and cannot be averaged At all times relevant, the IWC wage orders applicable to
19 Plaintiffs and Class Members’ employment by Defendant provided that employees working for
20 more than eight (8) hours in a day or forty (40) hours in a work week are entitled to overtime
21 compensation at the rate of one and one-half times the regular rate of pay for all hours worked in
22 excess of eight (8) hours in a day or forty (40) hours in a work week. An employee who works
23 more than twelve (12) hours in a day is entitled to overtime compensation at a rate of twice the
24 regular rate of pay.

25 62. At all relevant times, Labor Code §1197.1 states “[a]ny employer or other persons
26 acting individually as an officer, agent, or employee of another person, who pays or causes to be
27 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or
28 by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated

1 damages payable to the employee, and any applicable penalties pursuant to Section 203.

2 63. Labor Code §510 codifies the right to overtime compensation at the rate of one and
3 one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or
4 forty (40) hours in a work week and to overtime compensation at twice the regular rate of pay for
5 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
6 seventh day of work in a particular work week.

7 64. At all times relevant, Plaintiffs and Class Members regularly performed non-
8 exempt work and thus were subject to the overtime requirements of the IWC Wage Orders, CCR §
9 11000, et. seq. and the Labor Code.

10 65. At all times relevant, Plaintiffs and Class Members consistently worked in excess
11 of eight (8) hours in a day and/or forty (40) hours in a week and Defendant failed to accurately
12 calculate overtime pay to Plaintiffs and Class Members.

13 66. At all times relevant, Defendant has failed to accurately pay minimum and
14 overtime owed to Plaintiff and Class Members.

15 67. Accordingly, Defendant owe Plaintiffs and Class Members minimum and overtime
16 wages, and have failed to pay Plaintiffs and Class Members all of their wages owed at the
17 appropriate rate of pay.

18 68. Pursuant to Labor Code §§ 510, 558 and 1194, Plaintiffs and Class Members are
19 entitled to recover their unpaid wages and overtime compensation, as well as interest, costs, and
20 attorneys' fees.

21 **SECOND CAUSE OF ACTION**

22 **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**

23 **(Against All Defendants)**

24 69. Plaintiffs incorporate and re-allege each and every allegation contained above as
25 though fully set forth herein.

26 70. Pursuant to Labor Code §512, no employer shall employ an employee for a work
27 period of more than five (5) hours without providing a meal break of not less than thirty (30)
28 minutes in which the employee is relieved of all of his or her duties. An employer may not employ

1 an employee for a work period of more than ten (10) hours per day without providing the
2 employee with a second meal period of not less than thirty (30) minutes, except that if the total
3 hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual
4 consent of the employer and the employee only if the first meal period was not waived.

5 71. Pursuant to the IWC wage orders applicable to Plaintiff and Class Members'
6 employment by Defendant, in order for an "on duty" meal period to be permissible, the nature of
7 the work of the employee must prevent an employee from being relieved of all duties relating to
8 his or her work for the employer and the employees must consent in writing to the "on duty" meal
9 period. On information and belief, Plaintiffs and Class Members did not consent in writing to an
10 "on duty" meal period. Further, the nature of the work of Plaintiffs and Class Members was not
11 such that they were prevented from being relieved of all duties. Despite the requirements of the
12 IWC wage orders applicable to Plaintiffs' and Class Members' employment by Defendant and
13 Labor Code §512 and §226.7, Defendant did not provide Plaintiffs and Class Members with all
14 their statutorily authorized meal periods.

15 72. For the four (4) years preceding the filing of this lawsuit, Defendant failed to
16 provide Plaintiffs and Class Members, timely and uninterrupted meal periods of not less than
17 thirty (30) minutes pursuant to the IWC wage orders applicable to Plaintiffs and Class Members'
18 employment by Defendant. As a proximate result of the aforementioned violations, Plaintiffs and
19 the other Class Members have been damaged in an amount according to proof at time of trial.

20 73. By their failure to provide a compliant meal period for each shift worked over five
21 (5) hours and their failure to provide a compliant second meal period for any shift worked over ten
22 (10) hours per day by Plaintiff sand the Class Members, and by failing to provide compensation in
23 lieu of such non-provided meal periods, as alleged above, Defendant violated the provisions of
24 Labor Code §§226.7 and 512 and applicable IWC Wage Orders.

25 74. Plaintiffs and the Class Members she seeks to represent did not voluntarily or
26 willfully waive meal periods and were regularly required to work shifts without being provided all
27 of their legally required meal periods. Defendant created a working environment in which
28 Plaintiffs and Class Members were not provided all of their meal periods due to shift scheduling

1 and/or work related demands placed upon them by Defendant as discussed above. On information
2 and belief, Defendant's implemented a policy and practice which resulted in systematic and class-
3 wide violations of the Labor Code. On information and belief, Defendant's violations have been
4 widespread throughout the liability period and will be evidenced by Defendant's time records for
5 the Class Members.

6 75. As a result of the unlawful acts of Defendant described herein, Plaintiffs and the
7 Class Members they seek to represent have been deprived of premium wages in amounts to be
8 determined at trial. Pursuant to Labor Code §226.7, Plaintiffs and Class Members are entitled to
9 recover one (1) hour of premium pay for each day in which a meal period was not provided, along
10 with interest and penalties thereon, attorneys' fees, and costs.

11 **THIRD CAUSE OF ACTION**

12 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

13 **(Against All Defendants)**

14 76. Plaintiffs incorporate and re-alleges each and every allegation contained above as
15 though fully set forth herein.

16 77. Pursuant to the IWC wage orders applicable to Plaintiffs and Class Members'
17 employment by Defendant, "Every employer shall authorize and permit all employees to take rest
18 periods, which insofar as practicable shall be in the middle of each work period.... [The]
19 authorized rest period time shall be based on the total hours worked daily at the rate of ten (10)
20 minutes net rest time per four (4) hours worked or major fraction thereof.... Authorized rest period
21 time shall be counted as hours worked, for which there shall be no deduction from wages." Labor
22 Code §226.7(a) prohibits an employer from requiring any employee to work during any rest period
23 mandated by an applicable order of the IWC.

24 78. Defendant was required to authorize and permit employees such as Plaintiffs and
25 Class Members to take rest periods, based upon the total hours worked at a rate of ten (10) minutes
26 net rest per four (4) hours worked, or major fraction thereof, with no deduction from wages.
27 Despite said requirements of the IWC wage orders applicable to Plaintiffs' and Class Members'
28 employment by Defendant, Defendant failed and refused to authorize and permit Plaintiffs and

1 Class Members, to take ten (10) minute rest periods for every four (4) hours worked, or major
2 fraction thereof.

3 79. On information and belief, Defendant created a working environment in which
4 Plaintiffs and Class Members were not provided all of their rest periods due to shift scheduling
5 and/or work-related demands placed upon them by Defendant to meet the needs of Defendant's
6 business as discussed above. On information and belief, Defendant implemented a policy and
7 practice which resulted in systematic and class-wide violations of the Labor Code. On information
8 and belief, Defendant's violations have been widespread throughout the liability period.
9

10 80. As a proximate result of the aforementioned violations, Plaintiffs and Class
11 Members have been damaged in an amount according to proof at time of trial. Pursuant to Labor
12 Code §226.7, Plaintiffs and Class Members are entitled to recover one (1) hour of premium pay
13 for each day in which Defendant failed to provide a rest period to Plaintiffs and the Class, plus
14 interest and penalties thereon, attorneys' fees, and costs.
15

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO TIMELY PAY WAGES UPON SEPARATION**

18 **(Against All Defendants)**

19 81. Plaintiffs incorporate and re-alleges each and every allegation contained above as
20 though fully set forth herein.

21 82. Labor Code §§201-202 requires an employer who discharges an employee to pay
22 compensation due and owing to said employee immediately upon discharge and that if an
23 employee voluntarily leaves his or her employment, his or her wages shall become due and
24 payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-
25 two (72) hours previous notice of his or her intention to quit, in which case the employee is
26 entitled to his or her wages on their last day of work.

27 83. Labor Code §203 provides that if an employer willfully fails to pay compensation
28 promptly upon discharge, as required by Labor Code §§201-202, the employer is liable for waiting

1 time penalties in the form of continued compensation for up to thirty (30) work days.

2 84. During the relevant time period, Defendant willfully failed and refused, and
3 continues to willfully fail and refuse, to pay Plaintiffs and Class Members their wages, earned and
4 unpaid, either at the time of discharge, or within seventy-two (72) hours of their voluntarily
5 leaving Defendant's employ. These wages include regular and overtime.

6 85. As a result, Defendant is liable to Plaintiffs and members of the Non-Exempt
7 Production Employee class for waiting time penalties pursuant to Labor Code §203, in an amount
8 according to proof at the time of trial.

9 **FIFTH CAUSE OF ACTION**

10 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

11 **(Against All Defendants)**

12 86. Plaintiffs incorporate and re-alleges each and every allegation contained above as
13 though fully set forth herein.

14 87. Section 226(a) states that An employer, semi-monthly or at the time of each
15 payment of wages, shall furnish to his or her employee, either as a detachable part of the check,
16 draft, or voucher paying the employee's wages, or separately if wages are paid by personal check
17 or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
18 worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units
19 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
20 deductions, provided that all deductions made on written orders of the employee may be
21 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
22 which the employee is paid, (7) the name of the employee and only the last four digits of his or her
23 social security number or an employee identification number other than a social security number,
24 (8) the name and address of the legal entity that is the employer.

25 88. Section 226(a) of the California Labor Code requires Defendant to itemize in wage
26 statements all deductions from payment of wages and to accurately report total hours worked by
27 Plaintiffs and the Class including applicable hourly rates among other things. Defendant has
28 knowingly and intentionally failed to comply with Labor Code section 226 and 204 on wage

1 statements that have been provided to Plaintiffs and the Class.

2 89. IWC Wage Orders require Defendant to maintain time records showing, among
3 others, when the employee begins and ends each work period, meal periods, split shift intervals
4 and total daily hours worked in an itemized wage statement, and must show all deductions and
5 reimbursements from payment of wages, and accurately report total hours worked by Plaintiffs
6 and the Class. On information and belief, Defendant has failed to record all or some of the items
7 delineated in Industrial Wage Orders and Labor Code §226.

8 90. Defendant failed to identify the amounts and hours for items listed on its paystubs,
9 including but not limited to stipend amount.

10 91. Defendant has failed to accurately record all time worked.

11 92. Defendant has also failed to accurately record the meal and rest period premiums
12 owed and all wages owed per pay period.

13 93. Plaintiffs and the Class have been injured as they were unable to determine whether
14 they had been paid correctly for all hours worked per pay period among other things.

15 94. Defendant also failed to identify the rate of pay in its paystubs.

16 95. Pursuant to Labor Code section 226, Plaintiffs and the Class are entitled up to a
17 maximum of \$4,000 each for record keeping violations.

18 96. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
19 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
20 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
21 for each violation in a subsequent citation, for which the employer fails to provide the employee a
22 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

23 **SIXTH CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200, et. seq.**

25 **(Against All Defendants)**

26 97. Plaintiffs incorporate and re-alleges each and every allegation contained above as
27 though fully set forth herein.

28 98. Defendant's conduct, as alleged in this complaint, has been, and continues to be,

1 unfair, unlawful, and harmful to Plaintiffs and Class Members, Defendant's competitors, and the
2 general public. Plaintiffs seek to enforce important rights affecting the public interest within the
3 meaning of the California Code of Civil Procedure §1021.5.

4 99. Defendant's policies, activities, and actions as alleged herein, are violations of
5 California law and constitute unlawful business acts and practices in violation of California
6 Business and Professions Code §§17200, et seq.

7 100. A violation of California Business and Professions Code §§17200, et seq., may be
8 predicated on the violation of any state or federal law. Defendant's policy of failing to accurately
9 pay overtime, failing to pay minimum wages, failing to reimburse expenses, failing to provide a
10 day's rest in seven, failing to provide accurate itemized wage statements and failing to provide
11 Plaintiffs and the Class with meal periods and rest breaks or the one (1) hour of premium pay
12 when a meal or rest break period was not provided or provided outside of the required time
13 frames, violates Labor Code § 226, §512, § 226.7, § 1194, § 2802 and applicable IWC Wage
14 Orders and California Code of Regulations.

15 101. Plaintiffs and Class Members have been personally aggrieved by Defendant's
16 unlawful and unfair business acts and practices alleged herein by the loss of money and/or
17 property.

18 102. Pursuant to California Business and Professions Code §§17200, et seq., Plaintiffs
19 and Class Members are entitled to restitution of the wages withheld and retained by Defendant
20 during a period that commences four (4) years prior to the filing of this complaint; an award of
21 attorneys' fees, interest; and an award of costs.

22
23
24 **SEVENTH CAUSE OF ACTION**

25 **FAILURE TO ACCURATELY RECORD AND PAY SICK LEAVE**

26 **(Against All Defendants)**

27 103. Plaintiffs incorporate and re-allege each and every allegation contained above as
28 though fully set forth herein.

104. Labor Code Section 246(i) provides that: “an employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee’s itemized wage statement ‘unlimited.’ The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.”

105. Labor Code § 246 provides that the employer shall calculate paid sick leave by using one of two calculations: (1) “Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek;” or (2) “Paid sick time for nonexempt employees shall be calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

106. As a result of the unlawful acts of Defendant, Plaintiffs and Class Members have been deprived of sick pay in amounts to be determined at trial, and are entitled to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

EIGHTH CAUSE OF ACTION

FAILURE TO INDEMNIFY NECESSARY BUSINESS EXPENSES

(Against All Defendants)

107. Plaintiffs incorporate and re-alleges each and every allegation contained above as though fully set forth herein.

108. Labor Code § 2802 requires Defendants to indemnify Plaintiffs and Class Members for necessary expenditures incurred in direct consequences of the discharge of his or her duties. As a necessary part of employment, Plaintiffs and on information and belief Class Members, were not adequately reimbursed by Defendants for expenses related to all expenses incurred as a result of required tools and supplies, which was incurred as a direct consequence of the discharge of duties

1 by Plaintiffs and Class Members. Defendants also failed to reimburse Plaintiffs for tools required
2 to execute their job duties. Despite these realities of the job, Defendants failed to provide
3 reimbursements for the purchase of tools, all necessary to carry out their job duties.

4 109. Labor Code §2804 states in pertinent part: “Any contract or agreement, express or
5 implied, made by any employee to waive the benefits of this article or any part thereof is null and
6 void, and this article shall not deprive any employee or his or her personal representative of any
7 right or remedy to which he is entitled under the laws of this State.

8 110. As a result of the unlawful acts of Defendants, Plaintiffs and the Class Members
9 have been deprived of un-reimbursed expense amounts to be determined at trial, and are entitled to
10 the recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
11 pursuant to Labor Code § 2802.

12 **NINTH CAUSE OF ACTION**

13 **PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”) AND OTHER**

14 **PROVISIONS OF THE CALIFORNIA LABOR CODE**

15 **(Against All Defendants)**

16 111. Plaintiffs reallege and incorporate by reference all previous paragraphs.

17 112. Plaintiffs are aggrieved employees as defined in Labor Code Section 2699(a).
18 Plaintiffs bring this cause of action on behalf of all current and former California Non-Exempt
19 Employees of Defendants.

20 113. Based on the above allegations incorporated by reference, Defendants violated
21 California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 218.5, 218.6, 221, 224, 226, 226.3,
22 226.7, 227.3, 246, 432, 510, 512, 558, 1174, 1174.5, 1175, 1185, 1194, 1194.2, 1197, 1197.1,
23 1198, 1198.5, 1199, 2802, and 2084, California Code of Regulations, Title 8, Section 11040
24 Subdivision 5(A)-(B), California Code Regulations, Title 8, Section 1 1070(14) (Failure to
25 Provide Seating), and the Applicable Wage Orders (Cal. Code of Regs., tit. 8, §§ 11040, 11050).
26 As a result of the acts alleged above, Plaintiffs seek penalties under California Labor Code §§
27 2698–2699.6 because of Defendants’ violation of the California Labor Code and applicable IWC
28 Wage Orders.

1 114. Under California Labor Code §§ 2699(f)(2) and 2699.5, for each such violation,
2 Plaintiffs and the Aggrieved Employees are entitled to penalties in an amount to be shown at the
3 time of trial subject to the following formula:

4 a. \$100 for the initial violation per employee per pay period; and

5 b. \$200 for each subsequent violation per employee per pay period.

6 115. These penalties shall be allocated sixty-five percent (65%) to the Labor and
7 Workforce Development Agency (LWDA) and thirty-five percent (35%) to the affected
8 employees. These penalties may be stacked separately for each of Defendants violations of the
9 California Labor Code. *See e.g. Hernandez v. Towne Park, Ltd.*, No. CV 12-02972 MMM (JCGx)
10 2012 U.S.Dist. LEXIS 86975, at *59, fn. 77 (C.D.Cal. June 22, 2012) (holding that although the
11 Plaintiffs did not seek stacked PAGA penalties, that “PAGA penalties can be ‘stacked,’ *i.e.*,
12 multiple PAGA penalties can be assessed for the same pay period for different Labor Code
13 violations.”); *See Lopez v. Friant & Assocs., LLC*, No. A148849, 2017 Cal. App. LEXIS 839, at
14 *1 (Ct. App. Sep. 26, 2017) (“hold[ing] a Plaintiffs seeking civil penalties under PAGA for a
15 violation of Labor Code section 226(a) does not have to satisfy the ‘injury’ and ‘knowing and
16 intentional’ requirements of section 226(e)(1) and acknowledging that a Plaintiff could recover
17 separately under PAGA for violations of Labor Code §§ 226(a) and 226(e)).

18 116. In addition, to the extent permitted by law, Defendants failed to provide Plaintiff
19 and all aggrieved employees with accurate itemized wage statements in compliance with Labor
20 Code § 226(a). Plaintiffs seek separate PAGA penalties for Defendant’s violations of Labor Code
21 §§ 226(a) and 226(e).

22 117. For violations of Labor Code § 226(a), Plaintiffs seek the default penalty provided
23 by Labor Code § 226.3. Labor Code § 226.3 provides that “[a]ny employer who violates
24 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty
25 dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000)
26 per employee for each violation in a subsequent citation, for which the employer fails to provide
27 the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section
28 226.” Accordingly, through PAGA and to the extent permitted by law Plaintiffs and the Aggrieved

1 Employees are entitled to recover penalties for violations of Labor Code § 226.3 and seeks default
2 PAGA penalties for each of Defendants' numerous violations of Labor Code § 226(e).

3 118. Further, Plaintiffs, as Aggrieved Employees, need not demonstrate or prove that
4 Defendant's conduct in refusing to provide accurate and itemized wage statements was knowing,
5 intentional, or willful.

6 119. Labor Code § 210 provides that "in addition to, and entirely independent and apart
7 from, any other penalty provided in this article, every person who fails to pay the wages of each
8 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any
9 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
10 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
11 failure to pay each employee, plus 25% of the amount unlawfully withheld." As a result of the
12 faulty compensation policies and practices described in detail above, Plaintiffs and the other
13 Aggrieved Employees are entitled to recover penalties under Labor Code § 210 through PAGA.

14 120. Labor Code § 1174.5 provides for a civil penalty of \$500 for any person employing
15 labor who willfully fails to maintain accurate and complete records required by subdivision (d) of
16 section 1174.

17 121. Plaintiffs have complied with the procedures for bringing suit specified in
18 California Labor Code § 2699.3. and will have fully exhausted their administrative remedies under
19 PAGA prior to proceeding with the PAGA claim. On or about November 11, 2025, Plaintiffs filed
20 his PAGA Notice online with the Labor Workforce Development Agency ("LWDA") and sent a
21 letter by certified mail to Defendant setting forth the facts and theories of the violations alleged
22 against Defendant, as prescribed by Labor Code § 2698 *et seq.* As required by PAGA, Plaintiffs
23 submitted the \$75.00 filing fee with the LWDA by regular mail. Pursuant to Labor Code §
24 2699.3(a)(2)(A), no notice was and/or will have been received by Plaintiffs from the LWDA
25 evidencing its intention to investigate within sixty-five (65) calendar days of the postmark date of
26 the PAGA notice. Plaintiffs are therefore entitled to commence and proceed with a civil action
27 pursuant to Labor Code § 2699.

28 **PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiffs pray for judgment against Defendant, as follows:

2 Class Certification

- 3 1. That this action be certified as a class action;
- 4 2. That Plaintiffs be appointed as the representatives of the Class;
- 5 3. That Plaintiffs be appointed as the representatives of the Subclass; and
- 6 4. That counsel for Plaintiffs are appointed as counsel for the Class and Subclass.

7 On the First Cause of Action

- 8 1. For compensatory damages equal to the unpaid balance of minimum wage
- 9 compensation and overtime owed to Plaintiffs and Class members as well as interest and costs;
- 10 2. For reasonable attorneys' fees and costs pursuant to Labor Code §§ 510, and 1194;
- 11 3. For liquidated damages in an amount equal to the wages unlawfully unpaid and
- 12 interest thereon pursuant to Labor Code §§ 1194.2, 558;
- 13 4. For such other and further relief as the Court deems proper.

14 On the Second Cause of Action

- 15 1. For one (1) hour of premium pay for each day in which a required meal period was
- 16 not provided or not provided in a timely manner; and
- 17 2. For such other and further relief as the Court deems proper.

18 On the Third Cause of Action

- 19 1. For one (1) hour of premium pay for each day in which a required rest period was
- 20 not authorized or permitted; and
- 21 2. For such other and further relief as the Court deems proper.

22 On the Fourth Cause of Action

- 23 1. For statutory penalties pursuant to Labor Code §203;
- 24 2. For interest for wages untimely paid; and
- 25 3. For such other and further relief as the Court deems proper.

26 On the Fifth Cause of Action

- 27 1. For statutory penalties pursuant to Labor Code §226;
- 28 2. For interest for wages untimely paid;

- 1 3. For penalties pursuant to Labor Code §266.3; and
2 For such other and further relief as the Court deems proper

3 On the Sixth Cause of Action

4 1. That Defendant, jointly and/or severally, pay restitution of sums to Plaintiffs and
5 Class Members for their past failure to accurately pay overtime, failing to pay minimum wages,
6 failing to reimburse expenses,, failing to provide accurate itemized wage statements and failing to
7 provide Plaintiffs and the Class with meal periods and rest breaks or the one (1) hour of premium
8 pay when a meal or rest break period was not provided or provided outside of the required time
9 frames as described herein to Plaintiffs and Class Members over the last four (4) years in an
10 amount according to proof;

11 2. For pre-judgment interest on any unpaid wages due from the day that such amounts
12 were due;

13 3. For reasonable attorneys' fees that Plaintiffs and Class Members are entitled to
14 recover;

15 4. For costs of suit incurred herein; and

16 5. For such other and further relief as the Court deems proper.
17

18 On the Seventh Cause of Action

- 19 1. For statutory penalties pursuant to Labor Code §246;
20 2. For interest for wages untimely paid; and
21 3. For such other and further relief as the Court deems proper.

22 On the Eighth Cause of Action

- 23 1. For statutory penalties pursuant to Labor Code §2802;
24 2. For interest for wages untimely paid; and
25 3. For such other and further relief as the Court deems proper.

26 On the Ninth Cause of Action

27 1. For civil penalties in the amount of \$100 for the initial violation and \$200 for each
28 subsequent violation as specified in California Labor Code § 2699(f)(2), in the representative

1 action brought on behalf of Plaintiffs and the Aggrieved Employees pursuant the California
2 Private Attorneys General Act of 2004, and for civil penalties available under California Labor
3 Code § 210 and the California Private Attorneys General Act of 2004.

4 2. For attorneys' fees and costs as provided by Labor Code sections 218.5, 226, and
5 Code of Civil Procedure section 1021.5

6 3. For such other and further relief as the Court deems proper.

7
8
9 **DEMAND FOR JURY TRIAL**

10 Plaintiffs and members of the Class and Subclass request a jury trial in this matter.

11
12 Dated: September 17, 2026

JAMES HAWKINS APLC

13 By: /s/ Gregory Mauro

14 JAMES R. HAWKINS, ESQ.
15 GREGORY MAURO, ESQ.
16 MICHAEL CALVO, ESQ.
17 LAUREN FALK, ESQ.
18 AVA ISSARY, ESQ.

19 Attorneys for Plaintiffs

20 Dated: September 17, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE
BLOUW LLP

21 By: /s/ Nicholas J. De Blouw

22 Norman B. Blumenthal
23 Nicholas De Blouw
24 Jeffrey S. Herman

25 Attorneys for Plaintiffs
26
27
28