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8 *Attorneys for Plaintiff, Jonathan Graham, on*
9 *behalf of himself and all others similarly situated*
10 *and as a representative for the State of California*

11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SACRAMENTO

13 JONATHAN GRAHAM, on behalf of himself and all
14 others similarly situated and as a representative for
15 the State of California,

16 Plaintiff,

17 vs.

18 STRYKER CORPORATION, STRYKER
19 EMPLOYMENT COMPANY, LLC, STRYKER
20 MEDICAL AND SURGICAL EQUIPMENT
21 CORPORATION and Does 1 through 50, inclusive,

22 Defendants.

Case No.: **24CV007127**

**CLASS ACTION, INDIVIDUAL, AND
PAGA COMPLAINT**

Unlimited Civil Case
The Amount Demanded Exceeds \$35,000

1 Plaintiff Jonathan Graham (“Plaintiff”), on behalf of himself, all others similarly situated,
2 complains and alleges as follows:

3 **JURISDICTIONAL ALLEGATIONS**

4 1. This class action lawsuit alleges that Stryker Corporation, Stryker Medical and
5 Surgical Equipment Corporation, and Stryker Employment Company, LLC, (collectively referred
6 to as “Defendants”), engaged in unlawful conduct by their: (1) failure to pay all wages when due,
7 including failure to pay all proposed class members whose employment with Defendants
8 terminated within the last four years, all wages due immediately upon termination or within
9 seventy-two hours of resignation, and all associated waiting time penalties, in violation of
10 California Labor Code sections 201-203; (2) unlawfully collecting wages from Plaintiff and
11 proposed class members in violation of California Labor Code section 221; (3) failure to furnish
12 accurate itemized wage statements to Plaintiff and proposed class members, in violation of
13 California Labor Code section 226; (4) failure to provide Plaintiff and proposed class members,
14 whom Defendants paid commissions, with signed written contracts that set forth the method by
15 which commissions would be computed and paid, in violation of California Labor Code section
16 2751; and, (5) failure to reimburse Plaintiff and proposed class members for work-related
17 expenses, including, but not limited to, costs incurred to use of their personal vehicles to do their
18 jobs, purchase of electronic equipment required to perform their job functions, the use of their
19 personal cell phones and internet to do their jobs, and the costs of setting up home offices, etc., in
20 violation of California Labor Code section 2802. These failures also constitute unfair business
21 practices, in violation of California Business and Professions Code section 17200, et. seq., and
22 violations of California Labor Code section 2698, et. seq., the Private Attorneys General Act of
23 2004 (“the PAGA”), through which Plaintiff seeks civil penalties.

24 2. Defendants are, and at all relevant times were, corporations doing business within
25 the State of California, including in Sacramento, California, and are employers under applicable
26 Industrial Welfare Commission Wage Orders.

27 3. Venue is proper in the County of Sacramento because work was performed by
28 Plaintiff for Defendants in the County of Sacramento and the legal obligations of Defendants to

1 Plaintiff were breached in the County of Sacramento.

2 4. The California Superior Court has jurisdiction in this matter because Plaintiff is a
3 resident of California, Defendants are qualified to do business in California, and Defendants
4 regularly conduct business in California. Further, there is no federal question at issue, as the
5 claims herein are based solely on California law.

6 **GENERAL ALLEGATIONS**

7 5. This action seeks relief for unremedied violations of California law, including, *inter*
8 *alia*; damages, reimbursements, restitution, penalties, interest, and attorneys' fees, as appropriate,
9 to Plaintiff, members of the proposed class, aggrieved employees, and to victims of the practices at
10 issue, whom Defendants have not timely paid for all wages due, including immediately or within
11 seventy-two hours of termination or resignation, and all associated waiting time penalties, in
12 violation of California Labor Code sections 201-203; from whom Defendants unlawfully collected
13 wages in violation of California Labor Code section 221; whom Defendants have not furnished
14 accurate, itemized, wage statements, in violation of California Labor Code section 226; whom
15 Defendants did not provide with signed written contracts that set forth the method by which
16 commissions would be computed and paid, in violation of California Labor Code section 2751;
17 and, whom Defendants did not reimburse for the work-related costs incurred to perform their jobs,
18 in violation of California Labor Code section 2802. Plaintiff is informed and believes that the
19 damages, reimbursements, restitution, penalties, interest and attorneys' fees do not exceed an
20 aggregate of \$4,999,999.99 and that Plaintiff's individual claims do not exceed \$74,999.99.

21 6. The names and capacities of defendants sued herein under California Code of Civil
22 Procedure section 474 as Does 1 through 50, inclusive, are presently not known to Plaintiff, who
23 therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this
24 Complaint and include these Doe defendants' names and capacities when they are ascertained.
25 Each fictitiously named defendant is responsible in some manner for the conduct alleged herein
26 and for the injuries suffered by Plaintiff, the members of the class, aggrieved employees, and the
27 general public.

28 7. At all times mentioned in the causes of action alleged herein, each and every

1 Defendant was an agent and/or employee of each and every other Defendant. In doing the things
2 alleged in the causes of action stated herein, each and every Defendant was acting within the
3 course and scope of this agency or employment and was acting with the consent, permission and
4 authorization of each of the remaining Defendants. All actions of each Defendant as alleged in the
5 causes of action stated herein were ratified and approved by every other Defendant or their
6 officers or managing agents.

7 8. Plaintiff is a former employee of Defendants. Defendants employed Plaintiff as an
8 account manager. Account managers do not report to an office and do not supervise employees.
9 Rather, account managers such as Plaintiff work from their homes, and begin and end their work
10 days at their homes. Their job duties include contacting current and potential customers, traveling
11 to current and potential customers' locations to service Defendants' customers and sell
12 Defendant's equipment/products, attending required meetings, and completing administrative
13 requirements related to customer purchases of Defendants' services/products. To perform their
14 jobs, account managers must have and use personal cell phones, electronic equipment such as
15 computers and printers for a home office, internet access, and personal vehicles.

16 9. Defendants classified Plaintiff and those similarly situated account managers as
17 exempt employees, and paid them on a commission basis. Plaintiff brings claims on behalf of
18 himself and the proposed class members and aggrieved employees for unpaid wages,
19 unreimbursed work-related expenses, failure to provide written and signed commission plans,
20 taking deductions from wages, and failing to furnish accurate, itemized wage statements.

21 10. During the relevant period, the employment of Plaintiff and numerous proposed
22 class members with Defendants ended. Defendants did not pay Plaintiff and these proposed class
23 members all wages due either immediately upon termination or within seventy-two hours of
24 resignation, and failed to pay those sums for up to thirty days thereafter, in violation of California
25 Labor Code sections 201-202. Plaintiff therefore seeks wages as civil penalties on behalf of those
26 proposed class members who were not paid all wages due either immediately upon termination or
27 within seventy-two hours of resignation, pursuant to California Labor Code section 203.

28 11. As account managers work from their homes, Defendants require account manager

1 to have internet access, phone access, an office space, to drive their personal vehicles to and from
2 client locations, and incur other expenses necessary to perform their jobs from their homes.
3 However, Defendants do not reimburse account managers for these expenses. Rather, Defendants
4 devised a system whereby account managers not only front the work-related costs incurred, but in
5 actuality pay for their own expenses.

6 12. The scheme works as follows: Defendants require account managers to submit
7 reimbursement requests through a system called Concur. Defendants then deduct the amount
8 submitted for reimbursement from sums Defendants deducts from account managers' commission
9 wages. For example, for part of the pertinent time period, Defendants automatically deducted 1%
10 of account managers' commission wages. Defendants set this amount aside and, when account
11 managers such as Plaintiff submitted expense reimbursement requests, Defendants deducted the
12 expense reimbursement amounts from the 1% deducted from the account managers' commission
13 wages and paid this amount back to the account managers. Hence, Defendants never reimbursed
14 account managers for any work-related expenses incurred. Rather, account managers such as
15 Plaintiff paid for all of the work-related expenses they incurred out of their own commission
16 wages.

17 13. Even if Defendants' scheme complied with Labor Code section 2802, Defendants
18 paid this "reimbursement" from account managers' commission wages as ordinary income, which
19 was taxed. Per this system, account managers such as Plaintiff never received full reimbursement
20 for work-related expenses, as the reimbursement was always subject to taxation, and thereby the
21 account managers received less than the full amount.

22 14. Under this system, if account managers did not submit sufficient reimbursement
23 requests to total the 1% withheld from account managers' commission wages, what Defendants
24 referred to as the "annual expense target", then Defendants conducted what it referred to as a "true
25 up," and would the account managers the remainder of the 1% deducted from their commission
26 wages. Although through this process Defendants paid account managers some of their
27 commission wages that were earned at an earlier time, but held to cover expense reimbursement
28 requests, Defendants did not pay these commissions when they were earned by the account

1 managers. As such, Defendants violated California Labor Code sections 201-204, as Defendants
2 did not pay the commission wages when they were earned and owed to account managers.

3 15. Defendants represented that they would conduct this “true-up” on a quarterly basis.
4 However, even this did not always occur on the schedule that Defendants promised. When
5 Defendants finally paid account managers the amount remaining from the 1% of the commission
6 wages that Defendants withheld, it did so through what Defendants euphemistically referred to as
7 a “quarterly expense management bonus.” In reality, this payment was not a “bonus” at all, but
8 rather the remainder of the commission wages from the 1% of the account managers commission
9 wages Defendants withheld. Defendants paid this amount as taxable income and did not pay any
10 interest on the earned commission wages that were withheld.

11 16. Given the 1% Defendants initially withheld from commission wages turned out to
12 be an exorbitant amount that well-exceeded the actual expenses incurred by account managers,
13 Defendants modified its system, and now deducts \$2,000 a month from account managers’
14 commission wages, for a total of \$24,000 a year. When account managers submit requests for
15 reimbursement for work-related expenses, Defendants deduct the requested amounts from the
16 \$24,000 withheld from account managers’ commission wages. While Defendants continue to
17 represent that it will conduct a quarterly “true-up,” and if the reimbursements requested are less
18 than the \$24,000 withheld, that Defendants will pay the remaining commission wages to account
19 managers as a “quarterly expense management bonus,” since mid-2023, Defendants failed to do
20 this. Given the legions of problems Defendants encountered since Defendants transferred to SAP
21 in mid-2023, Defendants have not conducted a “true-up,” not even following the process that
22 Defendants represented would occur. As such, Defendants continue to withhold account
23 managers’ commission wages and continue to fail to reimburse account managers for work-related
24 expenses, requiring account managers to pay for their work-related expenses out of their own
25 commission wages. Defendants’ failure to reimburse account managers for their work-related
26 expenses violates California Labor Code section 2802. Any agreement that Defendants assert
27 allow it to employ this system whereby account managers pay for their own work-related expenses
28 is void under California Labor Code section 2804.

1 17. By taking deductions from account managers' commission wages and using these
2 funds to "reimburse" account managers for work-related expenses, Defendants also failed to pay
3 the account managers for all earned wages. Account managers earned the commissions, including
4 the 1% or \$2,000 deducted to use for "reimbursements". Defendants did not pay these
5 commissions when they were earned and due, but instead used the amounts to reimburse account
6 managers for work-related expenses. This process violates California Labor Codes sections 201-
7 204. Defendants have an affirmative obligation under the California Labor Code to pay account
8 managers all wages due, when the wages are actually due, including commission wages, not at
9 some later time of Defendants' choosing. By deducting the expenses from account managers'
10 commission wages, Defendants also violated California Labor Code section 221, which
11 specifically prohibits such deductions. The deductions Defendants take from account managers'
12 commission wages to cover expense reimbursements do not fall within any of the exceptions to
13 Labor Code section 221, as set forth in California Labor Code section 224.

14 18. As stated, in mid-2023, Defendants implemented a new SAP system. Since this
15 time, no quarterly true-up has occurred for the account managers' expenses. In addition, since the
16 shift to the new SAP system, Defendants routinely, and repeatedly, failed to timely pay Plaintiff,
17 and the other account managers, all their commission wages. Account managers have gone
18 multiple pay periods without being paid their commission wages. Defendants routinely admit that
19 the system is riddled with errors. As a result of these errors and Defendants' practices, in violation
20 of Labor Code sections 201-204, Defendants have not paid account managers all of their
21 commission wages when they are due. This is true not only because of the system Defendants
22 implemented with respect to the expense reimbursements, and the new SAP system, but also
23 because Defendants fail to comply with the Labor Code when account managers' job terminated.

24 19. Defendants do not pay all the commission wages owed at the time of termination,
25 or 72 hours thereafter. For example, at the termination of his employment, Plaintiff specifically
26 requested that he be paid all his earned commissions. Defendants informed Plaintiff that, because
27 he was paid on a commission basis, Defendants did not have to comply with the timing elements
28 of Labor Code sections 201-204, and that it did not have to pay earned commissions within 72

1 hours of Plaintiff's resignation. Defendants' position is incorrect and violates Labor Code
2 sections 201-204. As a result, in addition to owing the compensation due, Defendants owe interest
3 on the wages due at the time of termination and other penalties due to its failure to comply with
4 Labor Code sections 201-204.

5 20. Defendants pay account managers, including Plaintiff, on a commission basis.
6 However, Defendants failed to comply with California Labor Code section 2751, in that
7 Defendants failed to provide account managers with a signed commission plan setting forth how it
8 calculated commissions owed. Defendants further failed to obtain from Plaintiff and proposed
9 class members a signed receipt for the commission contract, in violation of California Labor Code
10 section 2751(b).

11 21. Defendants also failed to furnish accurate wage statements as required by Labor
12 Code section 226. As stated above, Defendants do not pay all compensation owed, and do not pay
13 all compensation owed when it is due. As a consequence, the wage statements do not reflect all
14 gross and net wages owed account managers during the stated pay periods, specific requirements
15 of Labor Code section 226(a). In addition to not providing wage statements with accurate
16 information as required by Labor Code section 226(a), Defendants fail to actually furnish the wage
17 statements to its employees. Defendants do not provide wage statements in hard copy, or give its
18 employees the option of obtaining their wage statements in hard copy. Rather, Defendants only
19 makes the wage statements available on-line. This system that Defendants unilaterally chose and
20 implemented violates Labor Code section 226.

21 22. Given the violations of the aforementioned California Labor Code sections and
22 Wage Orders, Defendants are therefore liable for unfair, unlawful, and fraudulent business
23 practices, in violation of California Business & Professions Code section 17200, et. seq.

24 23. Given the violations of the aforementioned California Labor Code sections and
25 Wage Orders, Defendants are also liable for civil penalties set forth within, and authorized by, the
26 PAGA, California Labor Code section 2698, et. seq.

27 **CLASS ALLEGATIONS**

28 24. Plaintiff is, and at all relevant times was, a resident of the State of California.

1 Plaintiff sues on behalf of himself and all similarly situated account managers employed by
2 Defendants in California during the four years preceding the filing of this complaint to the
3 present.

4 25. Because Defendants failed to provide Plaintiff, in his employment with
5 Defendants as an account manager, payment for all wages when due, including after 72 hours
6 of resignation, and waiting time penalties; accurate itemized wage statements; signed written
7 contracts that set forth the method by which commissions would be computed and paid;
8 reimbursement for work-related expenses incurred in direct consequence of the discharge of
9 his duties, including for driving his personal vehicle, using his personal cell phone, and
10 incurring the costs to operate a home office, etc.; and, took unlawful deductions from
11 Plaintiff's commission wages; Plaintiff's claims are typical of those of the proposed class
12 members.

13 26. Plaintiff will fairly and adequately represent and protect the interests of the
14 members of the proposed class in that he has no disabling conflict of interest that would be
15 antagonistic to those of the other members of the proposed class. Plaintiff retained counsel
16 who are competent and experienced in the prosecution of class action wage and hour
17 violations.

18 27. The proposed class is sufficiently numerous and the class members are
19 geographically dispersed throughout California, the joinder of whom in one action is
20 impracticable, such that the disposition of whose claims in a class action will provide
21 substantial benefits to both the parties and the Court.

22 28. There is a well-defined community of interest in the questions of law and fact
23 involved affecting the parties to be represented. The questions of law and fact common to the
24 proposed class predominate over questions that may affect individual class members, include
25 but are not limited to the following:

- 26 (a) Whether Defendants implemented and engaged in a pattern and practice
27 whereby Defendants failed to timely pay Plaintiff and proposed class members
28 all wages when due, including wages due immediately upon termination or

1 within seventy-two hours of resignation, and all associated waiting time
2 penalties;

3 (b) Whether Defendants implemented and engaged in a practice whereby
4 Defendants failed to furnish and provide proposed members with accurate
5 itemized wage statements;

6 (c) Whether Defendants implemented and engaged in a pattern and practice of
7 failing to provide proposed class members with signed written contracts that
8 set forth the method by which commissions would be computed and paid;

9 (d) Whether Defendants implemented and engaged in a pattern and practice
10 whereby Defendants unlawfully failed to reimburse proposed class members
11 for work-related expenses, as required by law.

12 (e) Whether Defendants implemented and engaged in a pattern and practice
13 whereby Defendants unlawfully took deductions from proposed class members
14 commission wages; and,

15 (f) Whether the acts and practices of Defendants as alleged herein violated, *inter*
16 *alia*, applicable provisions of the California Labor Code, including but not
17 limited to sections 201-204, 221, 226, 2751, 2802, the applicable Industrial
18 Welfare Commission Orders, California Business & Professions Code section
19 17200, *et seq.*, and the Private Attorneys General Act of 2004 (the PAGA),
20 California Labor Code section 2698, *et. seq.*

21 29. Plaintiff and proposed class members all have similarly suffered irreparable harm
22 and damages as a result of Defendants' unlawful and wrongful conduct, including, but not limited
23 to, Defendants' pattern and practice of: (1) failing to pay all wages when due, including
24 immediately upon termination or within seventy-two hours of resignation, and all associated
25 waiting time penalties, in violation of Labor Code sections 201-204; (2) failing to furnish accurate
26 itemized wage statements, in violation of Labor Code section 226; (3) failing to provide Plaintiff
27 and proposed class members, whom Defendants paid commissions, with signed written contracts
28 that set forth the method by which commissions would be computed and paid, in violation of

1 Labor Code section 2751; (4) taking deductions from commission wages of Plaintiff and proposed
2 class members, in violation of Labor Code section 221; and, (7) failing to provide reimbursement
3 for work-related expenses, in violation of Labor Code section 2802. These failures further
4 constitute unfair business practices, in violation of California Business and Professions Code
5 section 17200, et. seq., and violations of California Labor Code section 2698, et. seq., the Private
6 Attorneys General Act of 2004 (“the PAGA”), through which Plaintiff seeks civil penalties.
7 These issues are common to all proposed class members, making class treatment especially
8 appropriate. Because the actions of Defendants toward proposed class members follow common
9 patterns, all of which are reflected in records possessed by Defendants, this action will provide
10 substantial benefits to all proposed class members. Absent this action, Defendants’ unlawful
11 conduct will continue unremedied and uncorrected.

12 **FIRST CAUSE OF ACTION**

13 **(Failure to Pay Wages When Due, Including at Termination:**
14 **Violation of Cal. Lab. Code §§ 201-204)**

15 30. Plaintiff and proposed class members incorporate by reference the allegations
16 contained the foregoing paragraphs of this complaint as if fully set forth herein.

17 31. During Plaintiff’s employment, Defendants failed to timely pay Plaintiff and
18 proposed class members all wages, when due, in violation of California Labor Code sections 201-
19 204. Rather than paying Plaintiff and proposed class members all commission wages when due,
20 Defendants withheld portions of the commission wages. Defendants then used the withheld wages
21 to reimburse Plaintiff, and proposed class members, for work-related expenses. Through this
22 process, instead of reimbursing Plaintiff and proposed class members for work-related expenses,
23 Defendants required Plaintiff and proposed class members to pay for the expenses from their own
24 commission wages. If the amount of expenses did not exceed the amount of wages withheld,
25 Defendant, at some later date, finally paid Plaintiff and proposed class members their commission
26 earnings. However, Defendants did not pay any interest on the commission wages and, when
27 Defendant paid Plaintiff and proposed class members for their reimbursement requests,
28 Defendants characterized the reimbursement as earned wages, subject to taxation. As such,

1 Plaintiff and the proposed class members never received reimbursement for their work-related
2 expenses and were not timely paid their commission wages.

3 32. In addition, since the implementation of the new SAP system, Defendants routinely
4 did not conduct the “true up” for reimbursements and did not timely pay Plaintiff and proposed
5 class members their commission wages. Plaintiff and proposed class members would go months
6 without receiving any of their commission wages. Therefore, Defendants failed to timely pay
7 Plaintiff and proposed class members all wages when due, in violation of California Labor Code
8 sections 201-204.

9 33. During the relevant period, the employment of Plaintiff and numerous proposed
10 class members with Defendants ended. Defendants did not pay Plaintiff and these proposed class
11 members all wages due either immediately upon termination or within seventy-two hours of
12 resignation, and failed to pay those sums for up to thirty days thereafter, in violation of California
13 Labor Code sections 201-202. Plaintiff therefore seeks wages as civil penalties on behalf of those
14 proposed class members who were not paid all wages due either immediately upon termination or
15 within seventy-two hours of resignation, pursuant to California Labor Code section 203.

16 34. Defendants’ willful failure to pay wages to the Plaintiff and other proposed class
17 members violates California Labor Code section 203 because Defendants knew or should have
18 known wages were due to Plaintiff and other proposed class members, but Defendants failed to
19 pay them. These violations give rise to civil penalties, pursuant to California Labor Code section
20 203. Plaintiff and proposed class members are therefore entitled to the relief requested below.

21 35. Pursuant to California Labor Code section 218.6, and Civil Code section 3287,
22 Plaintiff and proposed class members seek recovery of pre-judgment interest on all amounts
23 recovered herein. Pursuant to California Labor Code section 218.5, Plaintiff and proposed class
24 members request that the Court award reasonable attorneys’ fees and costs incurred by them in
25 this action.

26 **SECOND CAUSE OF ACTION**

27 **(Wage Statement Violations: Cal. Lab. Code § 226)**

28 36. Plaintiff and proposed class members incorporate by reference the allegations

1 contained in the foregoing paragraphs of this complaint as if fully set forth herein.

2 37. During the relevant time period, because of the practices outlined above,
3 Defendants failed to furnish accurate itemized wage statements to Plaintiff and proposed class
4 members, containing information as required by California Labor Code sections 226(a),
5 subsections (1) gross wages earned, and (5) net wages earned. In addition, Defendants failed to
6 actually furnish itemized wage statements, as required by section 226(a), in that Defendants only
7 made the wage statements available on line and did not provide employees with an option to
8 obtain a hard-copy wage statement.

9 38. Defendants' failures caused Plaintiff and proposed members to suffer injury as
10 defined by California Labor Code section 226(e)(2)(B)(i). As a result of Defendants' failures,
11 Plaintiff and proposed members are entitled to recover the penalties and attorneys' fees as set forth
12 in California Labor Code section 226(e)(1). As a result of Defendants' violations of California
13 Labor Code section 226(a), Plaintiff and proposed class members are also entitled to recover the
14 penalties, and interest thereon, as set forth in California Labor Code section 226.3.

15 39. Pursuant to California Labor Code section 226(h), the currently-employed
16 proposed class members are entitled to injunctive relief to ensure Defendants' compliance with
17 California Labor Code section 226. Pursuant to section 226(e)(1), Plaintiff seeks recovery of
18 attorneys' fees and costs.

19 40. Plaintiff also seeks penalties for Defendants' violations of California Labor Code
20 section 226(a)(1) and (5), pursuant to California Labor Code sections 2699.3 and 2699.5, and
21 attorneys' fees pursuant to section 2699(g)(1).

22 41. Plaintiff and proposed class members are therefore entitled to the relief requested
23 below.

24 **THIRD CAUSE OF ACTION**

25 **(Reimbursement Violations: Cal. Lab. Code § 2802)**

26 42. Plaintiff and proposed class members incorporate by reference the allegations
27 contained in the foregoing paragraphs of this complaint as if fully set forth herein.

28 43. Pursuant to California Labor Code section 2802(a), "an employer shall indemnify

1 his or her employee for all necessary expenditures or losses incurred by the employee in direct
2 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
3 employer.” As the California Supreme Court explained in *In Gattuso v. Harte-Hanks Shoppers,*
4 *Inc.*, 42 Cal. 4th 554 (2007), the stated goal of Labor Code section 2802, as expressed in its
5 legislative history, is “to prevent employers from passing on their operating expenses to their
6 employees.” (quoting Sen. Rules Com., Off of Sen. Floor Analyses, Analysis of Sen. Bill No.
7 1305 (1999-2000 Reg. Sess.) as amended Aug. 18, 2000, p.3) (emphasis added). *Gattuso* made
8 clear that this obligation requires employers to provide “full” and “complete” reimbursement and
9 any agreement between employees and the employer to the contrary would not relieve the
10 employer of this obligation as any agreement to the contrary is void under Labor Code section
11 2804. 42 Cal. 4th at 569-71.

12 44. Neither section 2802, nor *Gattuso*, allows Defendants to set up a system whereby
13 employees, such as Plaintiff and the other similarly situated account managers, pay for their own
14 expenses. Any such agreement that Defendants required account managers to sign that would
15 agree to such a system is void, as explained in California Labor Code section 2804.

16 45. To perform their jobs, Plaintiff and proposed class members were required to incur
17 work-related expenses in the course of their employment, including costs associated with the use
18 of their personal vehicles, cellular phones, internet services, and the costs to set up home offices.
19 Given Plaintiff and proposed class members incurred these work-related expenses, they are due
20 reimbursement, and interest thereon, for Defendants’ failure to comply with California Labor
21 Code section 2802.

22 46. Plaintiff also seeks penalties and attorneys’ fees and costs for Defendants’
23 violation of California Labor Code section 2802, pursuant to sections 2802(b) and (c), and the
24 PAGA, including California Labor Code sections 2699(g)(1), 2699.3, and 2699.5.

25 47. Plaintiff and proposed class members are therefore entitled to the relief requested
26 below.

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1 California Labor Code sections 201-203; (2) failure to furnish accurate itemized wage statements
2 to Plaintiff and proposed class members, in violation of California Labor Code section 226; (3)
3 failure to provide Plaintiff and proposed class members, whom Defendants paid commissions,
4 with signed written contracts that set forth the method by which commissions would be computed
5 and paid, in violation of California Labor Code section 2751; (4) failure to reimburse Plaintiff and
6 proposed class members for work-related expenses, in violation of California Labor Code section
7 2802; (5) taking unlawful deductions from the wages of Plaintiff and proposed class members, in
8 violation of California Labor Code section 221; violate applicable California Labor Code
9 sections, Industrial Welfare Commission Wage Orders, the Private Attorneys General Act of
10 2004, Labor Code section 2698 *et seq.*, and other provisions of California common and/or
11 statutory law. Plaintiff reserves the right to allege additional statutory and common law violations
12 by Defendants.

13 56. Further, the policies, acts or practices described herein were and are unfair,
14 unlawful, and fraudulent business acts or practices because any justifications for Defendants'
15 illegal and wrongful conduct were and are vastly outweighed by the harm such conduct caused to
16 Plaintiff, proposed class members, aggrieved employees, and the members of the general public.

17 57. As a result of their unlawful and/or unfair and/or fraudulent acts, Defendants
18 reaped unfair benefits and illegal profits at the expense of Plaintiff and proposed class members.
19 Defendants should be made to disgorge ill-gotten gains and provide restitution to Plaintiff and
20 proposed class members for the wrongfully withheld wages pursuant to Business and Professions
21 Code section 17203.

22 58. Accordingly, Plaintiff and proposed class members respectfully request that the
23 Court award judgment and relief in their favor, to provide restitution, and other types of equitable
24 relief.

25 59. Plaintiff and the proposed class members are therefore entitled to the relief
26 requested below.
27
28

1 **SIXTH CAUSE OF ACTION**

2 **(On Behalf of Plaintiff and All Subclasses)**
3 **(Labor Code Private Attorneys General Act of 2004 (the "PAGA")):**
4 **Cal. Lab. Code § 2698, et. seq.)**

5 60. Plaintiff and proposed class members incorporate by reference the allegations
6 contained in the foregoing paragraphs of this complaint as if fully set forth herein.

7 61. The policies, acts and practices heretofore described were and are unlawful
8 because Defendants' (1) failure to pay all wages when due, including failure to pay Plaintiff and
9 proposed class members whose employment with Defendants terminated within the last four
10 years, all wages due immediately upon termination or within seventy-two hours of resignation,
11 and all associated waiting time penalties, in violation of California Labor Code sections 201-203;
12 (2) failure to furnish accurate itemized wage statements to Plaintiff and proposed class members,
13 in violation of California Labor Code section 226; (3) failure to provide Plaintiff and proposed
14 class members, whom Defendants paid commissions, with signed written contracts that set forth
15 the method by which commissions would be computed and paid, in violation of California Labor
16 Code section 2751; (4) failure to reimburse Plaintiff and proposed class members for work-related
17 expenses, in violation of California Labor Code section 2802; (5) taking unlawful deductions
18 from the wages of Plaintiff and proposed class members, in violation of California Labor Code
19 section 221; violates applicable California Labor Code sections and gives rise to statutory and
20 civil penalties as a result of such conduct, including but not limited to penalties as provided by
21 Labor Code sections 203, 225.5, 226(e), 226.3, 1197.1, 2698, 2699(f), 2699.3, and 2699.5, and
22 applicable Industrial Welfare Commission Wage Orders. Plaintiff, as an aggrieved employee,
23 hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney General
24 Act of 2004 on behalf of himself and other current and former employees of Defendants against
25 whom one or more of the violations of the Labor Code was committed.

26 62. On January 25, 2024, Plaintiff exhausted his administrative resources by filing a
27 PAGA complaint with the California Department of Industrial Relations, alleging that Defendants
28 violated the California Labor Code. To date, Plaintiff has received no response from the
California Labor Workforce Development Agency or Defendant.

63. Plaintiff seeks attorneys' fees to achieve the same, pursuant to the Labor Code section 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for judgment and relief as follows:

1. An order certifying that the action may be maintained as a class action;
2. Compensatory and statutory damages, penalties and restitution, as appropriate and available under each cause of action, in an amount to be proven at trial based on, *inter alia*, the unpaid balance of compensation Defendants owe;
3. Reasonable attorneys' fees pursuant to the California Labor Code, including sections 218.5, 226(e)(1), 2699(g)(1), and 2802(c);
4. Costs of this suit;
5. Pre- and post-judgment interest; and
6. Such other and further relief as the Court deems just and proper.
7. Plaintiff is informed and believes that the damages, back wages, restitution, value of injunctive relief sought, penalties, interest and attorneys' fees do not exceed an aggregate of \$4,999,999.99 and that the pro-rata value of Plaintiff's individual claims, including damages, back wages, restitution, injunctive relief, interest, attorneys' fees, and penalties, does not exceed \$74,999.99.

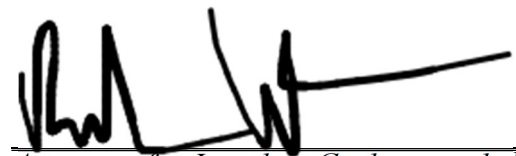
JURY DEMAND

Plaintiff hereby demands a trial by jury.

Date: April 11, 2024

WORKMAN LAW FIRM, PC

By:



Attorneys for Jonathan Graham, and all others similarly situated and as a representative for the State of California