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Attorneys for Plaintiff SISILIA LEALAO and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SISILIA LEALAO, an individual; on behalf of) Case No. 24STCV03049
herself and all others similarly situated and the)
general public,)

Plaintiffs,

vs.

U.S. AVIATION SERVICES CORP., a)
Nevada corporation; and DOES 1 through 100,)
inclusive,)

Defendants.)

[Assigned for All Purposes to:
The Hon. Samantha P. Jessner, Dept. 7]
DECLARATION OF AARON A. BARTZ IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT

Date: May 5, 2025
Time: 9:00 AM
Dept.: SSC-7

I, Aaron A. Bartz, declare:

2. I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement.

4. Prior to pursuing their claims against Defendant, Plaintiff filed and served notice on the Labor and Workforce and Development Agency (LWDA) of the facts and theories underlying the violations, and the specific Labor Code sections that were violated pursuant to the Private Attorneys General Act (PAGA), on November 30, 2023. Attached as **Exhibit 1** hereto is a true and correct copy of Plaintiffs' November 30, 2023 PAGA letter.

6. I believe the settlement achieved in this case, a non-reversionary amount of \$705,000, is fair, reasonable and adequate taking into account all of the strengths and weaknesses of the case, Defendant's defenses, as well as the potential trial delays and appeals in the event this case was not settled.

7. I am experienced class action counsel, including specializing in wage and hour and employment claims. Some of the class action litigation on which I have served as Class Counsel include:

- 1 a. *Wilkins, et al. v. Equinox Holdings, Inc.*
2 Los Angeles Superior Court, No.: BC440058
- 3 b. *TBC Retail Group Wage and Hour Cases*
4 Los Angeles Superior Court, No.: JCCP No. 4701
- 5 c. *Casserly v. Randstad US, L.P., et al.*
6 U.S.D.C., Central District of California, No. SACV 12-1023-DOC(ANx)
- 7 d. *Crilly v. Micro Electronics, Inc.*
8 Orange County Superior Court, No.: 30-2013-00662586-CU-OE-CXC
- 9 e. *Concho, et al. v. Pipeline Carriers, Inc. et al.*
10 Orange County Superior Court, No.: 30:2013-00649600-DU-OE-CXC
- 11 f. *Holsted et al. v. R.J. Noble Company et. al.*
12 Orange County Superior Court, No.: 30:2010-00379770-CU-OE-CXC
- 13 g. *Piggue v. Chief Protective Services, Inc.*
14 Orange County Superior Court, No.: 30-2013-00688107-CU-OE-CXC
- 15 h. *Walsh v. Pacific Bell Telephone Company*
16 Orange County Superior Court, No.: 30-2011-00498062-CU-OE-CXC
- 17 i. *Woods v. JFK Memorial Hospital*
18 Riverside County Superior Court, No.: INC 1205209
- 19 j. *Ramirez et. al v. Titan Insurance of New Mexico*
20 Riverside County Superior Court, No.: RIC1211890
- 21 k. *Duran v. Big 5 Corp.*
22 Los Angeles Superior Court, Case No. BC557154
- 23 l. *Sheahan v. Celtic Leasing Corporation, Inc.*
24 Orange County Superior Court No.: 30-2016-00852151-CU-OE-CXC
- 25 m. *Panasis v. Control4 Corporation*
26 United States District Court, Central District of California
27 Case No. SACV-16-1179-DOC
- 28 n. *O&R Construction, LLC v. Dun & Bradstreet, et al.*
United States District Court, Western District of Washington
Case No. C12-2184 TSZ

- 1 o. *Matthews v. Whelan Security of California, Inc.*
2 Orange County Superior Court, No.: 30-2016-00833250-CU-OE-CXC
3 p. *Rodriguez v. R.J. Noble Company (Navarro/Kles),*
4 Orange County Superior Court, No.: 30-2017-00916018-CU-OE-CXC
5 q. *Wang v. Fountain Valley Regional Hospital*
6 Orange County Superior Court, No. 30-2015-00821329-CU-OE-CXC
7 r. *Skerl v. Sutter Bay Hospitals*
8 San Mateo Superior Court, No. 21-CV-02057

9 8. I graduated from Vanderbilt University in 1992 with a Bachelor of Arts in
10 Economics and English, and graduated from Southwestern Law School in 1998. Since becoming
11 a lawyer in 1998, my practice has focused on complex litigation matters, and for more than a
12 decade, complex employment law and wage and hour matters.

13 9. I am a member of the California State Bar, the Orange County Bar Association,
14 Los Angeles County Bar Association, and California Employment Lawyers Association. I have
15 an AV rating from Martindale-Hubbell, the highest possible rating for a lawyer. During my 26+
16 year career, I have handled many successful employment law matters both at the trial and
17 appellate levels. I estimate that I have represented plaintiffs in hundreds of different
18 employment cases, the vast majority of which have resulted in favorable settlements, awards
19 and/or verdicts for my clients. I have successfully prosecuted and obtained significant recoveries
20 in several class action lawsuits and other lawsuits involving complex legal and factual issues. In
21 2015, I was co-lead counsel in *Walsh v. Pacific Bell*, which settled for \$16,800,000. Recently, in
22 the *Skerl v. Sutter Bay Hospitals* case above, the parties settled for \$12,000,000. I have also been
23 involved in many other million and multi-million dollar verdicts and settlements over the years.

24 10. In addition to myself, Rex J. Phillips, an attorney with over 19 years of
25 experience, also assisted me with the prosecution of this case. Mr. Phillips graduated with
26 Honors from Glendale University College of Law, achieved a B.A. in English from California
27 State Polytechnic University, Pomona, and has many years of experience prosecuting
28

1 employment actions, including wage and hour class and representative actions.

2 11. Moreover, assisting Mr. Phillips and I on this case were paralegals Nestor Mejia
3 and Leanne Nguyen-Phuoc. Mr. Mejia has an AA from West Los Angeles College in Business
4 Administration, and has many years of experience working on employment and wage and hour
5 matters, including PAGA and complex class actions, for my firm and others within California.
6 Ms. Nguyen-Phuoc has a BA from University of California, Irvine (UCI), and attained a
7 paralegal certificate from UCI in 2023. Ms. Nguyen-Phuoc has worked on various employment
8 and wage and hour matters for the past year.

9
10 **CLASS ENHANCEMENTS AND ATTORNEYS' FEES, COSTS AND EXPENSES**

11 12. Plaintiffs have assisted Class Counsel in their investigation by connecting Class
12 Counsel to other individuals who were employed by Defendant, and by corresponding with Class
13 Counsel to answer questions about their employment. Plaintiffs also spent many hours
14 conferring with Class Counsel both prior to and after initiating this litigation, assisted Class
15 Counsel with reviewing Defendant's informal discovery, assisted in the preparation for
16 mediation, were on-call during the entirety of the mediation, and have produced payroll and
17 other employment records to assist Class Counsel in pursuing the claims in this case.

18 13. In addition, Plaintiffs are releasing all claims, not just wage and hour claims, as
19 part of their releases in this case. As such, Plaintiffs' release includes a waiver of unknown
20 claims and their rights under California Civil Code § 1542.

21 14. Based on the above, and the Declarations of the Class Representatives filed
22 concurrently, the requested service payments of \$7,500 for each of the named Plaintiffs are
23 appropriate and justified.

24 15. At the time of final approval, my firm and co-counsel will submit detailed records
25 of their attorneys' fees and costs, which will amply support Plaintiffs' attorneys' fees request of
26 not more than one-third of the settlement, or \$235,000, and costs not to exceed \$30,000.

27 16. After receiving several bids for administering the class notice in this action,
28 Plaintiffs have selected Apex, with a not to exceed bid of \$10,900 to administer this settlement.

1 I declare under penalty of perjury under the laws of California that the foregoing is true
2 and correct. Executed on March 25, 2025, at Irvine, California.

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4 //Aaron A. Bartz//

5 Aaron A. Bartz
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EXHIBIT 1

BARTZ LAW GROUP, APC

5151 California Ave., Suite 100

Irvine, California 92617

(949) 504-4413

aaron@bartzlawgroup.com

November 30, 2023

Notice Via Online Submission

PAGA Administrator
California Labor and Workforce Development Agency

Via Certified Mail (Return Receipt Requested)

U.S. Aviation Services Corp.
c/o CT Corporation System
Agent for Service of Process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

Re: *Sisilia Lealao v. U.S. Aviation Services Corp.*

Dear PAGA Administrator:

Please be advised that Bartz Law Group, APC and United Employees Law Group represent Sisilia Lealao and all other similarly situated aggrieved employees ("Plaintiffs") with respect to their employment with U.S. Aviation Services Corp. ("Employer").

The Employer has committed numerous violations of the California Labor Code, including, but not limited to, sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, and 1198. The facts and theories to support the alleged violations are set forth herein.

Employer performs janitorial and other related services within California. Plaintiff Lealao was employed as a non-exempt hourly employee by Employer between June 2021 and August 2023. Plaintiffs worked for Employer in California within the last year, and were subject to the same wage and hour violations as Plaintiff Lealao.

A. Failure to Pay All Wages

Employer has regularly failed to pay Plaintiff Lealao and all other aggrieved employees all wages that they are owed, including minimum wages and overtime compensation, based upon Employer's policy and practice of not paying for all hours worked. For example, Employer fails and refuses to pay Plaintiff Lealao and all other aggrieved employees overtime worked by capping the hours that will be paid, despite the fact that Plaintiff Lealao and other aggrieved employees regularly work in excess of 8 hours per day and 40 hours per week. Employer does this by, among other

things, adjusting Plaintiff Lealao's and other aggrieved employees' hours so that the correct overtime is not paid. Employer also fails to pay for hours in which Plaintiffs are suffered or permitted to work, including Employer's practice and policy of requiring Plaintiffs to arrive to work before their shifts and conduct necessary work activities to get ready for their shifts, but then prohibits Plaintiffs from clocking in until Employer authorizes. Plaintiffs are also required to clock out while at work, so that Employer could avoid paying all wages owed. Plaintiffs are also required to perform training during their meal periods or non-work hours, without compensation. Employer's failure to pay all minimum wages and overtime compensation violates Labor Code §§ 510 and 1194.

Labor Code § 204(a) provides in pertinent part that "[a]ll wages, other than those mentioned in [Labor Code] Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month."

Pursuant to Labor Code § 204(b)(1), moreover, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." Here, Employer did not pay Plaintiffs all wages owed in a timely manner, based on the allegations above, thereby violating Labor Code § 204.

B. Meal Breaks

Employer has adopted, implemented and enforced uniform meal period policies that are not lawful under California law. Employer is required to provide a first meal period no later than the end of the 5th hour of work, and a second meal period no later than the end of the 10th hour of work. Plaintiffs are required to complete their jobs even when Employer coerces them to clock out for meal periods, without getting paid. Moreover, Plaintiffs' meal periods often were late, missed, or short, because Plaintiffs were required to attend to their work duties, and Employer did not have sufficient personnel to allow Plaintiffs to take their meal periods duty-free. Plaintiffs frequently have to work through their meal periods, and even when getting their meal period, Plaintiffs are often interrupted and/or otherwise meal periods are taken while Plaintiffs are still attending to work activities, and as such, the meal periods are not duty-free.

Employer has also failed to pay Plaintiffs one hour of pay at their regular rate of pay for each workday that a compliant meal period was not provided. As such, Employer has violated Labor Code §§ 226.7 and 512.

C. Rest Breaks

Employer failed to adopt, implement, or enforce a rest break policy that complied with California law. Plaintiff Lealao and all other aggrieved employees were either not authorized or permitted to take their rest breaks. By the nature of Plaintiff Lealao's and other aggrieved employees' job duties, moreover, Plaintiffs were always on call during their shifts, and not allowed to take their rest periods. Employer also coerced Plaintiffs not to take legally mandated rest periods by criticizing, disciplining and/or reprimanding employees who attempted to take legally mandated rest periods; failing to schedule rest periods; and constantly pressuring Plaintiffs to remain available during their shifts. As such, Employer failed to authorize and permit Plaintiffs to take duty-free rest periods of 10 minutes for every four hours worked or major fraction thereof, failed to provide a second duty-free rest period of 10 minutes for shifts between 6-10 hours and failed to provide a third duty-free rest period of 10 minutes for shifts in excess of 10 hours. As a result of Employer's lack of a rest break policy that complies with California law, Employer has violated Labor Code section 226.7.

Employer also failed to pay Plaintiff Lealao or the other aggrieved employees' one hour of pay at their regular rate of pay for each workday that a compliant rest period was not authorized or permitted. As such, Employer has violated Labor Code §§ 226.7 and 51

D. Wage Statement Violations

In conjunction with the above-referenced violations, Employer willfully failed to provide properly itemized wage statements to Plaintiffs pursuant to Labor Code section 226. Violations include, but are not limited to: an inaccurate showing of wages due and owing, failing to include gross wages earned as a result of not showing meal and rest period premium payments on Plaintiffs' paystubs, failing to show all hourly rates in effect and the corresponding number of hours at each hourly rate, failing to identify the name of the legal entity that is the employer, and failing to maintain accurate payroll and itemized wage statements. The failure to provide accurate itemized wage statements violates Labor Code § 226 and 1174.

E. Waiting Time Penalties

Employer willfully failed and refused to timely pay all compensation due and owing to Plaintiffs whose employment was terminated during the relevant time period, by failing to pay overtime, straight time and minimum wages for all hours worked, failing to pay Plaintiffs the regular rate of pay for overtime hours worked, and failing to pay Plaintiffs for an extra hour at the regular rate of pay because Employer failed to provide compliant meal and rest periods. As such, Employer is liable for accrued wages due, and waiting time penalties owed, in accordance with Labor Code §§ 201, 202, and 203.

CONCLUSION

Pursuant to Labor Code Section 2699.3, the undersigned, on behalf of Plaintiff Sisilia Lealao and other aggrieved employees, is providing written notice of the alleged Labor Code violations. Please advise the undersigned if the agency intends to investigate the alleged violations. If not, Plaintiffs intend to pursue their claims under PAGA in a representative action lawsuit. Please also consider this letter as providing notice on behalf of other similarly aggrieved employees working for Employer, that were subject to the same Labor Code violations described above.

Should you have any questions with respect to the above, please do not hesitate to contact the undersigned.

Very truly yours,

BARTZ LAW GROUP, APC

/s/ Aaron A. Bartz
Aaron A. Bartz

EXHIBIT 2

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Attorneys for Plaintiff SISILIA LEALAO and all others similarly situated

[Additional Counsel on following page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

SISILIA LEALAO, an individual; BRYAN
RAGONE, an individual; BRANDON RIVAS,
an individual; on behalf of themselves and all
others similarly situated and the general public,

Plaintiffs,

v.

U.S. AVIATION SERVICES CORP., a
Nevada corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: 24STCV03049

[Assigned for all purposes to Samantha P.
Jessner, Dept. SSC-7]

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Violation of B&PC §17200, et seq.
2. Violation of Labor Code §§ 204, 510, 1194 and 1198;
3. Violation of Labor Code §§ 200, et seq.;
4. Failure to Pay Meal and Rest Break Premiums at the Proper Regular Rate of Pay (Labor Code §226.7)
5. Failure to Provide & Maintain Accurate Wage Statements Pursuant to Labor Code §226;
6. Failure to Provide Meal Periods (Lab. Code §226.7);
7. Failure to Provide Rest Breaks (Lab. Code §226.7);
8. Failure to Pay Wages Timely During Employment;
9. Failure to Reimburse Expenses;
10. Violation of Labor Code §§2698-2699.

DEMAND FOR JURY TRIAL

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Attorneys for Brandon Rivas and all others similarly situated

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Attorneys for Bryan Ragone and all others similarly situated

1 Plaintiffs SISILIA LEALAO, BRANDON RIVAS, and BRYAN RAGONE, on behalf
2 of themselves and all other persons similarly situated, and the general public (hereinafter,
3 “Plaintiffs”), hereby complains against Defendants, U.S. AVIATION SERVICES CORP., a
4 Nevada corporation; and DOES 1 to 100, inclusive (hereinafter collectively referred to herein
5 as “Defendants”), and on information and belief allege as follows:

6 **GENERAL ALLEGATIONS**

7 **JURISDICTION**

8 1. This is a civil action seeking recovery of unpaid wages, waiting time penalties,
9 pay stub penalties, meal and rest period premiums, unreimbursed business expenses, and civil
10 penalties, under California Labor Code §§ 510, 1194 et seq., 201 et seq., 226, 226.7, 2802,
11 and 2698 et seq.. Plaintiffs bring an action for monetary damages for failure to pay wages as
12 well as for restitution for Defendants’ violations of Business and Professions Code (B&PC)
13 §17200, et seq., including full restitution of all compensation retained by Defendants as a
14 result of their unlawful, fraudulent and unfair business practices. Plaintiffs seek all available
15 relief, including full restitution of all compensation retained by Defendants as a result of their
16 unlawful and unfair business practices. Further, Plaintiffs seek injunctive relief under B&PC
17 §17200, et seq.

18 **VENUE**

19 2. Venue as to each of the Defendants is proper in this judicial district pursuant to
20 California Code of Civil Procedure (CCP) §§ 395(a) and 395.5, as at least some of the acts
21 complained of herein occurred in the County of Los Angeles. Each defendant either owns,
22 maintains offices, transacts business, has an agent or agents within the County of Los
23 Angeles, or otherwise is found within the County of Los Angeles, and each defendant is
24 within the jurisdiction of this Court for purposes of service of process.

25 **PARTIES**

26 3. Plaintiffs Sisilia Lealao (“Lealao”), Brandon Rivas (“Rivas”), and Bryan
27 Ragone (“Ragone”) are all individuals over the age of eighteen (18). At all relevant times
28

1 herein, Plaintiffs Lealao, Rivas and Ragone worked for Defendants within the State of
2 California.

3 4. Plaintiffs are informed and believe and thereon allege that at all times
4 mentioned herein, defendant U.S. Aviation Services Corp. is a Nevada corporation.

5 5. Plaintiffs are informed and believe and thereon allege that at all times
6 mentioned herein, Defendants were authorized to do business in the State of California,
7 County of Los Angeles, and offering janitorial, cleaning and related services for commercial
8 airlines. Thus, each named defendant and DOES 1 to 100 are subject to B&PC §17200, et
9 seq. (Unfair Competition Law) and the Labor Code, as hereinafter alleged.

10 6. Plaintiffs do not know the true names or capacities, whether individual,
11 partner, or corporate, of defendants sued herein as DOES 1 to 100, inclusive, and for that
12 reason, those defendants are sued under such fictitious names, and Plaintiffs will seek from
13 this Court leave to amend this Complaint when such true names and capacities are discovered.
14 Plaintiffs are informed and believe and thereon allege that each of the Defendants and each
15 fictitious defendant, whether individual, partners, or corporate, was responsible in some
16 manner for the circumstances alleged herein, and proximately caused Plaintiffs and all others
17 similarly situated hereinafter alleged and the general public to be subjected to the unlawful
18 employment practices, wrongs, injuries and damages complained of herein.

19 7. At all times herein mentioned, each of the Defendants participated in the doing
20 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
21 Defendants, and each of them, were the agents, servants, and employees of each and every
22 one of the other Defendants, as well as the agents of all Defendants, and at all times herein
23 mentioned were acting within the course and scope of said agency and employment. Plaintiffs
24 herein allege that Defendants and each of them is the joint employer of Plaintiffs and the
25 classes.

26 8. At all times mentioned herein, Defendants, and each of them, were members of
27 and engaged in a joint venture, partnership, and common enterprise, and acting within the
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1 course and scope of and in pursuance of said joint venture, partnership, and common
2 enterprise.

3 9. At all times herein mentioned, the acts and omissions of various Defendants,
4 and each of them, concurred and contributed to the various acts and omissions of each and
5 every one of the other Defendants in proximately causing the complaints, injuries and
6 damages alleged herein.

7 10. At all times herein mentioned, Defendants, and each of them, approved of,
8 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
9 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the
10 acts and omissions of each and every one of the other Defendants, thereby proximately
11 causing the damages, as herein alleged.

12 11. The California Superior Court also has jurisdiction in this matter because both
13 the individual and aggregate monetary damages and restitution sought herein exceed the
14 minimal jurisdictional limits of the Superior Court and will be established at trial, according to
15 proof. The California Superior Court also has jurisdiction in this matter because Plaintiffs and
16 the putative classes herein worked within the State of California, and were subject to
17 California's wage and hour laws.

18 **PLAINTIFF CLASSES**

19 12. The class representative Plaintiffs who worked in the position of hourly non-
20 exempt employees or other similar title while employed by Defendants within the State of
21 California, are as follows:

22 a. Sisilia Lealao

23 Plaintiff Lealao worked within California as a non-exempt hourly employee for
24 Defendants between 2021 and 2023.

25 b. Brandon Rivas

26 Plaintiff Rivas worked within California as a non-exempt hourly employee for
27 Defendants between 2022 and 2024.
28

1 c. Bryan Ragone

2 Plaintiff Ragone worked within California as a non-exempt hourly employee for
3 Defendants between 2022 and 2023.

4 13. At all times mentioned herein, Plaintiffs and the entirety of the hourly Class
5 identified herein are current and former employees of Defendants who were not properly paid
6 all their wages, including but not limited to, proper premium overtime, and/or double time due
7 to Defendants' failure to properly calculate the regular rate and/or include all hours worked in
8 a week to determine hours over eight (8) in a given day, or forty (40) in a week.

9 **CLASS ACTION ALLEGATIONS**

10 14. Plaintiffs bring this action on behalf of themselves and all others similarly
11 situated as a class action pursuant to CCP §382. The Classes which Plaintiffs seek to
12 represent are composed of and defined as follows:

13 **Class 1:**

14 All non-exempt hourly employees who worked for Defendants in California from
15 2020 through the date of judgment, who were not paid premium overtime and/or double time
16 at the employee's regular rate of pay.

17 **Subclass 1:**

18 All non-exempt hourly employees who worked for Defendants in California who were
19 paid for a missed meal or rest period at an allegedly "reduced" rate of pay from 2020 through
20 the date of judgment (Meal and Rest Reduced Rate Subclass);

21 **Class 2:**

22 All non-exempt hourly employees who worked for Defendants in California from
23 2020 through the date of judgment, who were not paid the minimum wage for all hours
24 worked (Minimum Wage Class);

25 **Class 3:**

26 All non-exempt hourly employees who worked for Defendants in California and who
27 worked at some point from 2021 through the present, who are no longer employed with
28

1 Defendants and to whom Defendants willfully failed to pay all wages due upon separation
2 from Defendants (Waiting Time Penalty Class);

3 **Class 4:**

4 All non-exempt hourly employees who worked for Defendants in California from
5 2020 to the present who were not provided legally compliant meal periods (Meal Break
6 Class);

7 **Class 5:**

8 All non-exempt hourly employees who worked for Defendants in California from
9 2020 through the present who were not provided legally-compliant rest breaks (Rest Break
10 Class);

11 **Class 6:**

12 All non-exempt hourly employees who worked for Defendants in California from
13 2023 through the present who were provided a paystub (a.k.a. wage statement) which failed to
14 list all hours actually worked and wages owed (Pay Stub Class).

15 **Class 7:**

16 All non-exempt hourly employees who worked for Defendants in California from
17 2020 through the present who were not paid timely wages during their employment (Timely
18 Wage Class).

19 **Class 8:**

20 All non-exempt hourly employees who worked for Defendants in California from
21 2020 through the present who were not paid their reasonable and necessary business expenses
22 (Reimbursement Class).

23 The members of the classes are so numerous that joinder of all members would be
24 unfeasible and not practicable. The membership of the classes are unknown to Plaintiffs at
25 this time; however, it is estimated that the classes number greater than 100 individuals. The
26 identity of such membership is readily ascertainable via inspection of Defendants'
27 employment records.
28

1 15. There are common questions of law and fact as to Plaintiffs and all others
2 similarly situated which predominate over questions affecting only individual members
3 including, without limitation to:

- 4 i. Whether Defendants paid their employees proper premium overtime
5 and/or double time at the employees' regular rate for hours over eight
6 (8) in a day and/or forty (40) hours in a week, in paying their hourly
7 non-exempt employees;
- 8 ii. Whether Defendants violated the applicable Labor Code provisions
9 including §510, 1194, and 203 by requiring substantial overtime work
10 and not paying for said work according to the overtime laws of the
11 State of California;
- 12 iii. Whether Defendants failed to pay the appropriate premium overtime
13 compensation to the hourly employees;
- 14 iv. Whether Defendants improperly retained, appropriated or deprived
15 Plaintiffs and the class members of the use of monies or sums to which
16 Plaintiffs and the class were legally entitled;
- 17 v. Whether Defendants engaged in unfair business practices;
- 18 vi. Whether Defendants, and each of them, were participants in the alleged
19 unlawful conduct;
- 20 vii. Whether Defendants' conduct was willful or reckless;
- 21 viii. The effect upon and the extent of injuries suffered by Plaintiffs and all
22 others similarly situated and the appropriate amount of compensation;
- 23 ix. The appropriate amount of monetary penalties allowed by Labor Code
24 §201, et. seq.;
- 25 x. Whether Defendants pay and continue to pay for missed meal and rest
26 period premiums at an allegedly "reduced" rate of pay in violation of
27 Section 11 of the applicable Wage Orders;
- 28

- 1 xi. Whether Defendants violated Labor Code §226 and relevant IWC
2 Wage Orders by failing to, among other violations, accurately report
3 total hours worked, all applicable hourly rates in effect during each pay
4 period and the corresponding number of hours worked at each hourly
5 work, by Plaintiffs and the members of the Class;
6 xii. Whether Defendants knowingly and intentionally failed to maintain
7 records for Plaintiffs and members of the Class as required by Labor
8 Code § 1174 and the applicable IWC Wage Orders;
9 xiii. Whether Defendants failed to pay Plaintiffs and members of the Class
10 their wages timely during their employment; and
11 xiv. Whether Defendants failed to reimburse the reasonable and necessary
12 business expenses of Plaintiffs and members of the Class.

13 16. Plaintiffs' claims are typical of the claims of all members of the classes and
14 subclasses mentioned herein. Plaintiffs, as representative parties, will fairly and adequately
15 protect the interest of the classes by vigorously pursuing this suit through their attorneys who
16 are skilled and experienced in handling matters of this type. Plaintiffs have no claim or
17 interest that is antagonistic to any class member.

18 17. The nature of this action and the nature of laws available to the members of the
19 classes and subclasses identified herein make use of the class action format a particularly
20 efficient and appropriate procedure to afford relief to Plaintiffs for the wrongs alleged herein.
21 Further, this claim involves large corporate employers, and a large number of individual
22 employees (Plaintiffs and all others similarly situated) with many relatively small claims with
23 common issues of law and fact. If each employee were required to file an individual lawsuit,
24 the corporate defendants would necessarily gain an unconscionable advantage since they
25 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
26 their vastly superior financial and legal resources. Requiring each class member to pursue an
27 individual remedy would also discourage the assertion of lawful claims by employees who
28 would be disinclined to pursue an action against their present and/or former employer for an

1 appreciable and justifiable fear of retaliation and permanent damage to their careers at present
2 and/or subsequent employment. Proof of a common business practice or factual pattern, of
3 which the Plaintiffs experienced, is representative of the class mentioned herein and will
4 establish the right of each of the members of the named class to recovery on the causes of
5 action alleged herein.

6 18. The prosecution of separate actions by the individual class members, even if
7 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
8 with respect to the individual class members against Defendants herein; and which would
9 establish potentially incompatible standards of conduct for Defendants; and/or (b) legal
10 determinations with respect to individual class members which would, as a practical matter,
11 be dispositive of the interest of the other class members not parties to adjudications or which
12 would substantially impair or impede the ability of the class members to protect their interests.
13 Further, the claims of the individual members of the class are not sufficiently large to warrant
14 vigorous individual prosecution considering all of the concomitant costs and expenses
15 attending thereto.

16 19. Plaintiffs and all others similarly situated are entitled to the wages and other
17 monies unlawfully withheld. This action is brought for the benefit of the public.

18 **FIRST CAUSE OF ACTION**

19 **(Violation of B&PC §17200, et seq.)**

20 20. Plaintiffs re-allege and incorporate by reference herein the allegations of all
21 preceding paragraphs as though fully set forth herein.

22 21. Beginning on an exact date unknown to Plaintiffs but believed to have
23 occurred from 2020 on, Defendants have engaged in a pattern and practice of acts of unfair
24 competition in violation of B&PC §17200, including the practices alleged herein.

25 22. Defendants, and each of them, provide janitorial, cleaning and related services
26 for commercial airlines within California, and have engaged in the practice of paying their
27 non-exempt employees, in a fashion that circumvents California's wage and hour laws.
28

1 **FAILURE TO PAY PROPER WAGES AND OVERTIME COMPENSATION**

2 23. Plaintiffs are informed and believe and thereon allege that as part of
3 Defendants' ongoing unfair business practices, Defendants' hourly employees worked in
4 excess of eight (8) hours per day, and in excess of forty (40) hours per week without receiving
5 the proper regular rate of pay and/or minimum wage rate because Defendants fail to account
6 for all compensation due Plaintiffs, including the fact that Plaintiffs regularly work off-the-
7 clock and on-call hours to ensure that the cleaning and janitorial services are completed.
8 Defendants are therefore in violation of Labor Code §§ 510 and 1194, and the relevant
9 California Industrial Welfare Commission Orders.

10 24. Defendants, and each of them, consistently administered a corporate policy
11 regarding off-the-clock and on-call time, which required that employees work overtime
12 without proper premium overtime pay, the regular rate of pay, and/or minimum wage. For
13 instance, Defendants regularly capped Plaintiffs' hours, including adjusting Plaintiffs' hours
14 on-the-clock to avoid paying for all hours worked including overtime hours. Defendants
15 further require Plaintiffs to show up to their shifts early to perform necessary work activities,
16 but then Defendants fail and refuse to compensate Plaintiffs for such time. Plaintiffs also
17 regularly work more than 8 hours in a given day, but Defendants fail to pay overtime unless
18 the hours exceed 40 in a given workweek. Plaintiffs are also, among other things, required to
19 perform training during their meal periods and during non-work hours, without compensation.
20 These corporate policies and patterns of conduct are accomplished with the advanced
21 knowledge and designed intent to avoid paying non-exempt employees for all hours worked.
22 Accordingly, Plaintiffs and the class members are entitled to all unpaid wages due under
23 California law. Further, Plaintiffs and the class are entitled to restitution of these wages
24 obtained by Defendants, and each of them.

25 **VIOLATION OF LABOR CODE § 200, ET SEQ.**

26 25. Plaintiffs are informed and believe and thereon allege that as part of
27 Defendants' ongoing unfair business practices, Defendants failed to provide all employees all
28

wages at the time of their separation in violation of Labor Code § 200, et. seq., including but not limited to, §§201, 202, 203 & 204.

26. Labor Code § 200, et seq. provides that an employer is required to pay an employee all wages (including accrued vacation) immediately upon the employee's involuntary separation from employment; immediately upon his or her voluntary separation if the employee gave at least seventy-two (72) hours notice, and within seventy-two (72) hours, if the employee voluntarily separated, but did not give at least seventy-two (72) hours notice.

27. Plaintiffs are informed and believe and thereon allege that all employees who have been separated from Defendants did not timely receive a final paycheck detailing the proper amount of pay from Defendants in violation of Labor Code § 200, et. seq.

28. Pursuant to Labor Code § 200, et seq. employees that no longer work for Defendants, and who were not timely paid, are entitled to one (1) day of pay in penalties for each day that he or she was paid late, until payment was made, up to a maximum of thirty (30) days.

VIOLATION OF MEAL AND REST PERIOD PROVISIONS

29. Defendants' improper meal and rest period policies are in violation of California law including, but not limited to Labor Code § 226.7, 512, and the applicable IWC Wage Orders. Plaintiffs and the class were entitled to 1 hour of pay for each meal and rest break violation at their regular rate of pay. Defendants failed and continue to fail to pay for meal and rest period violations at the employees' regular rate of pay in violation of Section 11 of the applicable Wage Orders.

30. Plaintiffs seek restitution and injunctive relief for said violations.

31. Plaintiffs are informed and believe and thereon allege that at all times herein mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices prohibited by California B&PC § 17200, thereby depriving their employees and the putative class the minimum working standards and conditions due to them under the California labor laws and Industrial Welfare Commission wage orders as specifically described herein. Plaintiffs seek an injunction preventing Defendants from continuing their unfair business

1 practice of improperly depriving their employees of overtime pay, and payment of their
2 regular rate of pay for meal and rest period premiums. Plaintiffs further seek an order
3 requiring Defendants to identify by full name, telephone number, and last known address
4 employees who worked or still work for Defendants between 2020 through the date of
5 judgment; Plaintiffs further seek an order requiring Defendants to timely pay restitution to all
6 current and former employees, including back wages, premium payments, and interest.

7 **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS**

8 32. Plaintiffs are informed and believe and thereon allege that as part of
9 Defendants' ongoing unfair business practices, Defendants, and each of them, fail to provide
10 their employees with proper and understandable itemized wage statement, as required by Labor
11 Code § 226.

12 33. Plaintiffs are informed and believe, and thereon allege, that Defendants, and
13 each of them, fail to provide each employee with an itemized statement which states the actual
14 regular rate paid, the total hours worked by the employee, the gross and net wages earned, and
15 all applicable hourly rates in effect during the pay period and the corresponding number of
16 hours worked at each hourly rate by the employee.

17
18 **SECOND CAUSE OF ACTION**

19 **RECOVERY OF UNPAID WAGES & PENALTIES**

20 **(Violation of Labor Code §§ 204, 510, 1194, 1194.2, and 1198)**

21 34. Plaintiffs re-allege and incorporate by reference herein the allegations of all
22 preceding paragraphs as though fully set forth herein.

23 35. Plaintiffs and all others similarly situated identified herein were and are
24 permitted to suffer or work for Defendants without full compensation, to work without
25 legally-compliant off-duty meal periods, and to work without legally-compliant off-duty
26 rest periods. Such practices constituted a failure to compensate Plaintiffs and those similarly
27 situated for all hours worked at a rate meeting or exceeding the applicable minimum wage as
28 required by Labor Code section 1194 *et seq.* and applicable Wage Orders.

1 35. Plaintiffs and all others similarly situated identified herein were and are
2 employed and scheduled as a matter of established company policy to work and in fact
3 worked as non-exempt hourly employees in excess of eight (8) hours per day and/or in excess
4 of forty (40) hours per week. Defendants employed and scheduled all employees without
5 providing overtime compensation for such excess hours worked in violation of Labor Code §§
6 510 and 1194 and the relevant California Industrial Welfare Commission (IWC) orders.
7 Labor Code § 204 establishes the fundamental right of all employees in the State of California
8 to be paid the proper amount of wages in a timely fashion for their work, including overtime.
9 Defendants always had a written and verbal agreement to pay overtime and double time based
10 on the Plaintiffs' and classes' regular rate of pay.

11 36. Pursuant to Labor Code §§ 218 and 1194(a), Plaintiffs may bring a civil action
12 for overtime wages directly against the employer without first filing a claim with the Division
13 of Labor Standards Enforcement (hereinafter "DLSE") and may recover such wages, together
14 with interest thereon, penalties, attorneys' fees and costs.

15 37. At all times relevant hereto, Defendants have failed to pay to Plaintiffs and all
16 persons similarly situated wages when due as required by Labor Code § 204.

17 38. Pursuant to Labor Code § 1198, it is unlawful to employ persons for longer
18 than the hours set by the IWC or under conditions prohibited by the applicable IWC Wage
19 Orders.

20 39. At all times relevant hereto, Plaintiffs are informed and believe and thereon
21 allege that Defendants have treated Plaintiffs as hourly non-exempt employees. Despite this
22 classification, Defendants have willfully violated the Labor Code with respect to meeting the
23 requirements of paying one (1) regular rate of pay and calculating overtime and double time
24 based on that regular rate, as herein before alleged. Defendants have failed to properly pay
25 premium overtime for hours worked in a week, and as such, Defendants are able to reduce
26 their overhead and operating expenses and gain an unfair advantage over competing
27 companies complying with state law. Furthermore, Defendants have failed to include all
28

1 items of remuneration when determining the employees' regular rate of pay, and failed to pay
2 for all hours when Plaintiffs were suffered or permitted to work, as described above.

3 40. Plaintiffs are informed and believe and thereon allege that Defendants
4 consistently administered a corporate policy regarding both staffing levels and duties and
5 responsibilities of the members of the classes which required the entirety of all classes to work
6 overtime without proper premium pay, and to fail all wages for hours worked. This corporate
7 policy and pattern of conduct was/is accomplished with the advance knowledge and design of
8 all Defendants herein. Thus, Plaintiffs and all others similarly situated routinely, regularly
9 and customarily performed overtime work and/or work that they failed to be compensated at
10 the appropriate hourly wage.

11 41. Plaintiffs are informed and believe and thereon allege that the obligations and
12 responsibilities of the class employees are irrelevant because Plaintiffs and all others similarly
13 situated merely allege wrongdoing with Defendants' pay plans, policies and practices.
14 Further, the duties of Plaintiffs and all others similarly situated are not relevant in certifying
15 any of the classes.

16 42. Defendants, and each of them, had a consistent and uniform policy, practice
17 and procedure of willfully failing to pay the earned and unpaid wages of all such non-exempt
18 employees. Defendants have willfully failed to pay the earned and unpaid wages of such
19 individuals, including, but not limited to regular pay, premium pay, and other wages earned
20 and remaining uncompensated according to amendment, or proof.

21 43. The pattern, practice and uniform administration of corporate policy regarding
22 illegal employee compensation as described herein is unlawful and creates an entitlement to
23 recovery by Plaintiffs and all others similarly situated, in a civil action, for the unpaid balance
24 of the full amount of all wages owing, including the proper calculation of the regular rate and
25 the proper overtime premiums calculated at 1.5 or 2 times the legal regular rate which are
26 owing, including interest thereon, willful penalties, reasonable attorneys' fees, and costs of
27 suit according to the mandate of Labor Code § 1194, et. seq.

44. Likewise, Defendants have a pattern, practice and uniform administration of corporate policy regarding failure to comply with the required provisions of Labor Code § 226.7, in failing to pay Plaintiffs and the class the meal and rest period premium payments at the regular rate.

THIRD CAUSE OF ACTION

(Violation of Labor Code §§ 200, 201, 202, 203 et. seq.)

45. Plaintiffs re-allege and incorporate by reference herein the allegations of all preceding paragraphs as though fully set forth herein.

46. Labor Code §§ 200, et. seq., generally provides for timing of payment at the conclusion of employment, requiring an employer to pay an employee all wages (including accrued vacation) immediately upon an employee's involuntary separation from employment; immediately upon her voluntary separation if the employee gave at least seventy two (72) hours notice, and within seventy two (72) hours, if the employee voluntarily separated, but did not give at least seventy two (72) hours notice.

47. Plaintiffs Lealao, Rivas and Ragone and other former employees of Defendants employed in the State of California separated from employment with Defendants, and did not timely receive a final pay check with all of their wages due from Defendants in violation of Labor Code §§ 200, et seq. Plaintiffs are informed and believe and thereon allege that Defendants also violated the mandates of Labor Code §§ 200, et seq., as to other employees whose employment ended during the period of time covered by this action.

48. Pursuant to Labor Code §§ 200, et. seq., each member of the class that no longer works for Defendants, and who was not timely paid all of his or her wages due is entitled to one (1) day of pay in penalties for each day that he or she was paid late, until payment was made, up to a maximum of thirty (30) days.

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PAY MEAL AND REST PERIOD PREMIUMS AT THE PROPER**
3 **REGULAR RATE OF PAY**

4 **(Violation of Labor Code §§ 226.7 & 512, et seq.)**

5 49. Plaintiffs re-allege and incorporate by reference herein the allegations of all
6 preceding paragraphs as though fully set forth herein.

7 50. Plaintiffs believe and thereon allege that Labor Code §226.7 requires an
8 employer to pay an additional hour of compensation at the employee's regular rate of pay for
9 each meal period and rest period violation. During the class period, Plaintiffs are informed
10 and believe, and based thereon allege that Defendants have failed to pay Plaintiffs and the
11 class members meal period and rest period premium pay at their regular rate of pay.
12 Defendants' improper meal and rest period practices and policies are in violation of California
13 law including, but not limited to Labor Code § § 226.7, 512, and the IWC Wage Orders.

14 51. Pursuant to Labor Code §226.7, Plaintiffs are entitled to damages in an amount
15 equal to one (1) hour of the employee's regular rate of pay per each meal and rest period
16 violation, in a sum to be proven at trial.

17 **FIFTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS AND**
19 **MAINTAIN EMPLOYMENT RECORDS**

20 **(Violation of Labor Code §§ 226, 226.3, 1174)**

21 52. Plaintiffs re-allege and incorporate by reference herein the allegations of all
22 preceding paragraphs as though fully set forth herein.

23 55. Labor Code §226(a) provides, in pertinent part:

24 An employer, semimonthly or at the time of each payment of wages, shall
25 furnish to his or her employee, either as a detachable part of the check, draft, or
26 voucher paying the employee's wages, or separately if wages are paid by
27 personal check or cash, an accurate itemized statement in writing showing (1)
28 gross wages earned, (2) total hours worked by the employee, except as
provided in subdivision (j), (3) the number of piece-rate units earned and any
applicable piece rate if the employee is paid on a piece-rate basis, (4) all
deductions, provided that all deductions made on written orders of the

1 employee may be aggregated and shown as one item, (5) net wages earned, (6)
2 the inclusive dates of the period for which the employee is paid, (7) the name
3 of the employee and only the last four digits of his or her social security
4 number or an employee identification number other than a social security
5 number, (8) the name and address of the legal entity that is the employer and, if
6 the employer is a farm labor contractor, as defined in subdivision (b) of Section
7 1682, the name and address of the legal entity that secured the services of the
8 employer, and (9) all applicable hourly rates in effect during the pay period and
9 the corresponding number of hours worked at each hourly rate by the
10 employee. . . .

11 54. During the Class Period, Defendants knowingly and intentionally failed to
12 provide the Class Members, including Plaintiffs Lealao, Rivas and Ragone, with timely and
13 accurate wage and hour statements showing gross wages earned, total hours worked, meal and
14 rest period premium payments, all deductions made, net wages earned, the name and address
15 of the legal entity employing that Class Member, and all applicable hourly rates in effect
16 during each pay period and the corresponding number of hours worked at each hourly rate by
17 that Class Member.

18 55. Defendants' failure to maintain records reflecting accurate and complete
19 payroll information constituted a violation of Labor Code section 1174(d), providing in
20 relevant part that employers must keep "payroll records showing the hours worked daily by
21 and the wages paid to. . . employees employed at the respective plants or establishments.
22 These records shall be kept in accordance with rules established for this purpose by the
23 commission, but in any case shall be kept on file for not less than three years."

24 55. The Class Members, including Plaintiffs, suffered injury as a result of
25 Defendants' knowing and intentional failure to provide the Class Members, with the wage and
26 hour statements required by law.

27 56. Based on Defendants' conduct as alleged herein, Defendants are liable for actual
28 damages, statutory damages and/or statutory penalties pursuant to California Labor Code §
226, attorney's fees and costs and other applicable provisions of the Labor Code and
applicable Wage Order.

(Violation of Labor Code §§ 226.7 and 512)

60. Plaintiffs and members of the Class were not provided with or given the opportunity to take the requisite meal periods before the end of the first 5 hours of work, nor were they provided with or given the opportunity to take a proper second meal period during the days when they worked more than 10 hours in a day. Defendants coerced Plaintiffs and the members of the Class to forego meal periods by disciplining and/or threatening disciplinary action against them if they attempted to take meal periods, created incentives to forego meal breaks, and encouraged the skipping of meal periods by scheduling work to coincide with the meal periods, among other things. In addition, Defendants placed unnecessarily tight timelines on Plaintiffs' work, forcing them to miss their meal periods in order to complete their jobs. As a result, Plaintiffs and members of the Class were required to work and/or were not relieved of all duties during any meal period taken, and thus were

1 considered “on duty;” however, Defendants failed to count as time worked any “on duty”
2 meal period taken by Plaintiffs and the members of the Class.

3 61. Pursuant to California Labor Code § 226.7(c) and IWC Wage Orders, if an
4 employer fails to provide an employee a meal period in accordance with the applicable
5 provisions of the IWC Wage Orders, the employer shall pay the employee one (1) hour of pay
6 at the employee’s regular rate of pay for each workday that the meal period is not provided.
7 As such, Plaintiffs and members of the Class are entitled to an additional one hour’s pay for
8 each day in which Plaintiffs and members of the Class were not provided a proper meal break
9 under the above-described authorities.

10 62. Plaintiffs and the members of the Class request that the Court award interest on
11 all unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from
12 the date the wages were due and payable pursuant to Labor Code § 218.6.

13 **SEVENTH CAUSE OF ACTION**

14 **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS**

15 **(Violation of Labor Code § 226.7)**

16 63. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the
17 allegations of the preceding paragraphs.

18 64. The applicable IWC Wage Orders state that every employer shall authorize and
19 permit all employees to take rest periods. The authorized rest period time shall be based on
20 the total hours worked daily at the rate of ten (10) minutes net rest time per four hours of
21 work, or major fraction thereof. An employer must provide employees with 10 minutes’ rest
22 for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six
23 hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.

24 65. Plaintiffs and Class Members were not permitted to take rest periods, were
25 required to work during their rest periods, and/or were disciplined and/or were advised that
26 they would be disciplined if they took rest periods during work hours, in contravention of
27 California law.
28

66. Pursuant to California Labor Code § 226.7(c) and the applicable IWC Wage Orders, if an employer fails to provide an employee a rest period in accordance with the applicable IWC Wage Orders, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

67. As such, Plaintiffs and the Class members are entitled to an additional one hour's pay for each day in which they were not provided a proper rest period under the above-described authorities.

68. Plaintiffs and the members of the Class request that the Court award interest on all unpaid wages at the legal rate specified by California Civil Code § 3289(b), accruing from the date the wages were due and payable pursuant to Labor Code § 218.6.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE DURING EMPLOYMENT

(Violation of Labor Code §§ 200 et seq.)

69. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the allegations of the preceding paragraphs.

70. Labor Code section 200 provides that "wages" include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that all wages earned by any person in any employment are payable twice during the calendar month and must be paid not more than seven days following the close of the period when the wages were earned. Labor Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a penalty of \$100 for any initial failure to timely pay each employee's full wages and \$200 for each subsequent violation, plus 25% of the amount unlawfully withheld.

71. Labor Code section 216 establishes that it is a misdemeanor for any person, with regards to wages due, to "falsely deny the amount or validity thereof, or that the same is due, with intent to secure himself, his employer or other person, any discount

1 upon such indebtedness, or with intent to annoy, harass, oppress, hinder, delay, or defraud,
2 the person to whom such indebtedness is due."

3 72. Defendants as a matter of established company policy and procedure in the
4 State of California, scheduled, required, suffered, and/or permitted Plaintiff and the other
5 Class Members, to work without full compensation, to work without legally-compliant off-
6 duty meal periods, to work without legally-compliant off-duty rest periods, and thereby
7 failed to fully pay Plaintiff and the other Class Members within seven days of the close of
8 payroll, as required by law.

9 73. Defendants, as a matter of established company policy and procedure in
10 the State of California, falsely deny they owe Plaintiff and the other Class Members these
11 wages, with the intent of securing for itself a discount upon its indebtedness and/or to
12 annoy, harass, oppress, hinder, delay, and/or defraud Plaintiff and the other Class
13 Members.

14 74. Defendants' pattern, practice, and uniform administration of its corporate
15 policy of illegally denying employees compensation, as described herein, is unlawful and
16 entitles Plaintiff and the other Class Members to recover, pursuant to Labor Code section
17 218, the unpaid balance of the compensation owed to them in a civil action and any
18 applicable penalties, attorney fees, and interest owed to them pursuant to Labor Code
19 sections 210 and 218.5.

20
21 **NINTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE EXPENSES**

23 **(Violation of Labor Code §§ 2802, 2804)**

24 75. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the
25 allegations of the preceding paragraphs.

26 76. California Labor Code § 2802 provides that "[a]n employer shall indemnify his
27 or her employee for all necessary expenditures or losses incurred by the employee in direct
28 consequence of the discharge of his or her duties."

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

7 78. Plaintiffs are informed and believe, and based thereon allege, that at all
8 relevant times Plaintiffs and the class members incurred certain expenses for their jobs with
9 Defendants, including but not limited to using their cell phones for work purposes. Despite
10 this, Defendants failed and refused to indemnify Plaintiffs and the class for all of their
11 expenditures in carrying out their duties for Defendants.

12 79. As a result of Defendants' failure to indemnify Plaintiffs and the class
13 members, they have suffered losses according to proof, including prejudgment interest, costs,
14 and attorneys' fees in prosecuting this case.

15 **TENTH CAUSE OF ACTION**
16 **PRIVATE ATTORNEYS GENERAL ACT**
17 **(Violation of Labor Code §§ 2698 and 2699)**

18 80. Plaintiffs re-allege and incorporate by reference as if fully set forth herein, the
19 allegations of the preceding paragraphs.

20 81. On or about November 30, 2023, January 24, 2024, and January 29, 2024,
21 Plaintiffs Lealao, Rivas and Ragone, respectively, provided written notice to the Labor and
22 Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the
23 Labor Code alleged to have been violated, including the facts and theories to support the
24 alleged violations. Copies of Plaintiffs' November 30, 2023, January 24, 2024, and January
25 29, 2024 LWDA notices are collectively attached to this Complaint as Exhibit A.

26 82. The LWDA failed to respond to Plaintiffs' counsel's correspondence and failed
27 to notify Plaintiffs' counsel as to whether it would investigate the allegations contained
28 therein, within the time period requirements of the Private Attorneys General Act (PAGA),

1 under Labor Code §2699.3. Plaintiffs have fully complied with the notice requirements set
2 forth in Labor Code §2699.3 in order to commence a civil action against an employer
3 pursuant to Labor Code §2699.

4 83. Defendants' failure to pay Plaintiffs for all hours worked, minimum wages,
5 overtime compensation, failure to provide meal periods, failure to authorize and permit rest
6 periods, failure to pay all wages upon termination or resignation, and failure to provide
7 accurate itemized wage statements, and will subject Defendants to civil penalties pursuant to,
8 without limitation, Labor Code §§ 201, 202, 203, 204, 226, 510, 512, 551, 552, 1174, 1194,
9 1198, 2802, and IWC Wage Orders.

10 84. Plaintiffs are aggrieved employees as defined in Labor Code §§2699(a) and
11 (c), and related Labor Code provisions. Plaintiffs bring this cause of action on behalf of
12 themselves, as private attorneys general, and in a representative capacity on behalf of other
13 aggrieved employees, affected by the labor law violations alleged herein.

14 85. Defendants committed numerous violations of the California Labor Code and
15 IWC Wage Orders against the Plaintiffs, and on information and belief, against members of
16 the Class and other current and former employees while they were employed by Defendants,
17 including but not limited to:

18 a. Defendants violated Labor Code §§ 510, 511, 1194, 1194.2, 1197, 1198 and/or
19 IWC Wage Orders by failing to pay Plaintiffs and the members of the Class, and on
20 information and belief, other current and former employees of Defendants, all minimum,
21 straight time and overtime wages owed in compliance with California law;

22 b. Defendants violated Labor Code §§ 226.7, 510, 512, 1194, 1197 and/or IWC
23 Wage Orders by failing to pay Plaintiffs and the members of the Class by failing to pay for a
24 missed meal or rest period at the regular rate of pay;

25 c. Defendants violated Labor Code §§ 1194, 1197 and/or IWC Wage Orders by
26 failing to pay Plaintiffs and the members of the Class, and on information and belief, other
27 current and former employees of Defendants, all minimum wages owed in compliance with
28 California law;

1 d. Defendants violated Labor Code §§ 1194, 204, 510, 511 and/or IWC Wage
2 Orders by failing to pay Plaintiffs and the members of the Class, and on information and
3 belief, other current and former employees of Defendants, all wages owed in a timely manner
4 in compliance with California law;

5 e. Defendants violated Labor Code § 226.7, 512, and /or IWC Wage Orders by
6 failing to provide Plaintiffs and the members of the Class, and on information and belief, other
7 current and former employees of Defendants, the opportunity to take the requisite meal
8 periods in compliance with California law;

9 f. Defendants violated Labor Code § 226.7 and/or IWC Wage Orders by
10 failing to authorize and permit Plaintiffs and the members of the Class, and on information
11 and belief, other current and former employees of Defendants, the opportunity to take the
12 requisite rest periods in compliance with California law;

13 g. Defendants violated Labor Code §§ 226, 1174 and/or IWC Wage Orders by
14 failing to properly maintain accurate employment time and records, maintain and/or submit
15 accurate itemized wage statements on behalf of Plaintiffs, members of the Class, and on
16 information and belief, on behalf of other current and former employees of Defendants as
17 described herein;

18 h. Defendants violated Labor Code §§ 201, 202 and/or IWC Wage Orders by
19 failing to pay Plaintiffs, the Class, and on information and belief, other current and former
20 employees of Defendants as described herein;

21 i. Defendants violated Labor Code § 2802 and/or IWC Wage Orders by failing to
22 reimburse reasonable and necessary business expenses of Plaintiffs, the Class, and on
23 information and belief, other current and former employees of Defendants as described herein.

24 86. Pursuant to Labor Code § 2699, Plaintiffs, members of the Class, and all other
25 aggrieved current and former employees seek to recover civil penalties, as otherwise provided
26 by statute and wage order, for which Defendants are liable as a result of their violations of the
27 California Labor Code and applicable wage order(s) in an amount to be proven at trial. These
28 penalties include, but are not limited to, those provided by Labor Code §§ 201, 202, 203, 204,
210, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1194, 1197, 2699, 2802, and IWC Wage
Orders. Plaintiffs and aggrieved current and former employees further seek and award of
reasonable attorneys' fees and costs pursuant to Labor Code § 2698 and 2699.

1
2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiffs pray:

4 1. That the Court determine this action may be maintained as a class action;

5 **As to the First Cause of Action:**

6 2. For an order preliminarily and permanently enjoining Defendants from
7 engaging in the practices challenged herein;

8 3. An order for full restitution of all monies, as necessary and according to proof,
9 to restore any and all monies withheld by the Defendants by means of the unfair practices
10 complained of herein. Plaintiffs seek, on behalf of the putative class, the appointment of a
11 receiver, as necessary. The restitution includes all monies retained as wages, as defined in
12 Labor Code §§ 201, 202, 510 and 1194, and interest, and attorneys' fees as a result of the
13 unfair business practices;

14 4. For an order finding and declaring that Defendants' acts and practices as
15 challenged herein are unlawful, and unfair and/or fraudulent;

16 5. For an accounting, under administration of Plaintiffs and subject to court
17 supervision, to determine the amount to be returned by Defendants and the amounts to be
18 refunded to members who are or were not paid all their wages due to Defendants' unfair
19 business practices;

20 6. For the creation of an administrative process wherein each injured current and
21 former employee receives his or her back wages in the form of overtime pay or alternatively
22 that each current or former eligible employee may submit a claim in order to receive his/her
23 money;

24 7. For an order requiring Defendants to make full restitution and payment
25 pursuant to B&PC §§ 17200, et seq.;

26 8. For all other appropriate declaratory and equitable relief;

27 9. For pre-judgment interest to the extent permitted by law;
28

1 10. For an order requiring Defendants to identify, by name, address and telephone
2 number of each person who worked in California as an hourly non-exempt employee for
3 Defendants between 2020 through the time of judgment;

4 11. For an order imposing all civil and statutory penalties provided by law.

5 **As to the Second and Fourth Cause of Action:**

6 12. For damages according to proof, as set forth in Labor Code §§ 510, 226.7 and
7 1194, et seq., (and the applicable California Industrial Welfare Commission wage orders)
8 regarding wages due and owing;

9 13. For pre-judgment interest as allowed by Labor Code § 1194 and California
10 Civil Code § 3287(b), for waiting time penalties as authorized by Labor Code § 203, and for
11 reasonable attorneys' fees;

12 14. For an order imposing all civil and statutory penalties provided by law.

13 **As to the Third Cause of Action:**

14 15. For waiting time penalties for all former employees not timely paid their last
15 pay check, including vacation pay;

16 16. For reasonable attorneys' fees and costs;

17 17. For an order imposing all civil and statutory penalties provided by law.

18 **As to the Fifth Cause of Action:**

19 18. For recovery as authorized by Labor Code §226(e);

20 19. For injunctive relief to ensure Defendants' compliance with Labor Code §226
21 and the IWC Wage Orders §7(A) pursuant to Labor Code §226(h);

22 20. For an award of costs and reasonable attorneys' fees pursuant to Labor Code
23 §226(e) and/or §226(h);

24 21. For an order imposing all civil and statutory penalties provided by law.

25 **As to the Sixth Cause of Action:**

26 22. One (1) hour of pay at each of the employees' regular rate of compensation for
27 each workday that a meal period was not provided, impeded, discouraged and/or dissuaded;

28 23. For an order imposing all civil and statutory penalties provided by law.

1 **As to the Seventh Cause of Action:**

2 24. One (1) hour of pay at each of the employees' regular rate of compensation for
3 each workday that a rest period was not authorized or permitted, or impeded, interrupted,
4 discouraged and/or dissuaded;

5 25. For an order imposing all civil and statutory penalties provided by law.

6 **As to the Eighth Cause of Action:**

7 26. For the failure to pay wages timely during employment, the unpaid balance of
8 the compensation owed to Plaintiffs and the other Class Members and any applicable penalties
9 owed to them pursuant to Labor Code section 210;

10 **As to the Ninth Cause of Action:**

11 27. For recovery of all necessary expenditures or losses incurred by Plaintiff and
12 the class members, according to proof;

13 28. For pre-judgment interest as allowed by Labor Code §§ 218.6, 1194(a), and
14 Civil Code § 3287;

15 29. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §
16 2802(c).

17 **As to the Tenth Cause of Action:**

18 30. That the Court declare, adjudge and decree that Defendants violated California
19 Private Attorneys General Act, Labor Code § 2698 and 2699;

20 31. For an order imposing all civil and statutory penalties provided by law;

21 32. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
22 California Labor Code § 2699(g); and

23 33. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 **As to All Causes of Action:**

26 34. For reasonable costs incurred;

27 35. For such other and further relief as this Court may deem just and proper.
28

1 Dated: March 18, 2025

BARTZ LAW GROUP, APC
UNITED EMPLOYEES LAW GROUP, PC

2
3 By: /s/ Aaron A. Bartz
4 AARON A. BARTZ
5 Attorneys for Plaintiff Sisilia Lealao and all
6 others similarly situated
7

8 Dated: March 18, 2025

MELMED LAW GROUP, P.C.

9
10 By: /s/ Jonathan Melmed
11 JONATHAN MELMED
12 LAURA SUPANICH
13 Attorneys for Plaintiff Brandon Rivas and all
14 others similarly situated
15

16 Dated: March 18, 2025

CROSNER LEGAL, PC

17 By: /s/ Jamie K. Serb
18 JAMIE K. SERB
19 SEPIDEH ARDESTANI
20 ZACHARY M. CROSNER
21 Attorneys for Plaintiff Bryan Ragone and all
22 others similarly situated
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues triable to a jury.

Dated: March 18, 2025

BARTZ LAW GROUP, APC

By: /s/ Aaron A. Bartz
AARON A. BARTZ
Attorneys for Plaintiff Sisilia Lealao and all
others similarly situated

Dated: March 18, 2025

MELMED LAW GROUP, P.C.

By: /s/ Jonathan Melmed
JONATHAN MELMED
LAURA SUPANICH
Attorneys for Plaintiff Brandon Rivas and all
others similarly situated

Dated: March 18, 2025

CROSNER LEGAL, PC

By: /s/ Jamie K. Serb
JAMIE K. SERB
SEPIDEH ARDESTANI
ZACHARY M. CROSNER
Attorneys for Plaintiff Bryan Ragone and all
others similarly situated

EXHIBIT A

BARTZ LAW GROUP, APC

5151 California Ave., Suite 100

Irvine, California 92617

(949) 504-4413

aaron@bartzlawgroup.com

November 30, 2023

Notice Via Online Submission

PAGA Administrator
California Labor and Workforce Development Agency

Via Certified Mail (Return Receipt Requested)

U.S. Aviation Services Corp.
c/o CT Corporation System
Agent for Service of Process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

Re: *Sisilia Lealao v. U.S. Aviation Services Corp.*

Dear PAGA Administrator:

Please be advised that Bartz Law Group, APC and United Employees Law Group represent Sisilia Lealao and all other similarly situated aggrieved employees ("Plaintiffs") with respect to their employment with U.S. Aviation Services Corp. ("Employer").

The Employer has committed numerous violations of the California Labor Code, including, but not limited to, sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, and 1198. The facts and theories to support the alleged violations are set forth herein.

Employer performs janitorial and other related services within California. Plaintiff Lealao was employed as a non-exempt hourly employee by Employer between June 2021 and August 2023. Plaintiffs worked for Employer in California within the last year, and were subject to the same wage and hour violations as Plaintiff Lealao.

A. Failure to Pay All Wages

Employer has regularly failed to pay Plaintiff Lealao and all other aggrieved employees all wages that they are owed, including minimum wages and overtime compensation, based upon Employer's policy and practice of not paying for all hours worked. For example, Employer fails and refuses to pay Plaintiff Lealao and all other aggrieved employees overtime worked by capping the hours that will be paid, despite the fact that Plaintiff Lealao and other aggrieved employees regularly work in excess of 8 hours per day and 40 hours per week. Employer does this by, among other

things, adjusting Plaintiff Lealao's and other aggrieved employees' hours so that the correct overtime is not paid. Employer also fails to pay for hours in which Plaintiffs are suffered or permitted to work, including Employer's practice and policy of requiring Plaintiffs to arrive to work before their shifts and conduct necessary work activities to get ready for their shifts, but then prohibits Plaintiffs from clocking in until Employer authorizes. Plaintiffs are also required to clock out while at work, so that Employer could avoid paying all wages owed. Plaintiffs are also required to perform training during their meal periods or non-work hours, without compensation. Employer's failure to pay all minimum wages and overtime compensation violates Labor Code §§ 510 and 1194.

Labor Code § 204(a) provides in pertinent part that "[a]ll wages, other than those mentioned in [Labor Code] Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month."

Pursuant to Labor Code § 204(b)(1), moreover, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." Here, Employer did not pay Plaintiffs all wages owed in a timely manner, based on the allegations above, thereby violating Labor Code § 204.

B. Meal Breaks

Employer has adopted, implemented and enforced uniform meal period policies that are not lawful under California law. Employer is required to provide a first meal period no later than the end of the 5th hour of work, and a second meal period no later than the end of the 10th hour of work. Plaintiffs are required to complete their jobs even when Employer coerces them to clock out for meal periods, without getting paid. Moreover, Plaintiffs' meal periods often were late, missed, or short, because Plaintiffs were required to attend to their work duties, and Employer did not have sufficient personnel to allow Plaintiffs to take their meal periods duty-free. Plaintiffs frequently have to work through their meal periods, and even when getting their meal period, Plaintiffs are often interrupted and/or otherwise meal periods are taken while Plaintiffs are still attending to work activities, and as such, the meal periods are not duty-free.

Employer has also failed to pay Plaintiffs one hour of pay at their regular rate of pay for each workday that a compliant meal period was not provided. As such, Employer has violated Labor Code §§ 226.7 and 512.

C. Rest Breaks

Employer failed to adopt, implement, or enforce a rest break policy that complied with California law. Plaintiff Lealao and all other aggrieved employees were either not authorized or permitted to take their rest breaks. By the nature of Plaintiff Lealao's and other aggrieved employees' job duties, moreover, Plaintiffs were always on call during their shifts, and not allowed to take their rest periods. Employer also coerced Plaintiffs not to take legally mandated rest periods by criticizing, disciplining and/or reprimanding employees who attempted to take legally mandated rest periods; failing to schedule rest periods; and constantly pressuring Plaintiffs to remain available during their shifts. As such, Employer failed to authorize and permit Plaintiffs to take duty-free rest periods of 10 minutes for every four hours worked or major fraction thereof, failed to provide a second duty-free rest period of 10 minutes for shifts between 6-10 hours and failed to provide a third duty-free rest period of 10 minutes for shifts in excess of 10 hours. As a result of Employer's lack of a rest break policy that complies with California law, Employer has violated Labor Code section 226.7.

Employer also failed to pay Plaintiff Lealao or the other aggrieved employees' one hour of pay at their regular rate of pay for each workday that a compliant rest period was not authorized or permitted. As such, Employer has violated Labor Code §§ 226.7 and 51

D. Wage Statement Violations

In conjunction with the above-referenced violations, Employer willfully failed to provide properly itemized wage statements to Plaintiffs pursuant to Labor Code section 226. Violations include, but are not limited to: an inaccurate showing of wages due and owing, failing to include gross wages earned as a result of not showing meal and rest period premium payments on Plaintiffs' paystubs, failing to show all hourly rates in effect and the corresponding number of hours at each hourly rate, failing to identify the name of the legal entity that is the employer, and failing to maintain accurate payroll and itemized wage statements. The failure to provide accurate itemized wage statements violates Labor Code § 226 and 1174.

E. Waiting Time Penalties

Employer willfully failed and refused to timely pay all compensation due and owing to Plaintiffs whose employment was terminated during the relevant time period, by failing to pay overtime, straight time and minimum wages for all hours worked, failing to pay Plaintiffs the regular rate of pay for overtime hours worked, and failing to pay Plaintiffs for an extra hour at the regular rate of pay because Employer failed to provide compliant meal and rest periods. As such, Employer is liable for accrued wages due, and waiting time penalties owed, in accordance with Labor Code §§ 201, 202, and 203.

CONCLUSION

Pursuant to Labor Code Section 2699.3, the undersigned, on behalf of Plaintiff Sisilia Lealao and other aggrieved employees, is providing written notice of the alleged Labor Code violations. Please advise the undersigned if the agency intends to investigate the alleged violations. If not, Plaintiffs intend to pursue their claims under PAGA in a representative action lawsuit. Please also consider this letter as providing notice on behalf of other similarly aggrieved employees working for Employer, that were subject to the same Labor Code violations described above.

Should you have any questions with respect to the above, please do not hesitate to contact the undersigned.

Very truly yours,

BARTZ LAW GROUP, APC

/s/ Aaron A. Bartz
Aaron A. Bartz

January 24, 2024

Filed via the LWDA's PAGA Claim Notice Online Form

Copies Sent via Certified U.S. Mail to:

Human Resources
U.S. Aviation Services Corp.
1550 S Indiana Ave
Chicago, IL 60605

U.S. Aviation Services Corp.
c/o CT Corporation System
330 N Brand Blvd,
Glendale, CA 91203

**Re: *Brandon Rivas v. U.S. Aviation Services Corp.*
 Notice of Intent to File Suit Pursuant to California Labor Code
 *Section 2699***

To Whom It May Concern:

This office represents Brandon Rivas ("Plaintiff") and a group of the putative class members in a forthcoming lawsuit against U.S. Aviation Services Corp. ("Defendant"). The action, entitled *Brandon Rivas v. U.S. Aviation Services Corp.*, is to be filed in the Superior Court of the State of California for the County of San Bernardino (the "Action"). A copy of the complaint as currently drafted, and as is intended to be filed in the Action, is enclosed as **Exhibit A**. This letter incorporates by reference the facts, law, and allegations of Exhibit A.

This letter serves as notice pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), codified at California Labor Code sections 2698 through 2699.6, that we intend to include representative claims in the Action for civil penalties under PAGA on behalf of a group of aggrieved employees. For the purposes of this letter, "Aggrieved Employees" is defined as: *All individuals who are or were employed by Defendant(s) as non-exempt employees in California, from one year prior to the mailing of this notice through the date of trial.*

As set forth in more detail in Exhibit A, Defendant violated its obligations to Plaintiff and the Aggrieved Employees under California law by: failing to pay minimum wages for all hours worked, failing to pay all overtime wages earned, failing to provide lawful rest periods and pay missed rest period premiums, failing to provide lawful meal periods and pay missed meal period premiums, failing to maintain accurate records, failing to reimburse all necessary business expenses, failing to provide accurate and complete wage statements, failing to pay all wages in full and on time during employment, and failing to pay all wages due upon termination.

Notice of Intent to File PAGA Action

January 24, 2024

Page 2 of 2

Because of these systemic violations, Defendant violated: Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2084, and California Industrial Welfare Commission Wage Orders Wage Orders 5-2001 and/or 9-2001, and others that may be applicable. (Cal. Code of Regs., tit. 8, §§ 11050, 11090.) The enclosed Complaint further details: **(1)** the alleged violations; **(2)** the facts and theories supporting these violations; **(3)** the people and entities, dates, classifications, violations, events, and actions at issue; and **(4)** the illegal practices instituted by Defendant.

Together with this correspondence, the enclosed complaint provides notice that we intend to proceed with a claim for civil penalties in the Action pursuant to PAGA. (See Lab. Code, §§ 2698–2699.6.) We intend to fully prosecute the representative claims alleged in the complaint, including by obtaining civil penalties under PAGA.

Please do not hesitate to contact me if you have any questions.

Sincerely,



JONATHAN MELMED

Enclosure

EXHIBIT “A”

MELMED LAW GROUP P.C.
Jonathan Melmed (SBN 290218)
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Fax: (310) 862-6851

Attorneys for Plaintiff and the Putative Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

BRANDON RIVAS, an individual, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

U.S. AVIATION SERVICES CORP., a Nevada
corporation; and DOES 1 TO 50,

Defendants.

Case Number:

Class Action Complaint For:

1. Failure to Pay All Minimum Wages,
2. Failure to Pay All Overtime Wages,
3. Failure to Provide Rest Periods and Pay Missed Rest Period Premiums,
4. Failure to Provide Meal Periods and Pay Missed Meal Period Premiums,
5. Failure to Maintain Accurate Employment Records,
6. Failure to Pay Wages Timely during Employment,
7. Failure to Pay All Wages Earned and Unpaid at Separation,
8. Failure to Indemnify All Necessary Business Expenditures,
9. Failure to Furnish Accurate Itemized Wage Statements, and

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10. Violations of California’s Unfair
Competition Law (Bus. & Prof. Code, §§
17200–17210).

Demand for Jury Trial

Plaintiff Brandon Rivas (“Plaintiff”), on behalf of himself and all other similarly situated employees within the State of California, complains and alleges of defendants U.S. Aviation Services Corp. and Does 1 to 50 (collectively, “Defendants”), and each of them, as follows:

I. INTRODUCTION

1. This is a class action complaint brought pursuant to California Code of Civil Procedure section 382.

2. The “Class Period” as used herein, is defined as the period from four years prior to the filing of this action and continuing into the present and ongoing. Defendants’ violations of California’s laws as described more fully below have been ongoing throughout the Class Period and are still ongoing.

3. Plaintiff brings this class action on behalf of himself and the following class: *All individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period* (the “Class Members”). (Code Civ. Proc., § 382.)

4. Plaintiff brings this action on behalf of himself and the Class Members, as a class action, against Defendants for:

- A. Failure to pay all minimum wages,
- B. Failure to pay all overtime wages,
- C. Failure to provide rest periods and pay missed rest period premiums,
- D. Failure to provide meal periods and pay missed meal period premiums,
- E. Failure to maintain accurate employment records,
- F. Failure to pay wages timely during employment,
- G. Failure to pay all wages earned and unpaid at separation,
- H. Failure to indemnify all necessary business expenditures,
- I. Failure to furnish accurate itemized wage statements, and
- J. Violations of California’s Unfair Competition Law (“UCL”) (Bus. & Prof. Code, §§ 17200–17210).

5. Plaintiff is informed and believes and thereon alleges that the California Industrial Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case are IWC Wage Orders

1 5-2001 and/or 9-2001 (the “Applicable Wage Orders”) and possibly others that may be applicable.
2 (Cal. Code of Regs., tit. 8, §§ 11050, 11090.) Plaintiff reserves the right to amend or modify the
3 definition of “Applicable Wage Orders” with greater specificity or add additional IWC Wage Orders
4 if additional applicable wage orders are discovered in litigation.

5 **II. JURISDICTION & VENUE**

6 6. This Court has subject matter jurisdiction over all causes of action asserted herein
7 pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure section
8 410.10 because this is a civil action in which the matter in controversy, exclusive of interest, exceeds
9 \$25,000, and because each cause of action asserted arises under the laws of the State of California or
10 is subject to adjudication in the courts of the State of California.

11 7. This Court has personal jurisdiction over Defendants because Defendants have caused
12 injuries in the County of San Bernardino and the State of California through their acts, and by their
13 violation of the California Labor Code and California state common law. Defendants transact millions
14 of dollars of business within the State of California. Defendants own, maintain offices, transact
15 business, have an agent or agents within the County of San Bernardino, and/or otherwise are found
16 within the County of San Bernardino, and Defendants are within the jurisdiction of this Court for
17 purposes of service of process.

18 8. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the
19 Code of Civil Procedure. Defendants operate within California and do business within San Bernardino
20 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all of
21 Defendants’ employees identified above within San Bernardino County and surrounding counties
22 where Defendants may remotely operate.

23 9. This matter is not appropriate for removal under the Class Action Fairness Act (28
24 U.S.C. § 1332) as the amount in controversy for Plaintiff’s and the Class Members’ claims, in
25 aggregate, is less than \$5 million. Additionally, all the allegations herein occurred in the State of
26 California. As such, even if the amount in controversy did exceed \$5 million this matter would still not
27 be appropriate for removal under the “local controversy” exception to the Class Action Fairness Act.
28 (28 U.S.C. § 1332, subd. (d)(4)(A).)

1 **III. THE PARTIES**

2 **A. PLAINTIFF**

3 10. At all relevant times, Plaintiff, who is over the age of 18, was and currently is a citizen
4 of California residing in the State of California. Defendants employed Plaintiff as a non-exempt hourly
5 employee in the County of San Bernardino.

6 11. Plaintiff brings this action on behalf of himself and the following class pursuant to
7 section 382 of the Code of Civil Procedure as follows: *All individuals who are or were employed by*
8 *Defendants as non-exempt employees in California during the Class Period* (the “Class Members”).

9 12. The Class Members, at all times pertinent hereto, are or were employees of Defendants
10 during the relevant statutory period.

11 **B. DEFENDANTS**

12 13. Plaintiff is informed and believes and thereon alleges that Defendants were authorized
13 to and doing business in San Bernardino County and is and/or was the legal employer of Plaintiff and
14 the other Class Members during the applicable statutory periods. Plaintiff and the other Class Members
15 were, and are, subject to Defendants’ policies and/or practices complained of herein and have been
16 deprived of the rights guaranteed to them by: California Labor Code sections 201, 202, 203, 204, 210,
17 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802,
18 2804, and others that may be applicable; California Business and Professions Code sections 17200
19 through 17210 (“UCL”); and the Applicable Wage Orders (Cal. Code of Regs., tit. 8, §§ 11050, 11090).

20 14. Plaintiff is informed and believes, and based thereon alleges, that during the Class
21 Period, Defendants did (and continue to do) business in the State of California, County of San
22 Bernardino.

23 15. Plaintiff does not know the true names or capacities, whether individual, partner, or
24 corporate, of the defendants sued herein as Does 1 to 50, inclusive, and for that reason, said defendants
25 are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this
26 complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and
27 thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were
28 responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff

1 and the other Class Members to be subject to the unlawful employment practices, wrongs, injuries, and
2 damages complained of herein.

3 16. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
4 herein, Defendants were and/or are the employers of Plaintiff and the other Class Members. At all times
5 herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to
6 have been done by the named Defendants. Furthermore, the Defendants, and each of them, were the
7 agents, representatives, and employees of each and every one of the other Defendants, and at all times
8 herein mentioned were acting within the course and scope of said agency, representation, and
9 employment. Defendants, and each of them, approved of, condoned, or otherwise ratified every one of
10 the acts or omissions complained of herein.

11 17. Plaintiff is further informed, and believes, and thereon alleges, that at all times
12 mentioned herein, that Defendants, and each of them, are the alter egos of one another and that there
13 existed and now exists a unity of interest and ownership between them such that the individuality and
14 separateness of each of them has ceased. Plaintiff is further informed, and believes, and thereon alleges,
15 that at all times mentioned herein, that Defendants, and each of them, have been and now are mere
16 shells and naked frameworks that their principal uses for the conduct of that Defendant's own business,
17 property, and affairs, for which Defendants, and each of them, have concealed and misrepresented their
18 identities as the entities responsible for their ownership, management, and financial interests.

19 18. Plaintiff is further informed, and believes, and thereon alleges, that at all times
20 mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture,
21 partnership, and common enterprise, and acting within the course and scope of and in pursuance of said
22 joint venture, partnership, and common enterprise. Further, Plaintiff is informed, and believes, and
23 thereon alleges, that all Defendants were joint employers for all purposes of Plaintiff and the other
24 Class Members.

25 **IV. COMMON FACTS & ALLEGATIONS**

26 19. Plaintiff and the other Class Members (collectively, the "Class Members") are, and were
27 at all relevant times, employed by the Defendants within the State of California.

28 ///

1 20. The Class Members are, and were, at all relevant times, non-exempt employees for the
2 purposes of minimum wages, overtime, rest breaks, meal periods, and the other claims alleged in this
3 complaint.

4 21. Specifically, Plaintiff was employed by Defendants within the statutory Class Period,
5 working as an hourly, non-exempt ramp agent for Defendants.

6 **A. MINIMUM WAGE VIOLATIONS**

7 22. Labor Code section 1197 requires employees to be paid at least the minimum wage fixed
8 by the IWC, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code
9 section 1194 entitles “any employee receiving less than the legal minimum wage . . . to recover in a
10 civil action the unpaid balance of the full amount of this minimum wage.” Likewise, the Applicable
11 Wage Orders also obligate employers to pay each employee minimum wages for all hours worked.
12 (Cal. Code of Regs., tit. 8, §§ 11050, 11090.) Labor Code section 1198 makes unlawful the employment
13 of an employee under conditions that the IWC Wage Orders prohibit.

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

18 24. Here, Defendants failed to fully conform their pay practices to the requirements of the
19 law during the relevant statutory periods. The Class Members were not compensated for all hours
20 worked including, but not limited to, all hours they were subject to the control of Defendants and/or
21 suffered or permitted to work under the California Labor Code and the Applicable Wage Orders.
22 Among other violations, the Class Members were subject to the control of Defendants while off-the-
23 clock and did not receive minimum wage for each hour worked.

24 25. Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an
25 employer who has failed to pay its employees the legal minimum wage is liable to pay those employees
26 the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages
27 due and interest thereon.

28 ///

1 26. When employees, such as the Class Members, are not paid for all hours worked under
2 Labor Code section 1194, they are entitled to recover minimum wages for the time which they received
3 no compensation. (See *Sillah v. Command International Security Services* (N.D. Cal. 2015) 154
4 F.Supp.3d 891 [employees suing for failure to pay overtime could recover liquidated damages under
5 Labor Code section 1194.2 if they also showed they were paid less than minimum wage].)

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

9 (1) “For any initial violation that is intentionally committed, one hundred
10 dollars (\$100) for each underpaid employee for each pay period for
11 which the employee is underpaid.”

12 (2) “For each subsequent violation for the same specific offense, two
13 hundred fifty dollars (\$250) for each underpaid employee for each pay
14 period for which the employee is underpaid regardless of whether the
15 initial violation is intentionally committed.” (Lab. Code, § 1197.1, subd.

16 (a).)

17 28. As set forth above, Defendants failed to fully compensate the Class Members for all
18 minimum wages. Accordingly, the Class Members are entitled to recover liquidated damages for
19 violations of Labor Code section 1197.1.

20 29. Based upon these same factual allegations, the Class Members are likewise entitled to
21 penalties under Labor Code sections 1199.

22 **B. OVERTIME VIOLATIONS**

23 30. Labor Code section 510 requires employers to compensate employees who work more
24 than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on
25 the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee.
26 (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate
27 employees at no less than twice the regular rate of pay when an employee works more than twelve
28 hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510,

1 subd. (a).) These rules are also reflected in the Applicable Wage Orders.

2 31. In accordance with Labor Code section 1194 and the Applicable Wage Orders, the Class
3 Members could not then agree and cannot now agree to work for a lesser wage than the amount
4 provided by Labor Code sections 510 or the Applicable Wage Orders.

5 32. Here, Defendants violated their duty to accurately and completely compensate the Class
6 Members for all overtime worked. The Class Members periodically worked hours that entitled them to
7 overtime compensation under the law but were not fully compensated for those hours.

8 33. These actions were and are in clear violation of California’s overtime laws as set forth
9 in Labor Code sections 510, 1194, 1199, and the Applicable Wage Orders. (Cal. Code of Regs., tit. 8,
10 §§ 11050, 11090.) As a result of Defendants’ faulty policies and practices, the Class Members were
11 not compensated for all hours worked or paid accurate overtime compensation.

12 **C. REST BREAK VIOLATIONS**

13 34. Pursuant to Labor Code section 226.7 and the Applicable Wage Orders, Defendants
14 were and are required to provide the Class Members with compensated, duty-free rest periods of not
15 less than ten minutes for every major fraction of four hours worked. Under the Applicable Wage
16 Orders, an employer must authorize and permit all employees to take ten minute duty free rest periods
17 for every major fraction of four hours worked. (Cal. Code of Regs., tit. 8, §§ 11050, 11090.)

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

1 their employees when employers fail to provide rest periods.

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

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

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

27 38. In such cases where Defendants did not offer the Class Members the opportunity to
28 receive a compliant off-duty rest period, “the court may not conclude employees voluntarily chose to

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

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

11 40. Based on the foregoing, Plaintiff seeks to recover, on behalf of himself and other non-
12 exempt employees, rest period premiums and penalties.

13 **D. MEAL BREAK VIOLATIONS**

14 41. Labor Code section 512 and the Applicable Wage Orders require employers to provide
15 employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of
16 work. (Lab. Code, § 512, subd. (a) [“An employer shall not employ an employee for a work period of
17 more than five hours per day without providing the employee with a meal period of not less than 30
18 minutes”]; Cal. Code of Regs., tit. 8, §§ 11050, 11090 [“No employer shall employ any person
19 for a work period of more than five (5) hours without a meal period of not less than 30 minutes”].)
20 Additionally, an employee who works more than ten hours per day is entitled to receive a second thirty-
21 minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a) [“An employer shall not
22 employ an employee for a work period of more than 10 hours per day without providing the employee
23 with a second meal period of not less than 30 minutes”].)

24 42. “An on-duty meal period is permitted only when the nature of the work prevents an
25 employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal
26 break.” (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must
27 include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California
28 Department of Industrial Relations, Division of Labor Standards Enforcement (“DLSE”) and courts

1 have “found that the nature of the work exception applies: (1) where the work has some particular
2 external force that requires the employee to be on duty at all times, and (2) where the employee is the
3 sole employee of a particular employer.” (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v.*
4 *U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) “[I]t is the employer’s obligation
5 to determine whether the nature of the work prevents an employee from being relieved before requiring
6 an employee to take an on-duty meal period.” (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at
7 p. 946.)

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

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

22 45. During the applicable statutory periods here, the Class Members were periodically
23 denied legally-compliant and timely off-duty meal periods of at least thirty minutes due to Defendants’
24 unlawful meal period policy and practices. As a result of Defendants’ uniform meal period policies and
25 practices, the Class Members were often not permitted to take compliant first meal periods before the
26 end of the fifth hour of work. The Class Members were also periodically not permitted to take second
27 meal periods for shifts in excess of ten hours. Defendants thus violated Labor Code section 512 and
28 the Applicable Wage Orders by failing to advise, authorize, or permit the Class Members to receive

thirty-minute, off-duty meal periods within the first five hours of their shifts.

46. Labor Code section 226.7 provides that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission.” (Lab. Code, § 226.7, subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Orders further obligate employers to pay employees one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, §§ 11050, 11090 [“If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.”].) The “regular rate” for these purposes must factor in all nondiscretionary payments for work performed by the employee, including non-discretionary bonuses, commissions, and other forms of wage payments exceeding the employees’ base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.)

47. Accordingly, for each day that the Class Members did not receive compliant meal periods, they were and are entitled to receive meal period premiums pursuant to Labor Code section 226.7 and the Applicable Wage Orders. Defendants, however, failed to pay the Class Members applicable meal period premiums for many workdays that the employees did not receive a compliant meal period. Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage Orders.

48. Based on the foregoing, Plaintiff seeks to recover, on behalf of himself and other non-exempt employees, meal period premiums and penalties.

E. UNTIMELY WAGES DURING EMPLOYMENT

49. Labor Code section 204 expressly requires employers who pay employees on a weekly, biweekly, or semimonthly basis to pay all wages “not more than seven calendar days following the close of the payroll period.” Labor Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a penalty of:

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1 “(1) For any initial violation, one hundred dollars (\$100) for each failure to
2 pay each employee.

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

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

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

16 **F. UNTIMELY WAGES AT SEPARATION**

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

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

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1 **G. FAILURE TO REIMBURSE BUSINESS EXPENSES**

2 54. At all relevant times herein, Defendants were subject to Labor Code section 2802, which
3 states that “an employer shall indemnify his or her employees for all necessary expenditures or losses
4 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
5 obedience to the directions of the employer.” The purpose of this section is to “prevent employers from
6 passing along their operating expenses onto their employees.” (*Gattuso v. Harte-Hanks Shoppers, Inc.*
7 (2007) 42 Cal.4th 554, 562.)

8 55. At all relevant times herein, Defendants were subject to Labor Code section 2804, which
9 states that “any contract or agreement, express or implied, made by any employee to waive the benefits
10 of this article or any part thereof, is null and void, and this article shall not deprive any employee or his
11 personal representative of any right or remedy to which he is entitled under the laws of this State.”

12 56. Thus, the Class Members were and are entitled to reimbursement for the expenses they
13 incurred during the course of their duties. The duty to reimburse even extends to the use of equipment
14 the employee may already own and would be required to pay for anyway. (*Cochran v. Schwan’s Home*
15 *Serv., Inc.* (2014) 228 Cal.App.4th 1137, 1144 [“The threshold question in this case is this: Does an
16 employer always have to reimburse an employee for the reasonable expense of the mandatory use of a
17 personal cell phone, or is the reimbursement obligation limited to the situation in which the employee
18 incurred an extra expense that he or she would not have otherwise incurred absent the job? The answer
19 is that reimbursement is always required. Otherwise, the employer would receive a windfall because it
20 would be passing its operating expenses on to the employee.”].)

21 57. Here, Defendants failed to fully reimburse the Class Members for necessary
22 expenditures incurred as a direct consequence and requirement of performing their job duties, including
23 the costs associated with their personal cell phone they required to perform their work. Consequently,
24 Defendants failed to comply with Labor Code section 2802.

25 **H. WAGE STATEMENT VIOLATIONS**

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

1 statement in writing showing:

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

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

22 60. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and
23 intentionally failed to provide the Class Members with accurate itemized wage statements in violation
24 of Labor Code section 226, subdivision (e). Defendants knew that they were not providing the Class
25 Members with wage statements required by California law but nevertheless failed to correct their
26 unlawful practices and policies. (See *Garnett v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d 1121, 1134
27 [finding the defendant knowingly and intentionally violated Labor Code section 226 because the
28 "[d]efendant knew that it was not providing total hours worked to plaintiff or other employees paid on

1 commission” even though it believed that employees paid solely on commission or commission and
2 salary “are exempt and therefore we do not record hours on a wage statement.”].)

3 **I. RECORDKEEPING VIOLATIONS**

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

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

15 62. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including
16 Defendants, to:

17 “Keep, at a central location in the state or at the plants or establishments at which
18 employees are employed, payroll records showing the hours worked daily by
19 and the wages paid to, and the number of piece-rate units earned by and any
20 applicable piece rate paid to, employees employed at the respective plants or
21 establishments. These records shall be kept in accordance with rules established
22 for this purpose by the commission, but in any case shall be kept on file for not
23 less than three years. An employer shall not prohibit an employee from
24 maintaining a personal record of hours worked, or, if paid on a piece-rate basis,
25 piece-rate units earned.” (Lab. Code, § 1174, subd. (d), emphasis added.)

26 63. As explained in detail above, Defendants failed to provide the Class Members with
27 accurate itemized wage statements. Defendants did so, in part, because they failed to accurately track
28 hours worked by the Class Members. Defendants have thus failed to keep accurate records of the “total

1 hours worked by the employee[s]” in violation of Labor Code section 226, subdivision (a), and are
2 therefore subject to the penalties provided by Labor Code section 226.3. These penalties are “in
3 addition to any other penalty provided by law.” (Lab. Code, § 226.3.)

4 64. The failure to accurately track hours worked also resulted in a failure of Defendants to
5 keep a record of all “payroll records showing the hours worked daily by” Defendants’ employees,
6 including Plaintiff and the other Class Members, in violation of Labor Code section 1174, subdivision
7 (d).

8 **V. CLASS ACTION ALLEGATIONS**

9 65. As mentioned above, Plaintiff brings this action on behalf of himself and the Class
10 Members pursuant to section 382 of the Code of Civil Procedure.

11 66. **Numerosity/Ascertainability:** The Class Members are so numerous that joinder of all
12 members would be unfeasible and not practicable. The membership of the class is unknown to Plaintiff
13 at this time; however, it is estimated that the number of Class Members is greater than 100 individuals.
14 The identity of such membership is readily ascertainable via inspection of Defendants’ employment
15 records.

16 67. **Common Questions of Law and Fact Predominate/Well Defined Community of**
17 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
18 non-exempt employees, which predominate over questions affecting only individual members
19 including, without limitation to:

20 A. Whether Defendants’ pay policies/practices resulted in a failure to pay the Class
21 Members for all hours worked, including all minimum wages;

22 B. Whether Defendants’ pay policies/practices resulted in a failure to pay the Class
23 Members for all required overtime wages at the Class Members’ regular rate of pay;

24 C. Whether Defendants’ rest period policies and practices afforded legally
25 compliant rest periods or compensation in lieu thereof;

26 D. Whether Defendants’ meal period policies and practices afforded legally
27 compliant meal periods or compensation in lieu thereof;

28 E. Whether Defendants maintained accurate employment records;

1 F. Whether Defendants timely paid all wages during employment;

2 G. Whether Defendants timely paid all wages earned and unpaid at separation;

3 H. Whether Defendants indemnified their employees for all necessary business
4 expenditures;

5 I. Whether Defendants furnished legally-compliant wage statements to the Class
6 Members pursuant to Labor Code section 226; and

7 J. Whether Defendants' violations of the Labor Code and the Applicable Wage
8 Orders amounted to a violation of California's UCL.

9 68. **Predominance of Common Questions:** Common questions of law and fact
10 predominate over questions that affect only individual Class Members. The common questions of law
11 set forth above are numerous and substantial and stem from Defendants' uniform policies and practices
12 applicable to each individual class member, such as Defendants' uniform policy and practice of failing
13 to pay for all hours worked, Defendants' uniform policies and practices which failed to provide
14 compliant rest periods, Defendants' uniform policies and practices which failed to provide compliant
15 meal periods, Defendants' failure to provide accurate itemized wage statements, and others. As such,
16 the common questions predominate over individual questions concerning each individual class
17 member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

18 69. **Typicality:** The claims of Plaintiff are typical of the claims of the Class Members
19 because Plaintiff was employed by Defendants as a non-exempt employee in California during the
20 statute(s) of limitation applicable to each cause of action pleaded in this complaint. As alleged herein,
21 Plaintiff, like the other Class Members, was deprived of minimum, regular, and overtime wages
22 because of Defendants' unlawful timekeeping policies and practices, was deprived of rest periods and
23 premium wages in lieu thereof, was deprived of meal periods and premium wages in lieu thereof, was
24 subject to Defendants' uniform rest period policies and practices, was subject to Defendants' uniform
25 meal period policies and practices, was not provided accurate itemized wage statements, was not paid
26 all wages in full and on time, , and was subject to other similar policies and practices to which the Class
27 Members were subject.

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1 70. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
2 represent fairly and adequately the interests of the Class Members. Moreover, Plaintiff's attorneys are
3 ready, willing, and able to fully and adequately represent the Class Members and Plaintiff. Plaintiff's
4 attorneys have prosecuted numerous wage-and-hour class actions in state and federal court in the past
5 and are committed to vigorously prosecuting this action on behalf of the Class Members.

6 71. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
7 important public interest in establishing minimum working conditions and standards in California.
8 These laws and labor standards protect the average working employee from exploitation by employers
9 who have the responsibility to follow the laws and who may seek to take advantage of superior
10 economic and bargaining power in setting onerous terms and conditions of employment. The nature of
11 this action and the format of laws available to Plaintiff and the Class Members make the class action
12 format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each
13 employee were required to file an individual lawsuit, Defendants would necessarily gain an
14 unconscionable advantage since they would be able to exploit and overwhelm the limited resources of
15 each individual plaintiff with their vastly superior financial and legal resources.

16 72. Moreover, requiring each Class Member to pursue an individual remedy would also
17 discourage the assertion of lawful claims by employees who would be disinclined to file an action
18 against their former or current employer for real and justifiable fear of retaliation and permanent
19 damages to their careers at subsequent employment. Further, the prosecution of separate actions by the
20 individual Class Members, even if possible, would create a substantial risk of inconsistent or varying
21 verdicts or adjudications with respect to the individual Class Members against Defendants herein, and
22 which would establish potentially incompatible standards of conduct for Defendants or legal
23 determinations with respect to individual Class Members which would, as a practical matter, be
24 dispositive of the interest of the other Class Members not parties to adjudications or which would
25 substantially impair or impede the ability of the Class Members to protect their interests.

26 73. Further, the claims of the individual Class Members are not sufficiently large to warrant
27 vigorous individual prosecution considering the concomitant costs and expenses attending thereto. As
28 such, the Class Members identified above are maintainable as a class under section 382 of the Code of

Civil Procedure.

VI. CAUSES OF ACTION

First Cause of Action

Failure to Pay All Minimum Wages

(Against All Defendants)

74. Plaintiff realleges and incorporates by reference all previous paragraphs.

75. Section 4 of the Applicable Wage Orders and Labor Code section 1197 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. (Lab. Code, § 1197; Cal. Code of Regs., tit. 8, §§ 11050, 11090.) Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an employee who has not been paid the legal minimum wage as required by Labor Code section 1197 may recover the unpaid balance, together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

76. Here, Defendants failed to fully conform their pay practices to the requirements of the law during the relevant statutory periods. Plaintiff and the other Class Members were not compensated for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and the Applicable Wage Orders.

77. Labor Code section 1198 makes unlawful the employment of an employee under conditions that the IWC Wage Orders prohibit. Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

78. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the other Class Members have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief because of Defendants' violations of the Labor Code and Applicable Wage Orders.

79. Defendants' practices and policies regarding illegal employee compensation are unlawful and create an entitlement to recovery by Plaintiff and the other Class Members in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code sections 204, 218.5, 1194, 1194.2, 1197, and 1198, and Code of Civil Procedure section 1021.5.

Second Cause of Action

Failure to Pay All Overtime Wages

(Against All Defendants)

80. Plaintiff realleges and incorporates by reference all previous paragraphs.

81. This cause of action is brought pursuant to Labor Code sections 204, 510, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed. At all times relevant herein, Defendants were required to properly pay Plaintiff and the other Class Members for all overtime wages earned pursuant to Labor Code section 1194 and the Applicable Wage Orders. Defendants caused Plaintiff and the other Class Members to work overtime hours but did not compensate them at one and one-half times their regular rate of pay for such hours in accordance with California law. Likewise, Defendants caused Plaintiff and the other Class Members to work double-time hours but did not compensate them at twice their regular rate of pay for such hours in accordance with California law.

82. Defendants failed to fully conform their pay practices to the requirements of California law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful pay policies and practices of failing to accurately record all the time that non-exempt employees were under the supervision and control of Defendants. The foregoing policies and practices are unlawful and allow Plaintiff and the other Class Members to recover in a civil action the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code section 204, 510, 1194, and 1198, the Applicable Wage Orders, and Code of Civil Procedure section 1021.5.

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89. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the Applicable Wage Orders and Labor Code sections 226.7 and 512, and Civil Code sections 3287, subdivision (b), and 3289. (See Cal. Code of Regs., tit. 8, §§ 11050, 11090.)

Fifth Cause of Action

Failure to Maintain Accurate Employment Records

(Against All Defendants)

90. Plaintiff realleges and incorporates by reference all previous paragraphs.

91. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

92. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records.

93. Defendant has intentionally and willfully failed to keep accurate and complete records showing the hours worked daily and wages paid to Plaintiff and the other Class Members. Thus, Plaintiff and the other Class Members have been denied their legal right and protected interest in having available at a central location at the plant or establishment where they are employed, accurate and complete payroll records showing the hours worked daily by, and the wages paid to, employees at those respective locations pursuant to Labor Code 1174.

Sixth Cause of Action

Failure to Pay Wages Timely during Employment

(Against All Defendants)

94. Plaintiff realleges and incorporates by reference all previous paragraphs.

95. Labor Code section 200 provides that “wages” include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that all

1 wages earned by any person in any employment are payable twice during the calendar month and must
2 be paid not more than seven days following the close of the period when the wages were earned. Labor
3 Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a
4 penalty of \$100 for any initial failure to timely pay each employee's full wages and \$200 for each
5 subsequent violation, plus 25% of the amount unlawfully withheld.

6 96. Labor Code section 216 establishes that it is a misdemeanor for any person, with regards
7 to wages due, to "falsely deny the amount or validity thereof, or that the same is due, with intent to
8 secure himself, his employer or other person, any discount upon such indebtedness, or with intent to
9 annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due."

10 97. Defendants as a matter of established company policy and procedure in the State of
11 California, scheduled, required, suffered, and/or permitted Plaintiff and the other Class Members, to
12 work without full compensation, to work without legally-compliant off-duty meal periods, to work
13 without legally-compliant off-duty rest periods, and thereby failed to fully pay Plaintiff and the other
14 Class Members within seven days of the close of payroll, as required by law.

15 98. Defendants, as a matter of established company policy and procedure in the State of
16 California, falsely deny they owe Plaintiff and the other Class Members these wages, with the intent of
17 securing for itself a discount upon its indebtedness and/or to annoy, harass, oppress, hinder, delay,
18 and/or defraud Plaintiff and the other Class Members.

19 99. Defendants' pattern, practice, and uniform administration of its corporate policy of
20 illegally denying employees compensation, as described herein, is unlawful and entitles Plaintiff and
21 the other Class Members to recover, pursuant to Labor Code section 218, the unpaid balance of the
22 compensation owed to them in a civil action and any applicable penalties, attorney fees, and interest
23 owed to them pursuant to Labor Code sections 210 and 218.5.

24 **Seventh Cause of Action**

25 *Failure to Pay All Wages Earned and Unpaid at Separation*

26 *(Against All Defendants)*

27 100. Plaintiff realleges and incorporates by reference all previous paragraphs.

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101. The actionable period for this cause of action is three years prior to the filing of this complaint through the present, and ongoing until the violations are corrected or the class is certified. (*Pineda v. Bank of America, N.A.* (2010) 50 Cal.4th 1389, 1395; *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1109; Code Civ. Proc., § 338, subd. (a).) Labor Code sections 201 and 202 of the California Labor Code require Defendants to pay all compensation due and owing to its former employees (including the formerly-employed Class Members) during the actionable period for this cause of action at or around the time that their employment is or was terminated, or ended.

102. Section 203 of the Labor Code provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for penalties in the form of continued compensation up to thirty workdays.

103. Due to Defendants' faulty pay policies, those Class Members whose employment with Defendants has concluded were not compensated for each and every hour worked at the appropriate rate. Defendants have willfully failed to pay those formerly-employed Class Members whose sums were certain at the time of termination within seventy-two hours of their resignation and have failed to pay those sums for thirty days thereafter as required by Labor Code sections 201 through 203.

104. As a result, Defendants are liable to the formerly-employed Class Members for waiting time penalties amounting to thirty days wages for the formerly-employed Class Members pursuant to Labor Code section 203. (See, e.g., DLSE Manual, § 4.3.4 [failure to pay any sort of wages due upon termination entitles an employee to recover waiting time penalties].)

Eighth Cause of Action

Failure to Indemnify All Necessary Business Expenditures

(Against All Defendants)

105. Plaintiff realleges and incorporates by reference all previous paragraphs.

106. California Labor Code Section 2802 states that employers must “indemnify” an employee for “all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Likewise, Labor Code section 2804 states that “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall

1 not deprive any employee or his personal representative of any right or remedy to which he is entitled
2 under the laws of this State.”

3 107. Here, Plaintiff and the other Class Members paid out of pocket for necessary business
4 expenditures incurred as a direct consequence and requirement of performing their job duties, including
5 the costs associated with their personal cell phone they required to perform their work. Despite knowing
6 that Plaintiff and the other Class Members incurred these necessary business expenses, and requiring
7 Plaintiff and the other Class Members to use such items, Defendants did not reimburse them.

8 108. Thus, Plaintiff and the other Class Members are entitled to recover the cost of such
9 necessary business expenses, plus interest from the date each incurred such business expenses, plus
10 fees and costs. (Lab. Code, § 2802, subds. (b), (c).)

11 **Ninth Cause of Action**

12 *Failure to Furnish Accurate Itemized Wage Statements*

13 *(Against All Defendants)*

14 109. Plaintiff realleges and incorporates by reference all previous paragraphs.

15 110. Labor Code section 226, subdivision (a), obligates employers, semi-monthly or at the
16 time of each payment to furnish an itemized wage statement in writing showing:

- 17 (1) The gross wages earned;
- 18 (2) The total hours worked by the employee;
- 19 (3) The number of piece-rate units earned and any applicable piece rate if
20 the employee is paid on a piece rate basis;
- 21 (4) All deductions, provided that all deductions made on written orders of
22 the employee may be aggregated and shown as one item;
- 23 (5) The net wages earned;
- 24 (6) The inclusive dates of the period for which the employee is paid;
- 25 (7) The name of the employee and only the last four digits of his or her social
26 security number or an employee identification number other than a social
27 security number;
- 28 (8) The name and address of the legal entity that is the employer; and

1 (9) All applicable hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate by the
3 employee.

4 111. As set forth above, Defendants issued and continues to issue wage statements to its non-
5 exempt employees including Plaintiff and the other Class Members that are inadequate under Labor
6 Code section 226, subdivision (a). By failing to pay Plaintiff and the other Class Members properly as
7 described above, Defendants failed to include required information on their wage statements, including,
8 but not limited to, the gross wages earned, the net wages earned in violation of Labor Code section
9 226, subdivision (a).

10 112. Defendants' failure to comply with Labor Code section 226, subdivision (a), of the
11 Labor Code was knowing and intentional. (Lab. Code, § 226, subd. (e)).

12 113. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff
13 and the other Class Members in violation of Labor Code section 226, subdivision (a), Plaintiff and the
14 other Class Members are each entitled to recover an initial penalty of \$50, and subsequent penalties of
15 \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per each Class
16 Member from Defendants pursuant to Labor Code section 226, subdivision (e), along with costs and
17 reasonable attorneys' fees.

18 **Tenth Cause of Action**

19 *Violations of California's Unfair Competition Law*

20 *(Against All Defendants)*

21 114. Plaintiff realleges and incorporates by reference all previous paragraphs.

22 115. Defendants have engaged and continue to engage in unfair and/or unlawful business
23 practices in California in violation of California Business and Professions Code section 17200 through
24 17210, by committing the unlawful acts described above. Defendants' utilization of these unfair and
25 unlawful business practices deprived and continue to deprive Plaintiff and the other Class Members of
26 compensation to which they are legally entitled. These practices constitute unfair and unlawful
27 competition and provide an unfair advantage over Defendants' competitors who have been and/or are
28 currently employing workers and attempting to do so in honest compliance with applicable wage and

1 hour laws.

2 116. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct alleged herein,
3 Plaintiff for himself and on behalf of the Class Members, seeks full restitution of monies, as necessary
4 and according to proof, to restore any and all monies withheld, acquired and/or converted by
5 Defendants pursuant to Business and Professions Code sections 17203 and 17208.

6 117. The acts complained of herein occurred within the four years prior to the initiation of
7 this action and are continuing into the present and ongoing.

8 118. Plaintiff was compelled to retain the services of counsel to file this Court action to
9 protect his interests and those of the Class Members, to obtain restitution and injunctive relief on behalf
10 of Defendants' current non-exempt employees and to enforce important rights affecting the public
11 interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which Plaintiff
12 is entitled to recover under Code of Civil Procedure section 1021.5.

13 **VII. DEMAND FOR JURY TRIAL**

14 119. Plaintiff hereby demands trial by jury of Plaintiff's and the Class Members' claims
15 against Defendants.

16 **VIII. PRAYER FOR RELIEF**

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

- 19 1. For an order certifying the proposed class;
- 20 2. For an order appointing Plaintiff as representative of the class;
- 21 3. For an order appointing Plaintiff's counsel as counsel for the class;
- 22 4. For the failure to pay all minimum wages, compensatory, consequential, general, and
23 special damages according to proof pursuant to Labor Code sections 1194, 1194.2,
24 1197, and others as may be applicable;
- 25 5. For the failure to pay all overtime wages, compensatory, consequential, general, and
26 special damages according to proof pursuant to Labor Code sections 204, 510, 1194,
27 1198, and others as may be applicable;

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6. For the failure to provide rest periods and pay missed rest period premiums, compensatory, consequential, general, and special damages according to proof pursuant to Labor Code section 226.7;
7. For the failure to provide meal periods and pay missed meal period premiums, compensatory, consequential, general, and special damages according to proof pursuant to Labor Code sections 226.7 and 512;
8. For the failure to maintain accurate employment records, penalties pursuant to Labor Code sections 226.3, 1174.5, and others that may be applicable;
9. For the failure to pay wages timely during employment, the unpaid balance of the compensation owed to Plaintiff and the other Class Members and any applicable penalties owed to them pursuant to Labor Code section 210;
10. For the failure to pay all wages earned and unpaid at separation, statutory waiting time penalties pursuant to Labor Code sections 201 through 203, for the Class Members who quit or were fired in an amount equal to their daily wage multiplied by thirty days, as may be proven;
11. For the failure to indemnify all necessary business expenditures, all unreimbursed business expenses, and interest thereon, that are owed, pursuant to Labor Code section 2802, and attorney fees, pursuant to Labor Code section 2802, subdivision (c);
12. For the violations of California's Unfair Competition Law, restitution to Plaintiff and the other Class Members of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code sections 17200 through 17210;
13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;
14. On all causes of action for which attorneys' fees may be available, for attorneys' fees and costs as provided by Labor Code sections 218.5, 226, Code of Civil Procedure section 1021.5, and others as may be applicable;

///

1 **15.** For an order enjoining Defendants, and each of them, and their agents, servants, and
2 employees, and all persons acting under, in concert with, or for them, from acting in
3 derogation of any rights or duties adumbrated in this complaint; and

4 **16.** For such other and further relief, this Court may deem just and proper.

5 Dated: January 24, 2024

MELMED LAW GROUP P.C.



JONATHAN MELMED

Attorneys for Plaintiff and the Putative Class



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fax: (310) 510-6429

January 29, 2024

VIA PAGA ONLINE FILING ONLY:

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

VIA U.S. CERTIFIED MAIL:

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

U.S. Aviation Services Corp.
Attn: Human Resources / Legal Department
1550 S Indiana Ave
Chicago, IL 60605

C T Corporation System
Agent for Service of Process for:
United Service Companies, Inc.
208 So Lasalle St, Suite 814
Chicago, IL 60604-1101

United Service Companies, Inc.
Attn: Human Resources / Legal Department
1550 S Indiana Ave
Chicago, IL 60605

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; U.S. Aviation Services Corp.; and United Service Companies, Inc.
Date: January 29, 2024
Subject: *Bryan Ragone v. U.S. Aviation Services Corp., et. al.*

Introduction

This office represents PLAINTIFF, Bryan Ragone (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: U.S. Aviation Services Corp. and United Service Companies, Inc. (hereinafter, these entities and their managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of PLAINTIFF’s claims against DEFENDANTS. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

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

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or

add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

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

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 208, 216, 221-223, 226, 226.7, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 551, 552, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

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

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

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

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform

services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

For example, DEFENDANTS' website identifies both "U.S. Aviation Services Corp." and "United Service Companies." Also, per DEFENDANTS' website, United Service Companies' corporate headquarters address is the same as U.S. Aviation Services Corp.'s principal place of business as provided to the California Secretary of State. Also, DEFENDANTS, and each of them, maintain the same agent for service of process as provided to the California Secretary of State and/or the Secretary of State of the State of Incorporation. Moreover, based on information and belief, DEFENDANTS use some of the same human resources personnel and/or attorneys to oversee employment-related matters.

By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

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

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at the airport facilities and/or other facilities and/or other location(s) in California, including but not limited to, the airport facilities and/or other facilities in Ontario, California. DEFENDANTS, through its various locations, serve the aviation and/or consumer services industry.¹ Although DEFENDANTS may operate a successful company or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title(s) of baggage handler and/or ramp agent and/or a similar title(s) and/or job position(s) from in or around December 2022 through on or around December 1, 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Ontario, California location(s). PLAINTIFF regularly worked seven and one-half (7 ½) hours per day. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued

¹ See <https://unitedhq.com/u-s-aviation-services-corp/>. Last visited on January 28, 2024.

employment; (13) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continue to fail to provide suitable seating; and (15) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

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

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

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

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

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

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

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

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

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

Time and Pay Records

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

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

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

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

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

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

personnel records when requested by NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

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

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

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

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

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute,

uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to take late meal periods in order to complete assigned job duties. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were frequently interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

For example, at times, PLAINTIFF was required to take late meal periods (i.e. after working more than five (5) hours). At times, PLAINTIFF was instructed to clock out for meal periods but to continue working due to the need to complete assigned job duties. Based on information and belief, DEFENDANTS also required other NON-EXEMPT AGGRIEVED EMPLOYEES to clock out for meal periods but to continue working during unpaid meal periods, resulting in denied meal periods as well as DEFENDANTS' failure to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

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

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

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

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

For example, when PLAINTIFF worked more than ten (10) and/or twelve (12) hours in a shift, PLAINTIFF was at times denied a compliant second meal period.

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

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

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

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

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

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each

NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³ DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

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

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

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per

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

California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were frequently, if not always, unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

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

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

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

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

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

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

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); and All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law,

Cooldown Recovery Period Violations: California Code of Regulations, Title 8, section 3395 mandates that all employers with “outdoor places of employment” implement a heat illness prevention program that includes, among other requirements, providing workers “cool-down” periods of at least five minutes in the shade. Specifically, section 3395 provides that “employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating” and that “such access to shade shall be permitted at all times.” Under California Labor Code section 226.7, if an employer fails to provide an employee a recovery period, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to spend multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS failed to provide proper heat illness prevention training and/or heat illness policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS maintained a policy and practice of not permitting necessary time for cooldown recovery breaks, and as a result, NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain outdoors with little to no access to shade for extended periods of time. In addition, DEFENDANTS, failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES with an additional hour of pay at PLAINTIFF’s regular rate of pay for each missed cooldown recovery period.

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

DEFENDANTS’ locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no modification, but instead denied and continue to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS’ premises which are not designated or reserved for rest, such as their personal vehicles.

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

any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

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

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

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

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

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS' control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

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

For example, PLAINTIFF was frequently required to respond to work-related calls and/or messages before clocking in for the start of his shift and/or after clocking out for the end of his shift and/or during unpaid meal periods and/or otherwise outside of PLAINTIFF's scheduled shift times, resulting in DEFENDANTS' failure to compensate PLAINTIFF for all work time and the underpayment of wages owed to PLAINTIFF.

Based on information and belief, DEFENDANTS have a policy and practice of requiring other NON-EXEMPT AGGRIEVED EMPLOYEES to also perform work tasks outside of scheduled shift times and/or during unpaid meal periods, including but not limited to, responding to work-related communications and/or completing other off-the-clock work tasks.

For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to be at their assigned workstations at the start of a scheduled shift, thereby forcing NON-EXEMPT AGGRIEVED EMPLOYEES to gather work-related equipment and/or safety gear, make any necessary adjustments to tools/equipment and/or perform maintenance/cleaning tasks, don work clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

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

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete other off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

Based on information and belief, DEFENDANTS did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for all time spent donning and doffing personal protective equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses, reflective vests, earplugs and/or earmuffs and/or hats/bump caps/safety helmets and/or face masks) during meal periods, before the start of a scheduled shift, and after completing a scheduled shift, resulting in DEFENDANTS' failure to pay NON-EXEMPT AGGRIEVED EMPLOYEES for all

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

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

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to undergo security screenings and/or other mandated screenings before and/or after a scheduled shift and/or before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

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

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also pressured to complete at least some additional work tasks off-the-clock in order to meet DEFENDANTS' goals and expectations.

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

Based on information and belief, DEFENDANTS engaged in systemic time record manipulation to shave time worked off PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES' workdays, by, for example, editing written and/or electronic time records to delete portions of total hours worked or otherwise understate actual hours worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES the applicable minimum wage for the county and/or city within which the NON-EXEMPT AGGRIEVED EMPLOYEE worked in California.

For example, based on information and belief, at times, DEFENDANTS required PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES to work two separate shifts in the same

day. Based on information and belief, DEFENDANTS failed to pay PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES split shift compensation whenever PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' work schedules were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday..."). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment).

DEFENDANTS also failed to separately itemize these split shift premium wages on PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements, in violation of including but not limited, Labor Code sections 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on the pay stub provided to the employee, and it should be shown as a separate category such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements.

For example, DEFENDANTS typically required PLAINTIFF to work two separate shifts in the same day, however, DEFENDANTS failed to pay PLAINTIFF split shift compensation whenever PLAINTIFF's work schedule(s) was interrupted by non-paid non-working periods established by DEFENDANTS. Based on further information and belief, DEFENDANTS also failed to separately itemize these split shift premium wages on PLAINTIFF's wage statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders.

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

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

DEFENDANTS' failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid

overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

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

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

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

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

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

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

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

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

Based on information and belief, DEFENDANTS calculated the owed overtime rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s) based on the minimum wage established for the cities and/or counties within which NON-EXEMPT AGGRIEVED EMPLOYEES worked, resulting in the miscalculation and underpayment of overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES who worked in cities and/or counties in California with minimum wage rates above the California minimum wage rate.

Based on information and belief, DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES all owed overtime wages due to DEFENDANTS' policy and practice of scheduling PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for split shifts and thus only paying premium wages, if at all, for time worked beyond eight (8) hours in a shift, while failing to pay all premium wages for all time worked beyond eight (8) hours in a workday, resulting in denied overtime wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Based on information and belief, DEFENDANTS failed to accurately list all deductions on wage statements issued to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, in violation of including but not limited to, Labor Code section 226(a)(4).

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

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

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

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

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

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

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE

and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

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

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

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

Reporting Time Pay Violations:

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

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

NON-EXEMPT AGGRIEVED EMPLOYEES not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order. For example, based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES reported to

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

work for a scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting time pay wages in accordance with California law.

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

Violation of California Day of Rest Law

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

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

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

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

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

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

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

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged

in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

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

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

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

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

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

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

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

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

Failure to Pay Vested Vacation/Paid Time Off:

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

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

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

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

For example, DEFENDANTS did not furnish PLAINTIFF with any final paycheck until at least approximately four (4) days following the separation of PLAINTIFF's employment, and PLAINTIFF's late final paycheck is devoid of all wages owed, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, any shift differentials).

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

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

Violation of Labor Code Section 208:

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

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

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

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

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

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

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

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

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

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES’ personal cell phones/mobile devices, internet and/or data usage for work-related purposes, including but not limited to, to receive and respond to work-related messages and/or phone calls.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were required to receive and respond to work-related calls and/or messages from supervisors and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses.

For example, PLAINTIFF was required to use his personal cell phone / mobile device for work, including but not limited to, for responding to off-the-clock work-related calls and/or messages from PLAINTIFF’s manager(s), without being provided any and/or full reimbursement from DEFENDANTS for the business expenses PLAINTIFF incurred in connection with being required to use his personal cell phone/mobile device for work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT

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

For example, PLAINTIFF was required to purchase his own steel toe boots and/or protective eyewear and/or gloves and/or sunscreen and/or water and/or hearing protection and/or other uniforms and/or work clothing and/or work shoes/boots and/or protective and/or safety gear and/or hand tools and/or work equipment required to carry out his assigned job duties, however, DEFENDANTS did not reimburse PLAINTIFF at all and/or in full for the business expenses PLAINTIFF incurred in connection with the purchase and/or maintenance of DEFENDANTS' required uniforms and/or work clothing and/or work shoes/boots and/or protective and/or safety gear and/or hand tools and/or work equipment.

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

As explained above, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear and/or hand tools and/or other work equipment required to carry out their assigned job duties.

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

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

As described herein, DEFENDANTS regularly failed to reimburse and indemnify PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. DEFENDANTS' failure to provide PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES

and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that “no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

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

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

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in

writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

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

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

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

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

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

Unlawful Inquires into Criminal History

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

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

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

Unlawful PAGA Waiver

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

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

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is no individual component to a PAGA action because 'every PAGA action ... is a representative action on behalf of the state.'")

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

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

Conclusion

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

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

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

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

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

Kiara Bramasco, Esq.
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 866.276.7637
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Kiara Bramasco". The signature is fluid and cursive, with the first name "Kiara" being more prominent than the last name "Bramasco".

Kiara Bramasco, Esq.
CROSNER LEGAL, PC

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On March 18, 2025, I served true copies of the foregoing documents described as: **FIRST AMENDED COMPLAINT** on the interested parties in this action, addressed as follows:

*Attorneys for Defendant U.S. Aviation
Services Corp.*

Attorneys for Plaintiff Brandon Rivas

Attorneys for Plaintiff Bryan Ragone

Co-Counsel for Plaintiff Sisilia Lealao

1 (X) BY ELECTRONIC TRANSMISSION: I transmitted a PDF version of this document by
2 electronic mail to the party(s) identified on the above service list using the e-mail address(es)
3 indicated.

4 (X) BY ELECTRONIC SERVICE VIA CASE ANYWHERE: Based on a court order I
5 caused the above-entitled document(s) to be served through Case Anywhere at
6 www.caseanywhere.com addressed to all parties appearing on the electronic service list for the
7 above-entitled case. The service transmission was reported as complete and a copy of the
8 Case Anywhere Filing Receipt Page/Confirmation will be filed, deposited, or maintained with
9 the original document(s) in this office.

10 (X) (State) I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct, and that this declaration was executed on March 18, 2025.

12 /s/ Leanne Nguyen-Phuoc/s/
13 Leanne Nguyen-Phuoc
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