

1 BRANDON BROUILLETTE, ESQ. (SBN 273156)  
2 bbrouillette@crosnerlegal.com  
3 KAREN L. WALLACE, ESQ. (272309)  
4 karen@crosnerlegal.com  
5 ZACHARY M. CROSNER, ESQ. (SBN 272295)  
6 zach@crosnerlegal.com  
7 **CROSNER LEGAL, PC**  
8 9440 Santa Monica Blvd. Suite 301  
9 Beverly Hills, CA 90210  
10 Tel: (866) 276-7637  
11 Fax: (310) 510-6429

12 Attorneys for Plaintiff RICKONA WILSON  
13 on behalf of the State of California  
14 and all Aggrieved Employees

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF LOS ANGELES**

17 RICKONA WILSON, on behalf of the State  
18 of California and all Aggrieved Employees,

19 Plaintiff,

20 v.

21 AAPC LOUNGE SERVICES, INC., a  
22 Delaware Corporation; and DOES 1-100,  
23 inclusive,

24 Defendants.

Case No.: 24STCV08933

**PLAINTIFF'S REPRESENTATIVE  
COMPLAINT FOR VIOLATION OF  
THE PRIVATE ATTORNEYS  
GENERAL ACT, CAL. LABOR CODE  
SECTIONS 2698, et seq.**

1 Plaintiff, RICKONA WILSON, (“PLAINTIFF”), on behalf of the State of California, and  
2 all other Aggrieved Employees (as defined below), hereby files this Complaint against Defendants  
3 AAPC LOUNGE SERVICES, INC., a Delaware Corporation; and DOES 1-100, inclusive,  
4 (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and  
5 thereon alleges as follows:

### 6 **INTRODUCTION**

7 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all  
8 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s  
9 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties  
10 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved  
11 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

### 12 **JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to  
14 California statutes, including but not limited to the PAGA, and decisional law and regulations.

15 3. Venue is proper in this judicial district and the County of Los Angeles pursuant to  
16 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within  
17 this judicial district and conduct alleged by PLAINTIFF herein occurred in this this judicial district.  
18 *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue  
19 in a PAGA action is proper in any county where the defendants committed Labor Code violations  
20 against some of its employees). Venue is also proper pursuant to section 393 of the California Code  
21 of Civil Procedure because the cause, or some part of the cause, arose in the County of Los Angeles.

### 22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of  
24 California and a citizen of the State of California.

25 5. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for  
26 DEFENDANTS as a non-exempt employee with a job title(s) of non-exempt supervisor and/or a  
27 similar title(s) and/or job position(s) during the relevant period until on or around December 11,  
28 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS’ airport lounge(s), office(s),

1 location(s) and/or facilities located at LAX in Los Angeles, California location(s).

2 6. Defendant AAPC LOUNGE SERVICES, INC. is a Delaware Corporation that, at all  
3 relevant times, was authorized to do business within the State of California and is doing business in  
4 the State of California.

5 7. DEFENDANTS own, operate, manage and/or staff its employees to work at the  
6 airport lounges, offices, facilities and/or other location(s) in California, including but not limited to  
7 the airport lounges, offices, and/or other facilities in Los Angeles, California. DEFENDANTS,  
8 through its various locations, serve the aviation and/or consumer services industry.

9 8. The true names and capacities of the DOE Defendants sued herein as DOES 1  
10 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such  
11 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally  
12 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this  
13 Complaint to reflect the true names and capacities of the Doe Defendants when such identities  
14 become known.

15 9. PLAINTIFF is further informed and believes that, at all relevant times, each  
16 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,  
17 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or  
18 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of  
19 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all  
20 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this  
21 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant  
22 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant  
23 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,  
24 controlled, aided and abetted the conduct of all other Defendants.

25 **JOINT LIABILITY**

26 10. Under California law, the definition of the terms “to employ” are broadly construed  
27 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to  
28 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)

1 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49  
2 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control  
3 was to reach situations in which multiple entities control different aspects of the employment  
4 relationship. Supervision of the work, in the specific sense of exercising control over how services  
5 are properly performed, is properly viewed as one of the “working conditions” mentioned in the  
6 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a  
7 temporary employment agency) hires and pays a worker, and the other entity supervises the work.  
8 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in  
9 California, applying a less stringent standard to what constitutes sufficient control by a business  
10 over its vendor’s employees’ wages and working conditions to render that business liable as a joint  
11 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative  
12 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the  
13 wages, hours, or working conditions of the employee, that is a sufficient showing of joint  
14 employment,” *Id.* at 875 [emphasis added].

15       11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and other  
16 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of  
17 the Wage Orders, under the alternative definitions of “to employ” adopted by the California  
18 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control  
19 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered  
20 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF  
21 and Aggrieved Employees to work for them.

22       12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times  
23 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized  
24 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices  
25 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same  
26 policies and practices regardless of the location(s) where they worked. Among other things,  
27 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,  
28 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control

1 over the day-to-day operations and employment matters, including the power to hire and fire, set  
2 schedules, issue employee policies, and determine rates of compensation across its locations in  
3 California; (3) DEFENDANTS utilize the same policies and procedures for all California  
4 employees, including issuing the same employee handbooks and other form agreements; (4)  
5 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee  
6 employment matters; and, (6) DEFENDANTS share employees.

7       13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant  
8 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and Aggrieved  
9 Employees upon whose behalf PLAINTIFF brings these allegations and cause of action, in that  
10 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'  
11 wages, hours and working conditions, and/or suffered or permitted them to work so as to be  
12 considered the joint employers of PLAINTIFF and Aggrieved Employees.

13       14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a  
14 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,  
15 time-keeping practices, meal and rest periods, reimbursement of business expenses and other  
16 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved  
17 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of  
18 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively  
19 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of  
20 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's  
21 and other Aggrieved Employees' employment with or without cause. Upon information and belief,  
22 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in  
23 writing the details of their compensation, and the manner in which they were to take meal and rest  
24 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked  
25 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS  
26 collectively would evaluate their wage rates.

27       15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours  
28 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS

1 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved  
2 Employees' employment, including the instrumentality that resulted in the illegal conduct for which  
3 PLAINTIFF seeks relief in this Complaint.

4 16. PLAINTIFF is informed and believes that DEFENDANTS exercised the same  
5 control over, applied the same policies and practices, and engaged in the same acts and omissions  
6 with regard to the other Aggrieved Employees.

7 17. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must  
8 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under  
9 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform  
10 services from which they benefited, and furthermore that the aforementioned entities had the right  
11 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant  
12 times herein, so as to be considered the joint employers of PLAINTIFF.

13 18. By reason of their status as joint employers of PLAINTIFF and Aggrieved  
14 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor  
15 Code and applicable Wage Orders as to all Aggrieved Employees.

16 **PAGA ALLEGATIONS**

17 19. PLAINTIFF brings this action under the PAGA, as a representative action on behalf  
18 of the State of California and all Aggrieved Employees, regarding violations of the California Labor  
19 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

20 All current and former non-exempt employees that worked either  
21 directly or via a staffing agency for any one or more of the  
22 DEFENDANTS at any location in California at any time from one  
23 year plus 65 days from the filing of the initial Complaint through the  
24 present ("PAGA Period").

25 20. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code  
26 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory  
27 limitations period and suffered one or more of the Labor Code violations set forth herein.  
28 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved

1 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.  
2 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved  
3 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by  
4 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23  
5 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations  
6 committed by the employer – regardless of whether Plaintiff experienced all violations personally.  
7 *Id.* at 760-761.

#### 8 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

9 21. PLAINTIFF, on January 26, 2024, through counsel, gave written notice by online  
10 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that  
11 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged  
12 in this Complaint (“PAGA Notice”).

13 22. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California  
14 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved  
15 Employees.

16 23. The LWDA did not provide notice of its intention to investigate DEFENDANTS’  
17 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the  
18 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.  
19 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.  
20 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

21 24. PLAINTIFF seeks to recover the PAGA civil penalties through a representative  
22 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46  
23 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

#### 24 **FACTUAL ALLEGATIONS**

25 25. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees  
26 worked for DEFENDANTS in the State of California. At all times referenced herein,  
27 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or  
28 permitted them to work.

1           26.     PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for  
2 DEFENDANTS as a non-exempt employee with a job title(s) of non-exempt supervisor and/or a  
3 similar title(s) and/or job position(s) from in or around 2021 through on or around December 11,  
4 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' airport lounge(s), office(s),  
5 location(s) and/or facilities located at LAX in Los Angeles, California. PLAINTIFF regularly  
6 worked at least approximately five and one-half (5 1/2) hours to ten (10) hours per day. At all  
7 relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time  
8 counted by DEFENDANTS as hours worked.

9           27.     **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate  
10 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of  
11 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved  
12 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time  
13 rounding policies, and failure to relieve employees of all duties/employer control during unpaid  
14 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained  
15 below.

16           28.     Based on information and belief, DEFENDANTS implemented a policy and/or  
17 practice of rounding meal period start and end times and/or automatically deducting at least thirty  
18 minutes per shift for meal periods, despite having actual and/or constructive knowledge that  
19 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during  
20 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving  
21 PLAINTIFF and Aggrieved Employees of all wages owed.

22           29.     Based on information and belief, Aggrieved Employees were not paid for all hours  
23 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours  
24 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-  
25 the clock work policies and/or practices.

26           30.     For example, as explained below, based on information and belief, DEFENDANTS  
27 issued wage statements to PLAINTIFF that demonstrate that DEFENDANTS rounded  
28 PLAINTIFF's total hours worked to at least the nearest quarter, half and/or whole hour, resulting in

1 DEFENDANTS' failure to compensate PLAINTIFF for all work time and the underpayment of  
2 wages owed to PLAINTIFF.

3 31. For example, DEFENDANTS' wage statement for PLAINTIFF for pay date  
4 12.18.23 shows precisely 80.00 regular hours worked and precisely 4.25 overtime hours worked.  
5 Based on information and belief, DEFENDANTS rounded PLAINTIFF's total hours worked to at  
6 least the nearest quarter, half and/or whole hour, resulting in DEFENDANTS' failure to compensate  
7 PLAINTIFF for all work time and the underpayment of wages owed to PLAINTIFF.

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

15 33. Based on information and belief, at times, Aggrieved Employees were required to  
16 stand in line behind other employees to access DEFENDANTS' time-keeping system and/or to enter  
17 DEFENDANTS' facilities and/or were required to spend time reinitiating DEFENDANTS' time-  
18 keeping system before Aggrieved Employees could clock in for the start of their shifts and/or after  
19 completing a purported meal period.

20 34. Based on information and belief, at times, Aggrieved Employees were required to  
21 assist passengers/customers, make and/or respond to work-related communications and/or complete  
22 other work tasks before clocking in for the start of their shifts and/or after clocking out at the end of  
23 their shifts, which said time was neither recorded nor compensated, resulting in DEFENDANTS'  
24 failure to compensate Aggrieved Employees for all hours worked and the underpayment of wages  
25 owed to Aggrieved Employees.

26 35. Based on information and belief, Aggrieved Employees were required to complete  
27 other off-the-clock work tasks after clocking out for the end of their shifts and/or during  
28 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum

1 and overtime wages owed to Aggrieved Employees.

2       36. For example, based on information and belief, DEFENDANTS required Aggrieved  
3 Employees to clock out for the end of their shifts but to continue working due to the need to  
4 return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates  
5 and/or debriefings and/or participate in work meetings, respond to work-related communications  
6 and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages  
7 and overtime wages owed to Aggrieved Employees.

8       37. For example, based on information and belief, Aggrieved Employees were required  
9 to complete work tasks after clocking out for the end of their shifts, including but not limited to,  
10 assisting passengers and/or customers and/or making and/or responding to work-related  
11 communications and/or completing other off-the-clock work tasks resulting in DEFENDANTS'  
12 failure to compensate Aggrieved Employees for all hours worked and the underpayment of wages  
13 owed to Aggrieved Employees.

14       38. Based on information and belief, DEFENDANTS did not compensate Aggrieved  
15 Employees for all time spent donning and doffing personal protective equipment, safety equipment  
16 and/or uniforms/work clothing (e.g., gloves, hats, and/or face masks) during meal periods, before  
17 the start of a scheduled shift, and after completing a scheduled shift, resulting in DEFENDANTS'  
18 failure to pay Aggrieved Employees for all work time and the underpayment of minimum wages  
19 and overtime wages owed to Aggrieved Employees.

20       39. Based on information and belief, at times, DEFENDANTS' electronic employee  
21 time-keeping system/app malfunctioned such that Aggrieved Employees were required to either  
22 reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable  
23 to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-  
24 the-clock work and the underpayment of wages owed to Aggrieved Employees.

25       40. Based on information and belief, Aggrieved Employees experienced the same issues  
26 when clocking out for shifts and/or back in for meal periods. This time spent under DEFENDANTS'  
27 control was not recorded and not compensated and resulted in unpaid minimum wages owed to  
28 Aggrieved Employees.

1           41.     Based on information and belief, Aggrieved Employees were required to undergo  
2 security screenings and/or other mandated screenings before and/or after a scheduled shift and/or  
3 before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

4           42.     Based on information and belief, DEFENDANTS required Aggrieved Employees to  
5 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their  
6 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

7           43.     Based on information and belief, Aggrieved Employees were also pressured to  
8 complete at least some additional work tasks off-the-clock in order to meet DEFENDANTS' goals  
9 and expectations.

10          44.     For example, based on information and belief, Aggrieved Employees were required  
11 to complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-  
12 related phone calls and/or messages they received to their phones and/or mobile devices and were  
13 required to respond to, including but not limited to, communications from supervisors regarding  
14 scheduling and/or other work tasks, resulting in the underpayment of wages owed to Aggrieved  
15 Employees.

16          45.     Based on information and belief, DEFENDANTS failed to pay Aggrieved  
17 Employees the applicable minimum wage for the county and/or city within which the Aggrieved  
18 Employee worked in California.

19          46.     Moreover, based on information and belief, DEFENDANTS failed to pay  
20 PLAINTIFF and/or other Aggrieved Employees split shift premium wages when they worked split  
21 shifts during the relevant period.

22          47.     For example, based on information and belief, at times, DEFENDANTS required  
23 PLAINTIFF and/or other Aggrieved Employees to work two separate shifts in the same day. Based  
24 on information and belief, DEFENDANTS failed to pay PLAINTIFF and/or other Aggrieved  
25 Employees split shift compensation whenever PLAINTIFF's and/or other Aggrieved Employees'  
26 work schedules were interrupted by non-paid non-working periods established by DEFENDANTS,  
27 which resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage  
28 orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be

1 paid in addition to the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, §  
2 11050 (when an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid  
3 in addition to the minimum wage for that workday, except when the employee resides at the place  
4 of employment).

5 48. DEFENDANTS also failed to separately itemize these split shift premium wages on  
6 PLAINTIFF's and/or other Aggrieved Employees' wage statements, in violation of Labor Code  
7 sections 510, 1194 and all applicable IWC Wage Orders. See,  
8 [https://www.dir.ca.gov/dlse/split\\_shift.htm](https://www.dir.ca.gov/dlse/split_shift.htm). (The employer must itemize the premium payment on  
9 the pay stub provided to the employee, and it should be shown as a separate category such as "Split  
10 Shift Premium" and should not be lumped into another category such as wages, bonus, etc.  
11 DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF  
12 and/or other Aggrieved Employees on their wage statements.

13 49. Based on information and belief, DEFENDANTS failed to pay Aggrieved  
14 Employees for time they were required to spend completing orientation, policy questionnaires,  
15 and/or time spent completing the onboarding process including but not limited to reviewing various  
16 documents and policies provided by DEFEDANTS. Based on information and belief, this work time  
17 was completed off-the-clock and was not compensated.

18 50. Based in information and belief, DEFENDANTS implemented a time-rounding  
19 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of  
20 compensable time because the time-rounding system implemented by DEFENDANTS would  
21 almost always, if not always, result in understating actual compensable work time.

22 51. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,  
23 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal  
24 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of  
25 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages  
26 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than  
27 forty (40) hours in a week.

28 52. Based on information and belief, DEFENDANTS had actual and/or constructive

1 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to  
2 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the  
3 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation  
4 of California's minimum and overtime wage laws.

5 53. Based on information and belief, DEFENDANTS failed and continue to fail to pay  
6 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours  
7 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in  
8 a work week, in violation of California's overtime laws.

9 54. Based on information and belief, DEFENDANTS sometimes paid Aggrieved  
10 Employees multiple rates of base pay in one workweek but failed to incorporate all multiple rates  
11 of base pay into the regular rate of pay for purposes of calculating the owed overtime rate. For  
12 example, based on information and belief, at times, Aggrieved Employees earned multiple base pay  
13 rates during the same workweek, yet, DEFENDANTS failed to incorporate all/both base pay rates  
14 into the regular rate of pay for purposes of calculating the owed overtime rate, resulting in the  
15 miscalculation and underpayment of overtime wages owed to Aggrieved Employees.

16 55. Based on information and belief, DEFENDANTS failed to incorporate all non-  
17 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive  
18 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used  
19 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime  
20 wages owed to PLAINTIFF and other Aggrieved Employees.

21 56. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently  
22 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.  
23 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty  
24 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees  
25 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often  
26 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their  
27 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary  
28 from supervisors pressuring them to take non-compliant meal periods or skip meal periods

1 completely.

2       57. For example, based on information and belief, Aggrieved Employees were forced to  
3 take late meal periods in order to complete assigned job duties. Based on information and belief,  
4 Aggrieved Employees were at times interrupted during purported meal periods and/or had meal  
5 periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned  
6 job duties.

7       58. For example, PLAINTIFF was often required to take late meal periods (i.e. after  
8 working more than five (5) hours) due to including but not limited to, lack of relief workers and/or  
9 lack of coverage. At times, PLAINTIFF was required to clock out for meal periods but to continue  
10 working due to the need to complete assigned work tasks.

11       59. Based on information and belief, DEFENDANTS would unlawfully edit the clock in  
12 and out times for PLAINTIFF's and other Aggrieved Employees' meal periods in order to display a  
13 timely, at least thirty minute uninterrupted, off-duty meal period during most if not all shifts worked,  
14 notwithstanding the fact that DEFENDANTS had actual and/or constructive knowledge that  
15 DEFENDANTS had required PLAINTIFF and other Aggrieved Employees' to take late meal  
16 periods and/or perform work-related tasks during their meal periods.

17       60. Based on information and belief, other Aggrieved Employees were consistently  
18 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods  
19 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,  
20 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and  
21 expectations.

22       61. Based on information and belief, DEFENDANTS implemented policies and/or  
23 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control  
24 during unpaid meal periods.

25       62. Based on information and belief, DEFENDANTS required Aggrieved Employees to  
26 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take  
27 into account when scheduling meal periods for Aggrieved Employees. Based on information and  
28 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

1           63.     Based on information and belief, despite DEFENDANTS' failure to provide lawful  
2 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end  
3 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically  
4 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal  
5 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved  
6 Employees did not receive lawful meal periods.

7           64.     Moreover, based on information and belief, Aggrieved Employees who worked shifts  
8 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

9           65.     Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and  
10 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further  
11 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor  
12 did DEFENDANTS have any sort of compliant policy in practice.

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

19          67.     Based on information and belief, DEFENDANTS had actual and/or constructive  
20 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods  
21 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in  
22 violation of California's meal period laws.

23          68.     DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an  
24 additional hour of wages at their respective regular rates of compensation for each workday a lawful  
25 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for  
26 each workday a lawful meal period was not provided and/or failed to pay the proper meal period  
27 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,  
28 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or

1 compensation for purposes of calculating the owed meal period premium.

2       69.     **Rest Period Violations.** DEFENDANTS did not properly authorize and provide  
3 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every  
4 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the  
5 middle of the work period, as required by law.

6       70.     PLAINTIFF and other Aggrieved Employees were not adequately informed,  
7 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California  
8 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to  
9 the taking or timing of duty-free rest periods.

10       71.     Based on information and belief, DEFENDANTS did not have a have a compliant  
11 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in  
12 practice.

13       72.     For example, based on information and belief, Aggrieved Employees were unable to  
14 take compliant rest periods due to their need to complete assigned job duties and/or were unable to  
15 take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted  
16 to DEFENDANTS' premises.

17       73.     For example, PLAINTIFF was frequently required to work through her owed rest  
18 periods due to including but not limited to, lack of coverage/relief workers available.

19       74.     Based on information and belief, in violation of California rest period law,  
20 PLAINTIFF and other Aggrieved Employees were not relieved of all duties and DEFENDANTS'  
21 control during rest periods, due to including but not limited to, being required to monitor and  
22 respond to work communication devices and/or because any purported rest periods were restricted  
23 to DEFENDANTS' premises.

24       75.     Based on information and belief, DEFENDANTS did not have a lawful policy,  
25 instruction, or practice as to the taking, timing, or duty-free nature of rest periods. For example,  
26 based on information and belief, DEFENDANTS failed to authorize and permit rest periods that  
27 were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods were provided,  
28 DEFENDANTS limited PLAINTIFF and other Aggrieved Employees to only ten-minute rest

1 periods, requiring them to be back at their workstations within ten minutes of leaving their work  
2 stations , in violation of California rest period law.

3 76. Based on information and belief, any purported rest periods were interrupted, cut  
4 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of  
5 their job duties, and/or commentary from supervisors pressuring them to skip rest periods  
6 completely and/or take non-compliant rest periods.

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

9 78. Based on information and belief, DEFENDANTS implemented policies and/or  
10 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and  
11 DEFENDANTS' control during rest periods.

12 79. Based on information and belief, Aggrieved Employees were pressured to complete  
13 their work duties according to a designated schedule such that rest periods were only taken once  
14 tasks were completed, and/or as time permitted.

15 80. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in  
16 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in  
17 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each  
18 workday a proper rest period was not provided and/or failed to pay the proper rest period premium  
19 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,  
20 shift differential pay, and/or other non-discretionary compensation into the regular rate of  
21 compensation for purposes of calculating the owed rest period premium.

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

26 82. DEFENDANTS' locations/facilities are generally similar in layout and design, and  
27 there was, and continues to be, space that allows for a resting facility that employees may use to  
28 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved

1 Employees with a resting facility within DEFENDANTS' facilities/locations with reasonable or no  
2 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a  
3 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to  
4 resting, including but not limited to leaning up against the wall, or search for facilities outside of  
5 DEFENDANTS' premises which are not designated or reserved for their rest, such as their personal  
6 vehicles.

7 83. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities  
8 during their hours of work, particularly during meal and/or rest periods.

9 84. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved  
10 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the  
11 California Labor Code, including but not limited to section 1198.

12 85. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to  
13 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied  
14 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved  
15 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements  
16 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to  
17 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all  
18 applicable hourly rates in effect during the pay period and the corresponding number of hours  
19 worked at each hourly rate by the employee.

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

28 87. Separately, and independent of the above allegations, based on information and

1 belief, DEFENDANTS issued wage statements to Aggrieved Employees that failed to list the total  
2 hours worked, in violation of including but not limited to, Labor Code section 226(a)(2).

3 88. Based on information and belief, wage statements issued by DEFENDANTS failed  
4 to list all applicable hourly rates in effect during the pay period and the corresponding number of  
5 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor  
6 Code section 226(a)(9).

7 89. Based on information and belief, wage statements issued by DEFENDANTS failed  
8 to list all applicable hourly rates in effect during the pay period and the corresponding number of  
9 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9) due  
10 to DEFENDANTS' failure to list an overtime rate category at all and/or failure to list a category  
11 containing the proper overtime rate. For example, DEFENDANTS' wage statement issued to  
12 PLAINTIFF dated 12.18.23 lists two (2) separate overtime rate categories with one overtime rate  
13 category listing PLAINTIFF's base rate of pay (\$29.0000) and a second overtime category listing a  
14 rate equal to half PLAINTIFF's base rate of pay (\$14.5594). As such, DEFENDANTS do not list  
15 an accurate overtime rate anywhere on the wage statement issued to PLAINTIFF in violation of  
16 California law, including but not limited to, Labor Code section 226(a)(9).

17 90. Moreover, based on information and belief, DEFENDANTS issued wage statements  
18 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among  
19 other things, failing to list the correct name and/or address of the legal entity that is the employer,  
20 in violation of Labor Code section 226(a)(8).

21 91. Based on information and belief, wage statements issued by DEFENDANTS failed  
22 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

23 92. For example, based on information and belief, wage statements issued by  
24 DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT  
25 AGGRIEVED EMPLOYEE is being paid. For example, based on information and belief, at times,  
26 DEFENDANTS issued wage statements to Aggrieved Employees containing payment for hours  
27 worked during previous pay periods, yet DEFENDANTS' wage statements do not include the  
28 inclusive dates of the accurate pay period for that retroactive pay, further failing to list the total

1 hours worked for the pay period, including but not limited to, the total hours worked for the pay  
2 period the retroactive pay corresponds with, in violation of including but not limited to, Labor Code  
3 sections 226(a)(2) and/or 226(a)(6).

4 93. Based on information and belief, DEFENDANTS issued wage statements to  
5 Aggrieved Employees that failed to accurately list all deductions, in violation of Labor Code Section  
6 226(a)(4).

7 94. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did  
8 not include all of the statutorily required information, including but not limited to, the correct name  
9 and/or address of the legal entity that is the employer.

10 95. Based on further information and belief, DEFENDANTS issued wage statements to  
11 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential  
12 wages were paid in violation of Labor Code section 226.

13 96. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved  
14 Employees that were not accurate and did not include all of the statutorily required information. As  
15 such, DEFENDANTS violated Labor Code section 226.

16 97. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from  
17 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer  
18 to said employee." Based on information and belief, DEFENDANTS made unlawful deductions  
19 from Aggrieved Employees paychecks during the relevant period including but not limited to  
20 deducting costs of uniforms and/or other business costs and/or deducting wages for purported  
21 overpayments from previous pay periods and/or unlawfully deducting wages for negligently  
22 damaged property. Such a practice is in violation of including but not limited to, Labor Code  
23 Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

24 98. **Failure to Produce Employment Records.** Based on information and belief,  
25 DEFENDANTS have a uniform policy and practice of failing to produce or make available a current  
26 or former employee's time, pay, and/or personnel records when requested pursuant to Labor Code  
27 sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF, through  
28 counsel, sent a written request for payroll and personnel records to DEFENDANTS on or around

1 including but not limited to, the following date(s): January 25, 2024. Yet, DEFENDANTS failed to  
2 timely produce complete records within the time periods delineated by California labor law. For  
3 example, DEFENDANTS did not produce PLAINTIFF's time records. Based on information and  
4 belief, DEFENDANTS failed and continues to fail to timely produce complete payroll and personnel  
5 records when requested by other Aggrieved Employees. Based on information and belief,  
6 DEFENDANTS failed and continue to fail to timely produce complete time, pay, and personnel  
7 records when requested by other Aggrieved Employees.

8       99.     **Inaccurate Records.** Based on the above-described unlawful policies and practices,  
9 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as  
10 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.  
11 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as  
12 required by law, including but not limited to the following records: total daily hours worked,  
13 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees  
14 began and ended each work period, time records of meal periods, and accurate itemized wage  
15 statements.

16       100.    DEFENDANTS have failed and continue to fail to keep accurate and complete  
17 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal  
18 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and  
19 employer control during unpaid meal periods, failure to record the true start and end times of meal  
20 periods, shift start times and shift end times, and other off-the-clock work policies and practices  
21 described herein.

22       101.    **Unreimbursed Business Expenses.** Based on information and belief,  
23 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses  
24 as a direct consequence of the performance of their job duties without providing reimbursement, in  
25 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other  
26 Aggrieved Employees were improperly required to provide and maintain work tools that are  
27 supposed to be the responsibility of the employer.

28       102.    Based on information and belief, DEFENDANTS shifted the costs of doing business  
21  
PLAINTIFF'S REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS  
GENERAL ACT

1 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited  
2 to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of Aggrieved  
3 Employees' personal cell phones/mobile devices, internet and/or data usage for work-related  
4 purposes, including but not limited to, to receive and respond to work-related messages and/or phone  
5 calls.

6 103. For example, based on information and belief, Aggrieved Employees were required  
7 to receive and respond to work-related calls and/or messages from supervisors and/or other  
8 Aggrieved Employees regarding scheduling and/or other work tasks but were not reimbursed by  
9 DEFENDANTS at all and/or in full for these business expenses.

10 104. For example, PLAINTIFF was typically required to make and/or respond to work-  
11 related communications on her personal cell phone/mobile device, including but not limited to,  
12 throughout PLAINTIFF's shifts, however, DEFENDANTS did not provide PLAINTIFF with any  
13 and/or full reimbursement for the business expenses PLAINTIFF incurred in connection with being  
14 required to use her personal cell phone/mobile device for work.

15 105. Based on information and belief, Aggrieved Employees were not reimbursed for the  
16 cost of purchasing and/or maintaining their own hand tools and/or equipment required to perform  
17 their assigned job duties and/or for the costs of purchasing and/or maintaining work  
18 uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

19 106. For example, DEFENDANTS required PLAINTIFF to maintain and/or purchase  
20 non-slip shoes and/or other uniforms and/or work clothing and/or work shoes and/or personal  
21 protective / safety gear to wear for work, however, DEFENDANTS did not provide PLAINTIFF  
22 with any and/or full reimbursement for the business expenses PLAINTIFF incurred in connection  
23 with being required to purchase and/or maintain DEFENDANTS' required uniforms and/or work  
24 clothing and/or work shoes and/or personal protective / safety gear.

25 107. Based on information and belief, at times, Aggrieved Employees were not  
26 reimbursed for the business use of their personal vehicles, including mileage, wear and tear and/or  
27 cost of fuel when they were required to drive around and/or between job sites, and/or otherwise use  
28 their personal vehicles in carrying out the duties assigned by DEFENDANTS. As such,

1 DEFENDANTS failed to compensate Aggrieved Employees at the legally mandated Internal  
2 Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

3 108. Based on information and belief, DEFENDANTS failed to reimburse PLAINTIFF  
4 and other Aggrieved Employees for business expenses PLAINTIFF and other Aggrieved Employees  
5 incurred in connection with carrying out their assigned job duties, including but not limited to,  
6 parking expenses.

7 109. For example, for at least approximately nine (9) months of PLAINTIFF's  
8 employment, PLAINTIFF was required to incur monthly parking expenses in order to carry out her  
9 assigned job duties, resulting in at least approximately several hundreds of dollars in unreimbursed  
10 business expenses owed to PLAINTIFF as a result of DEFENDANTS' failure to reimburse  
11 PLAINTIFF at all and/or in full for the parking-related business expenses PLAINTIFF.

12 110. Based on information and belief, DEFENDANTS regularly failed to reimburse and  
13 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section  
14 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable  
15 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties  
16 assigned by DEFENDANTS.

17 111. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement  
18 for all reasonable expenses associated with carrying out their duties required that Aggrieved  
19 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section  
20 2802.

21 112. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,  
22 provides as follows:

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

1 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the  
2 minimum wage.

3 114. Aggrieved Employees were not paid reporting time wages in accordance with  
4 California law, including but not limited to the applicable IWC Wage Order. For example, based on  
5 information and belief, at times, PLAINTIFF and/or other Aggrieved Employees reported to work  
6 for a scheduled shift but were sent home and/or were not put to work and were not paid all owed  
7 reporting time pay wages in accordance with California law.

8 115. Based on information and belief, DEFENDANTS have a policy and practice of  
9 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,  
10 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to  
11 pay all reporting time wages to PLAINTIFF and Aggrieved Employees violated and continues to  
12 violate the applicable Wage Order, and the California Labor Code, including but not limited to  
13 section 1198.

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

18 117. Based on information and belief, DEFENDANTS have and continue to have a  
19 uniform policy and practice of requiring Aggrieved Employees to work at least seven days  
20 consecutively in a workweek, in violation of including but not limited to, Labor Code Section  
21 551. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees were  
22 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in  
23 violation of California law, including but not limited to Labor Code Section 551.

24 118. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed  
25 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS  
26 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the  
27 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the  
28 accrued sick leave hours on the correct number of hours worked (as a result of the

1 rounding/automatic deduction policies and practices for meal periods and/or shift start and end  
2 times/other required off-the-clock work including but not limited to unpaid meal periods) and by  
3 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but  
4 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary  
5 compensation into the sick leave pay rate calculation.

6 119. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF  
7 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their  
8 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,  
9 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to  
10 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.  
11 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of  
12 used sick leave and the balance of paid sick leave.

13 120. Based on information and belief, throughout the relevant time period,  
14 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and  
15 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for  
16 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least  
17 prior to their respective separations, for as on several occasions thereafter, he or she would have  
18 been entitled to use the banked sick leave and earn appropriate compensation.

19 121. Upon information and belief, DEFENDANTS failed and continue to fail to comply  
20 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with  
21 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick  
22 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays  
23 wages.

24 122. As such, DEFENDANTS have violated California's paid sick leave laws and  
25 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as  
26 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These  
27 unlawful practices and policies violate Labor Code sections 245-248.5.

28 123. **Seating Violations.** Per section 14(A-B) of all applicable IWC Wage Orders,  
25  
PLAINTIFF'S REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS  
GENERAL ACT

1 employees shall be provided with suitable seats when the nature of the work reasonably permits the  
2 use of seats and when they are not actively engaged in the work duties that would not permit them  
3 to be seated.

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

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

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

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

15 126. Based on information and belief, DEFENDANTS failed to provide Aggrieved  
16 Employees with suitable seating, and when such employees were not engaged in duties which  
17 required them to stand, no seating was placed in reasonable proximity to their workstations.

18 127. Moreover, based on information and belief, the nature of the work reasonably  
19 permitted the use of seats for at least part of the time that Aggrieved Employees were working.  
20 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of  
21 their employment, yet there were no suitable seats in reasonable proximity to the work area and use  
22 of seats would not interfere with the performance of their duties.

23 128. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,  
24 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow  
25 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or  
26 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation  
27 pay/paid time off paid at the final rate including non-discretionary compensation, including but not  
28 limited to, shift differentials) to Aggrieved Employees upon separation of employment, in violation

1 of California law, including but not limited to, Labor Code section 227.3.

2       129. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on  
3 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that  
4 were due and owing upon termination or resignation. Based on information and belief,  
5 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing  
6 requirements of Labor Code sections 201-202.

7       130. Upon separation of employment, Aggrieved Employees' final paychecks were not  
8 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.  
9 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed  
10 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,  
11 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly  
12 accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate  
13 including non-discretionary compensation, including but not limited to, shift differentials).

14       131. For example, based on information and belief, PLAINTIFF's employment with  
15 DEFENDANTS separated on or around December 11, 2023, however, PLAINTIFF's final paycheck  
16 from DEFENDANTS is dated December 18, 2023, and PLAINTIFF's late final paycheck is devoid  
17 of all wages owed, including but not limited to, all owed minimum wages, overtime wages,  
18 premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued  
19 rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including  
20 non-discretionary compensation, including but not limited to, any shift differentials)..

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

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

5           134.   Based on information and belief, DEFENDANTS have a policy and practice of  
6 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place  
7 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the  
8 office or agency of DEFENDANTS in the county where the work was performed, in violation of  
9 Labor Code Section 208.

10           135.   **Unlawful Agreements-Unlawful Criminal History Inquiries.**

11           Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

12           136.   Based on information and belief, DEFENDANTS required Aggrieved Employees to  
13 agree in writing to unlawful conditions of employment including but not limited to unlawful  
14 criminal and/or financial checks as a condition of obtaining and/or continuing employment in  
15 violation of Labor Code section 432.5.

16           137.   Based on information and belief, DEFENDANTS ordered unlawful financial credit  
17 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved  
18 Employees to provide ongoing written consent to the unlawful credit checks as a condition of  
19 employment, in violation of California and Federal law, which results in a further violation of Labor  
20 Code section 432.5.

21           138.   Based on information and belief, DEFENDANTS also required Aggrieved  
22 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as  
23 a condition of obtaining and/or holding employment in violation of the Investigative Consumer  
24 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit  
25 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*). Based on information and belief,  
26 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and  
27 FCRA when conducting background screenings for applicants, including but not limited to  
28 Aggrieved Employees that were subject to a background check as a condition of employment during

1 the application phase.

2 139. Based on information and belief, DEFENDANTS required Aggrieved Employees to  
3 agree in writing to a background check which failed to abide by the requirements set forth in CA  
4 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by  
5 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,  
6 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for  
7 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,  
8 failing to provide a way by which the individual could request a copy of the report, failing to disclose  
9 the name, address, and telephone number of the third party preparing the report, and failing to  
10 properly obtain authorization or consent to such a background check, and thus was an unlawful  
11 background check.

12 140. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or  
13 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code  
14 section 432.5.

15 141. Based on further information and belief, DEFENDANTS also required Aggrieved  
16 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct  
17 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA  
18 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by  
19 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

20 142. Based on further information and belief, DEFENDANTS knew that requiring  
21 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a  
22 condition of obtaining and/or holding employment was unlawful.

23 143. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a  
24 condition of employment, DEFENDANTS violated Labor Code section 432.5.

25 **Violation of Labor Code Section 432.6**

26 144. Based on information and belief, DEFENDANTS required Aggrieved Employees to  
27 sign meal period waivers that were universally signed as a condition of employment, including but  
28 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful

1 under Labor Code section 432.6.

2 145. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of  
3 employment, continued employment, or the receipt of any employment-related benefit, require any  
4 applicant for employment or any employee to waive any right...”

5 146. Labor Code Section 432.6(b) provides in pertinent part:

6 147. “An employer shall not threaten, retaliate, or discriminate against, or terminate any  
7 applicant for employment or any employee because of the refusal to the waiver of any right...”

8 148. Based on information and belief, DEFENDANTS require/required Aggrieved  
9 Employees to waive their right to first and/or second meal periods as a condition of working for  
10 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not  
11 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved  
12 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,  
13 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their  
14 refusal to waive their meal period rights.

15 Unlawful Inquires into Criminal History

16 149. Labor Code section 432.7 prohibits an employer from asking applicants about past  
17 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
18 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
19 convictions on its employment application, in violation of California law.

20 150. Upon information and belief, DEFENDANTS, in violation of California law,  
21 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act  
22 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of  
23 employment and/or otherwise impermissibly inquired into criminal history on its employment  
24 application in violation of California law, and in violation of Labor code section 432.5.

25 151. **Violation of Labor Code Section 432.6.** Based on information and belief,  
26 DEFENDANTS require/required Aggrieved Employees to waive their right to first and/or second  
27 meal periods as a condition of working for DEFENDANTS in violation of California law. As such,  
28 DEFENDANTS violated including but not limited to, Labor Code section 432.6 by virtue of

1 including but not limited to, requiring Aggrieved Employees to sign invalid meal period waivers as  
2 a condition of employment and/or for threatening, retaliating and/or discriminating against and/or  
3 terminating Aggrieved Employees because of their refusal to waive their meal period rights.

4 Unlawful PAGA Waiver

5 152. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring  
6 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited  
7 to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

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

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

19 155. Upon information and belief, DEFENDANTS required Aggrieved Employees to  
20 agree in writing to waive their right to a trial of PAGA claims in violation of California law. By  
21 requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS  
22 required written agreement to an unlawful provision as a condition of employment which is a  
23 violation of labor code section 432.5.

24 156. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS  
25 engaged in these same herein described unlawful practices, which led to violations of the California  
26 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described  
27 unlawful practices to all of its employees that it applied to PLAINTIFF.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**  
**2698, *ET SEQ.***

**(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all Defendants)**

157. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

**Failure to Keep Accurate Records**

158. California Labor Code § 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by all non-exempt employees. All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the times during which all owed meal periods were provided each day.

159. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate and complete 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 Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

160. DEFENDANTS’ failure to keep “accurate and complete” payroll records for PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay period during which the referenced statutes and Wage Order provisions were violated.<sup>1</sup>

**Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

161. 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

---

<sup>1</sup> Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor 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”) (emphasis added).

1 for a minimum of three years: The employee's dates of employment; the employee's hourly rates  
2 and the corresponding number of hours worked by the employee at each hourly rate, when the  
3 employee begins and ends each work period (including meal periods) and split intervals; total hours  
4 worked by the employee; all deductions; gross wages earned; and net wages earned.

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

14 163. Personnel Records. In addition to their right to time and pay records, employees, and  
15 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to  
16 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code  
17 section 432 further specifies that employers must furnish copies of all employment records bearing  
18 the employee's signature. Labor Code section 1198.5 also requires that the file be made available  
19 for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days  
20 from the date the employer receives a written request." An employer's failure to comply within this  
21 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar  
22 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

23 164. Based on information and belief, DEFENDANTS fail to timely produce or make  
24 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant  
25 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations subject  
26 DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

27 **Meal Period Violations**

28 165. California law requires employers to provide employees a duty-free, uninterrupted

1 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and  
2 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and  
3 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*  
4 *Court* (2012) 53 Cal.4<sup>th</sup> 1004.

5 166. Employers must also provide employees with a second duty-free, uninterrupted thirty  
6 (30) minute meal period when an employee works more than (10) hours in a workday, and it must  
7 be provided before the end of the 10<sup>th</sup> hour of work. *Ibid.*

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

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

23 169. As explained above, PLAINTIFF and other Aggrieved Employees were consistently  
24 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often  
25 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of  
26 their meal periods due to understaffing, the nature and constraints of their job duties, and/or  
27 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal  
28 periods completely.

1 170. Based on information and belief, DEFENDANTS had and continue to have a policy  
2 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty  
3 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and  
4 Aggrieved Employees did not receive compliant meal periods.

5 171. Moreover, based on information and belief, Aggrieved Employees did not receive a  
6 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

7 172. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had  
8 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and  
9 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in  
10 violation of California's meal period laws.

11 173. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal  
12 periods in violation of California law and/or failed to pay the proper meal period premium for failure  
13 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift  
14 differential pay and/or other non-discretionary compensation into the regular rate or compensation  
15 for purposes of calculating the owed meal period premium.

16 174. These unlawful meal period policies and practices result in violations of Labor Code  
17 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject  
18 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable  
19 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §  
20 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

21 **Rest Period Violations**

22 175. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer  
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours  
24 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period  
25 "insofar as practicable." In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),  
26 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for  
27 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to  
28 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at

1 1029). The rest period requirement obligates employers to permit and authorize employees to take  
2 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control  
3 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th  
4 257. If the employer fails to provide any required rest period, the employer must pay the employee  
5 one hour of pay at the employee's regular rate of compensation for each workday the employer did  
6 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and  
7 applicable IWC Wage Order, §12(B).

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

18 177. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely  
19 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained  
20 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject  
21 to DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,  
22 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved  
23 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

24 178. Based on information and belief, DEFENDANTS implemented policies and/or  
25 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and  
26 employer control during rest periods. Based on further information and belief, Aggrieved  
27 Employees were pressured to complete their work duties according to a designated schedule such  
28 that rest periods were only taken once tasks were completed, and/or as time permitted.

1           179. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant  
2 first, second, or third rest periods as required by California law.

3           180. Moreover, based on information and belief, DEFENDANTS failed to pay a rest  
4 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there  
5 was a missed or otherwise unlawful rest period. Based on further information and belief, when a  
6 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including  
7 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into  
8 the regular rate of compensation for purposes of determining the owed rest period premium.

9           181. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and  
10 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties  
11 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

12           **Failure to Provide Suitable Resting Facilities**

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

17           183. DEFENDANTS’ locations/facilities are generally similar in layout and design, and  
18 there was, and continues to be, space that allows for a resting facility that employees may use to  
19 cease work and recover during meal or rest periods. DEFENDANTS could have provided  
20 PLAINTIFF and Aggrieved Employees with a resting facility within DEFENDANTS’  
21 facilities/locations with reasonable or no modification, but instead denied and continues to deny,  
22 employees with suitable areas to rest (e.g. a breakroom). As a result, PLAINTIFF and other  
23 Aggrieved Employees were forced to adjust to areas not conducive to resting, including but not  
24 limited to leaning up against the wall, or search for facilities outside of DEFENDANTS’ premises  
25 which are not designated or reserved for their rest, such as their personal vehicles.

26           184. DEFENDANTS did not provide PLAINTIFF and Aggrieved Employees with  
27 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

28           185. DEFENDANTS’ failure to provide suitable resting facilities to PLAINTIFF and

1 Aggrieved Employees violated and continue to violate the applicable Wage Order, section 13(B)  
2 and the California Labor Code, including but not limited to section 1198.

3 **Minimum and Overtime Wage Violations**

4 186. California law provides that employees in California must be paid for all hours  
5 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less  
6 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.  
7 The minimum wage standard applies to each hour employees worked for which they were not paid.  
8 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful  
9 even if averaging an employee's total pay over all hours worked, paid or not, results in an average  
10 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

11 187. California law also provides that employees in California must be paid overtime,  
12 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per  
13 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers  
14 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond  
15 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh  
16 consecutive day of work in a work week. *Ibid.*

17 188. As explained above, DEFENDANTS violated California's minimum and overtime  
18 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked  
19 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift  
20 start and end times and meal period start and end times), payment according to scheduled hours  
21 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during  
22 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful  
23 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

24 189. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and  
25 Aggrieved Employees for all hours worked.

26 190. Based on information and belief, DEFENDANTS had actual or constructive  
27 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for  
28 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and

1 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the  
2 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved  
3 Employees.

4 191. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved  
5 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for  
6 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in  
7 violation of California's overtime laws.

8 192. Based on information and belief, DEFENDANTS further violated California's  
9 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not  
10 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary  
11 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to  
12 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of  
13 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and  
14 other Aggrieved Employees.

15 193. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,  
16 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS  
17 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC  
18 Wage Orders, section 20.

19 **Statutory Wage Violations**

20 194. California Labor Code section 223 makes it unlawful for an employer to secretly pay  
21 wages lower than required by statute while purporting to pay legal wages. As described above,  
22 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all  
23 earned minimum and overtime compensation for all hours worked which resulted in the payment of  
24 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of  
25 statutory wages, including, but not limited to, minimum and overtime wages, to which they were  
26 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved  
27 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and  
28 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved

1 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to  
2 Labor Code § 2699(f)-(g).

3 **Refusal to Make Payment**

4 195. Labor Code section 216 declares unlawful an employer's refusal to pay wages due  
5 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated  
6 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all  
7 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each  
8 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*  
9 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil  
10 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for  
11 each Aggrieved Employee, for each pay period during which the statute provisions were violated.<sup>2</sup>

12 **Standard Conditions of Labor Violations**

13 196. Together, Labor Code sections 1198 and 1199 make unlawful any employment of  
14 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,  
15 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including  
16 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'  
17 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,  
18 minimum/overtime wages and other violations described herein result in separate violations of  
19 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections  
20 1197.1 and 2699.

21 **Business Expense Violations**

22 197. California law requires employers to indemnify their employees for all necessary  
23 expenditures incurred by the employee in direct consequence of the discharge of their duties or of  
24 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable  
25 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary  
26

---

27 <sup>2</sup> Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty  
28 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).

1 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees  
2 incurred by the employee enforcing the rights granted by this section."

3 198. Among other things, under California law, when employees must use their personal  
4 cellphones for work-related purposes, the employer must reimburse them for a reasonable  
5 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228  
6 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was  
7 required to use their personal cellphone for work-related purposes and not reimbursed for the use.  
8 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile  
9 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear  
10 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

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

15 200. As described above, PLAINTIFF and the Aggrieved Employees were improperly  
16 required to pay for business expenses that are legally the responsibility of the employer.

17 201. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with  
18 full reimbursement for all reasonable expenses associated with carrying out their duties required  
19 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business  
20 expenses in violation of Labor Code section 2802.

21 202. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved  
22 Employees have suffered injury in that they were not completely reimbursed as mandated by  
23 California law.

24 203. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with  
25 full reimbursement for all reasonable expenses associated with carrying out their duties required  
26 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business  
27 expenses in violation of Labor Code section 2802.

28 204. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved

1 Employees have suffered injury in that they were not completely reimbursed as mandated by  
2 California law.

3 205. Despite being aware of these business expenses, DEFENDANTS failed to reimburse  
4 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor  
5 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor  
6 Code § 2802 and the applicable Wage Order.

7 **Wage Statement Violations**

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

17 207. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees  
18 with meal and rest periods that complied with Labor Code section 226.7, the wage statements  
19 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail  
20 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)  
21 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net  
22 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in  
23 effect during the pay period and the corresponding number of hours worked at each hourly rate by  
24 the employee, in violation of Labor Code section 226(a)(9).

25 208. Moreover, due to violations detailed above, including but not limited to,  
26 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide  
27 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,  
28 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish

1 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed  
2 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based  
3 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary  
4 compensation earned during the pay period into the regular rate of pay for purposes of calculating  
5 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of  
6 overtime worked by PLAINTIFF and other Aggrieved Employees.

7         209. As explained above, wage statements issued by DEFENDANTS failed to list the  
8 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,  
9 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and  
10 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices  
11 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours  
12 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226  
13 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

14         210. Based on information and belief, wage statements issued by DEFENDANTS failed  
15 to list 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, in violation of, including but not limited to, Labor  
17 Code section 226(a)(9).

18         211. Separately, and independent from the above allegations, based on information and  
19 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that  
20 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal  
21 entity that is the employer.

22         212. Based on information and belief, wage statements issued by DEFENDANTS failed  
23 to list the inclusive dates of the pay period for which the Class Member is being paid.

24         213. DEFENDANTS’ failure to accurately list all hours worked on all wage statements  
25 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved  
26 Employees over whether they received all wages owed to them.

27         214. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as  
28 they could not easily determine whether they received all wages owed to them and whether they

1 were paid for all hours worked.

2 215. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or  
3 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered  
4 injury as they could not contact their employer regarding any question(s) they had about wages paid.

5 216. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and  
6 Aggrieved Employees with accurate, itemized wage statements.

7 217. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved  
8 Employees have suffered injury. The absence of accurate information on their wage statements has  
9 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and  
10 mathematical computations to determine the amount of wages owed, and will cause difficulty and  
11 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the  
12 submission of inaccurate information about wages and amounts deducted from wages to state and  
13 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to  
14 participate in this lawsuit and create more difficulty and expense from having to reconstruct time  
15 and pay records than if DEFENDANT had complied with its legal obligations.

16 218. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.  
17 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period  
18 during which the statute provisions were violated. <sup>3</sup>

19 **Unlawful Deductions**

20 219. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from  
21 an employee any part of wages theretofore paid by said employer to said employee." Based on  
22 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees  
23 paychecks during the relevant period. Such a practice is in violation of including but not limited to,  
24 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code  
25 Section 2699.

26 220. Each violation results in a separate civil penalty, for each Aggrieved Employee, for  
27 each pay period during which the statute provisions were violated. See Lab. Code §225.5

28 <sup>3</sup> Labor Code § 226.3 (establishing that the civil penalty is ~~4~~ <sup>1</sup> per employee per violation").

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

5 **Reporting Time Pay Violations**

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

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

15 223. Aggrieved Employees were not paid reporting time wages in accordance with  
16 California law, including but not limited to the applicable IWC Wage Order. For example, based on  
17 information and belief, at times, PLAINTIFF and/or other Aggrieved Employees reported to work  
18 for a scheduled shift but were sent home and/or were not put to work and were not paid all owed  
19 reporting time pay wages in accordance with California law.

20 224. Based on information and belief, DEFENDANTS have a policy and practice of  
21 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,  
22 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to  
23 pay all reporting time wages to Aggrieved Employees violated and continues to violate the  
24 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

25 **Violation of California Day of Rest Law**

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

1 the foregoing sections is a misdemeanor.

2 226. Based on information and belief, DEFENDANTS have and continue to have a  
3 uniform policy and practice of requiring Aggrieved Employees to work at least seven days  
4 consecutively in a workweek, in violation of including but not limited to, Labor Code Section  
5 551. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees were  
6 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in  
7 violation of California law, including but not limited to Labor Code Section 551.

8 **Seating Violations**

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

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

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

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

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

23 230. Based on information and belief, DEFENDANTS failed to provide Aggrieved  
24 Employees with suitable seating, and when such employees were not engaged in duties which  
25 required them to stand, no seating was placed in reasonable proximity to their workstations.

26 231. Moreover, based on information and belief, the nature of the work reasonably  
27 permitted the use of seats for at least part of the time that Aggrieved Employees were working.  
28 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of

1 their employment, yet there were no suitable seats in reasonable proximity to the work area and use  
2 of seats would not interfere with the performance of their duties.

3         232. The Aggrieved Employees worked in various positions. The nature of Aggrieved  
4 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide  
5 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section  
6 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting  
7 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each  
8 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a  
9 separate civil penalty.

10         **Sick Leave Violations**

11         233. DEFENDANTS violated California's paid sick leave laws including, Labor Code  
12 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to  
13 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to  
14 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to  
15 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but  
16 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary  
17 compensation into the sick leave pay rate calculation.

18         234. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees  
19 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor  
20 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used  
21 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and  
22 Aggrieved Employees' intelligent exercise of their paid sick leave.

23         235. But for this failure, PLAINTIFF and other Aggrieved Employees would have used  
24 their paid sick leave at least prior to their respective separations, for as on several occasions  
25 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate  
26 compensation.

27         236. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records  
28 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all

1 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees  
2 were entitled to the maximum number of hours accruable.

3 237. Upon information and belief, DEFENDANTS failed and continue to fail to comply  
4 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with  
5 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick  
6 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays  
7 wages.

8 238. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

9 239. On information and belief, PLAINTIFF alleges that all of these practices were  
10 experienced and continue to be experienced by other Aggrieved Employees.

11 240. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the  
12 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and  
13 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

14 **Failure to Pay Vested Vacation/Paid Time Off**

15 241. California Labor Code section 227.3 provides that when an employer policy provides  
16 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,  
17 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the  
18 employee's final rate in accordance with such contract of employment or employer policy respecting  
19 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time  
20 off upon termination.

21 242. Based on information and belief, DEFENDANTS had and continue to have a  
22 uniform policy and practice of failing to allow Aggrieved Employees to use their earned  
23 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off  
24 to Aggrieved Employees upon separation of employment, in violation of California law, including  
25 but not limited to, Labor Code section 227.3.

26 **Untimely Payment of Final Wages**

27 243. California Labor Code section 201(a) provides, in relevant part, that "[i]f an  
28 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and

1 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an  
2 employee not having a written contract for a definite period quits his or her employment, his or her  
3 wages shall become due and payable not later than 72 hours thereafter, unless the employee has  
4 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled  
5 to his or her wages at the time of quitting.”

6       244. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages  
7 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty  
8 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.  
9 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code  
10 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,  
11 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

12       245. Based in information and belief, DEFENDANTS failed and continue to fail to timely  
13 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in  
14 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF  
15 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not  
16 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed  
17 sick leave and/or paid time off wages at the properly accrued rates.

18       246. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These  
19 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or  
20 256.

21       **Unlawful Agreements/ Unlawful Criminal History Inquiries**

22       247. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall  
23 require any employee or applicant for employment to agree, in writing, to any term or condition  
24 which is known by such employer...to be prohibited by law.” DEFENDANTS required and  
25 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful  
26 conditions of employment including but not limited to unlawful criminal and/or financial checks as  
27 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

28       248. The California Labor Code places certain procedural and substantive limits on an  
49  
PLAINTIFF’S REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS  
GENERAL ACT

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

12         249. Based on information and belief, DEFENDANTS ordered unlawful financial credit  
13 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to  
14 provide ongoing written consent to the unlawful credit checks as a condition of employment, in  
15 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

16         250. Based on information and belief, DEFENDANTS required Aggrieved Employees to  
17 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of  
18 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

19         251. Based on further information and belief, DEFENDANTS required Aggrieved  
20 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct  
21 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA  
22 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by  
23 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

24         252. Based on further information and belief, DEFENDANTS knew that requiring  
25 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a  
26 condition of obtaining and/or holding employment was unlawful.

27         253. By requiring that Aggrieved Employees sign off on the illegal background and/or  
28 financial checks, DEFENDANTS violated Labor Code section 432.5.

1                   Unlawful Inquires into Criminal History

2           254. Labor Code section 432.7 prohibits an employer from asking applicants about past  
3 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
4 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
5 convictions on its employment application, in violation of California law.

6           255. Upon information and belief, DEFENDANTS, in violation of California law,  
7 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act  
8 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of  
9 employment and/or otherwise impermissibly inquired into criminal history on its employment  
10 application in violation of California law.

11           256. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor  
12 Code section 432.7. By asking about convictions at the application phase or prior to extending an  
13 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated  
14 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to  
15 disclose arrests and/or convictions as a condition of employment.

16                   Unlawful PAGA Waiver

17           257. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring  
18 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited  
19 to, an unlawful waiver of PAGA and/or representative actions as a condition of employment.

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

26           259. Moreover, the California Supreme Court has ruled that a court cannot compel  
27 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an  
28 individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is

1 no individual component to a PAGA action because ‘every PAGA action ... is a representative  
2 action on behalf of the state.’”)

3         260. Upon information and belief, DEFENDANTS required to agree in writing to waive  
4 their right to a trial of PAGA claims in violation of California law. By requiring Aggrieved  
5 Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written  
6 agreement to an unlawful provision as a condition of employment which is a violation of labor code  
7 section 432.5.

8         261. Under the provisions of PAGA and the above mentioned Labor Code sections,  
9 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,  
10 226.7, 245-248.6, 256, 432, 432.5, 432.6, 432.7, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5,  
11 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage  
12 Orders as well as all interpretations of these laws by California Courts and administrative bodies, as  
13 well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following  
14 penalties:

- 15             a. All statutorily-specified penalties recoverable under PAGA as enumerated in the  
16 relevant California Labor Code provisions listed herein only if permitted by the  
17 PAGA statute, pursuant to Labor Code section 2699(a); and  
18             b. Default PAGA penalties for any violation of the enumerated list of Labor Code  
19 violations without a civil penalty recoverable under the PAGA, all in the default  
20 amounts provided by Labor Code section 2699(f).  
21             c. The proper measure of penalties under PAGA is the number of violations,  
22 whether those violations were committed as against PLAINTIFF or any  
23 Aggrieved Employee, whether a party to this action or not.

24         262. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,  
25 PLAINTIFF is entitled to recover civil penalties, costs, and attorney’s fees.

26 ///

27 ///

28 ///

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

**PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of PLAINTIFF, the State of California, and all Aggrieved Employees:

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: April 9, 2024

**CROSNER LEGAL, PC**

By:   
Brandon Brouillette, Esq.  
Karen L. Wallace, Esq.  
Zachary M. Crosner, Esq.  
Attorneys for Plaintiff  
RICKONA WILSON