

1 **MESSRELIAN LAW INC.**
2 Harout Messrelian, Esq. (272020)
3 500 N. Central Ave., Suite 840
4 Glendale, California 91203
5 Telephone: (818) 484-6531
6 Facsimile: (818) 956-1983

7 Attorneys for Plaintiff Diego Miranda

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Superior Court of California
County of Los Angeles
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David W. Slayton, Executive Officer / Clerk of Court
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DIEGO MIRANDA,

Plaintiff,

vs.

DRAY STAFF, INC.; DANIEL LINARES;
and DOES 1 to 25, inclusive,

Defendants.

CASE NO.: 24STCV07036

FIRST AMENDED COMPLAINT FOR DAMAGES FOR:

1) **FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
2) **FAILURE TO PAY MINIMUM WAGES;**
3) **FAILURE TO PAY OVERTIME;**
4) **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
5) **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
6) **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
7) **FAILURE TO PROVIDE REST BREAKS;**
8) **FAILURE TO PROVIDE MEAL BREAKS;**
9) **FAILURE TO REIMBURSE BUSINESS EXPENSES;**
10) **PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
11) **FAILURE TO PROVIDE PERSONNEL RECORDS;**
12) **FAILURE TO PROVIDE PAY RECORDS;**
13) **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

1) **JURY TRIAL DEMANDED**
2)
3)
4)
5)

6 COMES NOW Plaintiff, DIEGO MIRANDA (hereinafter "Plaintiff"), and alleges as
7 follows:
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9 **PARTIES, JURISDICTION, and VENUE**

10 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
11 County of Los Angeles in this judicial district because Defendants DRAY STAFF, INC. and
12 DANIEL LINARES and DOES 1 to 25, inclusive (hereinafter collectively "DRAY STAFF" or
13 "Defendant(s)") do business in the County of Los Angeles, and because Defendants'
14 obligations and liabilities arise therein, and because the work that was performed by Plaintiff in
15 the County of Los Angeles is the subject of this action. Moreover, Plaintiff's damages sought
16 herein exceed \$35,000.
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18 2. Plaintiff is a male resident of the County of Los Angeles, State of California.

19 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
20 DRAY STAFF, INC. is a California corporation, doing business in the County of Los
21 Angeles, State of California, and which employed Plaintiff.
22

23 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
24 DANIEL LINARES is a male resident of the State of California, and the owner, managing
25 agent, and/or director DRAY STAFF, INC. Defendant DANIEL LINARES is being included
26 in this lawsuit pursuant to Labor Code Section 558.1 in that he was involved in the day-to-day
27 operations of the business as well as the wage and hour policies and practices, as such,
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1 controlled the hours, wages, and/or working conditions of Plaintiff and other hourly, non-
2 exempt employees. Defendants DRAY STAFF INC. and DANIEL LINARES are collectively
3 referred to herein as “Defendant(s)” (unless otherwise noted) or “DRAY STAFF”.

4 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
5 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
6 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
7 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
8 for the conduct alleged herein. Upon discovering the true names and capacities of these
9 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
10 capacities of these fictitiously named defendants.
11

12 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
13 that information and belief, alleges that at all times herein mentioned, each of the remaining
14 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
15 under the authority of their agency, employment, or representative capacity, with the consent of
16 his/her codefendants.
17

18 **GENERAL ALLEGATIONS**

19 7. Plaintiff started working at DRAY STAFF in or around mid-2023 as a driver and
20 machine operator. Plaintiff was classified as an hourly, non-exempt employee. Plaintiff’s
21 employment ended on or around late 2023 or early 2024.

22 8. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal. App. 5th 745 (2018),
23 Plaintiff, Huff, was employed as a security guard for the Defendant Employer, Securitas
24 Security Services USA, Inc., an onsite security provider. After about a year of employment,
25 Huff resigned. Huff then filed suit against Securitas under PAGA. In his claim, Huff
26 specifically alleged violations to the Labor Code requiring immediate payment of wages upon
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1 termination of employment and weekly payment of wages to temporary employees. The trial
2 court determined Huff was not a temporary employee, and therefore, lacked standing to bring
3 the claim. Thus, Securitas was granted a motion for summary judgement. Later, the trial court
4 granted Huff a new trial. Securitas then appealed the grant of a new trial. On appeal, the issue
5 was whether Huff could bring a PAGA claim and sue for Labor Code violations that did not
6 directly affect him. Securitas unsuccessfully argued that the PAGA statute only allows the
7 PAGA representative to sue for violations that the representative has personally suffered. The
8 PAGA statute states that an “aggrieved employee” is able to file suit on behalf of themselves
9 and others. The statute also states that an “aggrieved employee” is “any person who was
10 employed by the alleged violator and against whom one or more of the alleged violations was
11 committed.” Because at least one of the violations that Huff had alleged had affected him
12 personally, the Court of Appeal denied Securitas’ motion.
13

14 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
15 other employees, it allows for suits broader than the specific violations the named employee
16 experienced. Therefore, even if the employee did not personally experience the Labor Code
17 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
18 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
19 other employees, including ALL hourly, non-exempt employees who worked for DRAY
20 STAFF anywhere in the state of California and at all their locations in the state of California
21 during the relevant PAGA period.
22

23 10. It is Plaintiff’s position that DRAY STAFF has violated the following Labor Code
24 Sections against Plaintiff and other similarly situated aggrieved employees, who include all non-
25 exempt, hourly employees who worked for DRAY STAFF at their various locations in the State
26 of California during the relevant PAGA period.
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1 11. DRAY STAFF violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed
2 to pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including
3 the statutory minimum wage for all hours worked and for “off the clock” work. This is so because
4 Plaintiff was not paid for all hours worked. In fact, in a pay period in November/December 2023,
5 Plaintiff’s paycheck reflected that he worked under 40 hours in the week, even though he worked
6 over 40 hours. Plaintiff brought up the discrepancy to the company, however, nothing was done
7 to rectify the issue. As such, Plaintiff was not paid for all hours worked, which is a minimum
8 wage violation. Moreover, DRAY STAFF had a company policy wherein they would
9 disproportionately round down the number of hours worked, resulting in “time shaving” and
10 further resulting in aggrieved employees not being paid for all hours worked. Furthermore, and
11 to the extent that Plaintiff and others worked through their meal periods while “off the clock”,
12 they were not compensated for all hours worked, which would be akin to a minimum wage
13 violation. Moreover, DRAY STAFF failed to provide its employees with proper and accurate
14 reporting time pay.
15

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17 12. Due to the above “off the clock” violations, DRAY STAFF also violated Labor Code
18 §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation,
19 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
20 throughout their employment. Plaintiff’s and other aggrieved employees’ actual work hours
21 entitled them to overtime compensation, however, DRAY STAFF did not compensate its hourly,
22 non-exempt employees with the correct amount of overtime due to the “off the clock” work and
23 time shaving as described above. As mentioned above, in a particular paycheck received in
24 November/December 2023, Plaintiff’s pay did not reflect any overtime compensation at all even
25 though he worked over 40 hours a week in that pay period. Furthermore, DRAY STAFF failed
26 to include bonuses/incentive payments in calculating employees’ regular rate of pay for use in
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1 deciphering the correct overtime rate of pay. Additionally, the incentive and bonus payments
2 were also not factored into employees' regular rate for purposes of receiving meal and rest break
3 premiums per the Ferra v. Loews case.

4 13. DRAY STAFF also violated Labor Code § 226.7 and the appropriate Industrial Welfare
5 Commission Wage Order no. 4/9 because it failed to provide Plaintiff and other similarly situated
6 aggrieved employees with 10-minute rest periods for every four hours of work, or majority
7 portion thereof, throughout their employment. DRAY STAFF did not completely relieve
8 Plaintiff and others of all duty during said rest periods. DRAY STAFF did not pay to Plaintiff
9 and others one additional hour of pay at Plaintiff's regular rate of compensation for each workday
10 that one or more statutory rest periods was not provided. It was not part of the company policy
11 for employees such as Plaintiff to take at least two rest breaks per shift. In fact, Plaintiff and
12 others did not take any rest breaks at all. The concept of rest breaks was not implemented as it
13 was not company policy. As such, the culture as well as the policies and procedures of DRAY
14 STAFF did not lend itself to the employees receiving consistent statutory rest breaks wherein
15 they were relieved of all work duties. The environment at DRAY STAFF was not conducive to
16 receiving multiple statutory rest breaks under California law and timely, statutory rest breaks
17 were not authorized or enforced.

20 14. DRAY STAFF violated Labor Code §§ 512 and 226.7 and the appropriate Industrial
21 Welfare Commission Wage Order no. 4/9 because it failed to provide hourly, non-exempt
22 employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods
23 for every five (5) hours of work throughout their employment. DRAY STAFF did not completely
24 relieve Plaintiff and other employees of all duty during said meal periods. DRAY STAFF
25 did not pay to Plaintiff and its hourly, non-exempt employees one additional hour of pay at their
26 regular rate of compensation for each workday that one or more statutory meal periods was not
27 provided. Plaintiff and other hourly, non-exempt employees would not always be able to take
28 their meal breaks before the 5th hour worked. The latter was due to the workload, being

understaffed, and due to being in a fast-paced work environment. Like the rest breaks, receiving a timely, uninterrupted thirty-minute meal break was not consistently enforced by DRAY STAFF. Consequently, it was the normal practice and custom of DRAY STAFF not to authorize, permit, and enforce timely statutory meal periods. If DRAY STAFF had Plaintiff sign a meal period waiver, it would not be valid and enforceable since Plaintiff and others generally worked more than a 6-hour shift. If DRAY STAFF had Plaintiff sign an on-duty meal period agreement wherein Plaintiff agreed to work through the meal periods, it would be invalid and unenforceable because the nature of Plaintiff's job as a driver/machine operator does not and did not prevent him from taking a meal period and the company could have hired "breakers" to relieve Plaintiff of his job duties so that he can actually take a timely, uninterrupted meal period. Moreover, any such "on duty" meal period agreement did not allow for Plaintiff to revoke such an agreement even if it was signed. As such, Plaintiff and others did not always receive statutory, timely meal periods during their employment. To the extent that DRAY STAFF argues that employees receive meal break premium pay for missed meal periods, that argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for the violations themselves, irrespective of whether an employee received the premium payment for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, "section 226.7 does not give employers a lawful choice between providing *either* meal and rest breaks *or* an additional hour of pay." See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the violation; the employer has still committed a violation even if the remedy for the violation has been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work environment and culture at DRAY STAFF was not conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover, any meal or rest break premiums paid were not compensated at the weighted average regular rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

15. Furthermore, during the relevant time period, and due to the above labor code violations, DRAY STAFF failed to pay Plaintiff and other similarly situated aggrieved employees all wages due to them within any time period specified by California Labor Code section 204. Since

1 Plaintiff was not compensated for all hours worked, including overtime, and since Plaintiff did
2 not receive full and complete meal and rest break premiums, Plaintiff would still be owed wages
3 pursuant to Labor Code Section 204. DRAY STAFF was also in violation of California Labor
4 Code section 226(a) by failing to include pertinent information on the wage statements, including
5 but not limited to, the correct hourly rate, all hours worked, overtime hours worked, correct
6 overtime pay, gross wages earned, net wages earned, premium pay for missed meal and rest
7 breaks, all deductions, the correct start and end of the pay period, all employee identifying
8 information, the correct and complete name and address of the legal employer, and
9 reimbursement for business expenses, among others. As such, DRAY STAFF did not provide
10 Plaintiff and other similarly situated aggrieved employees with complete, accurate itemized
11 wage statements.
12

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14 16. During the relevant time period, DRAY STAFF also failed to keep accurate and complete
15 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
16 others pursuant to California Labor Code sections 1174(d).

17 17. DRAY STAFF also violated Labor Code § 203 because it willfully failed to pay other
18 similarly situated aggrieved employees earned and due wages upon separation of employment,
19 either immediately upon involuntary termination, or within 72 hours of resignation. These earned
20 but unpaid wages include compensation for all hours worked, including minimum wages,
21 overtime compensation, and premium pay for missed meal and rest breaks.
22

23 18. During the relevant time period, Plaintiff and other aggrieved employees incurred
24 necessary, business-related expenses and costs that were not reimbursed by DRAY STAFF.
25 These costs include, but are not limited to, uniforms, head lamps, and use of personal cell phones
26 for work purposes. Accordingly, DRAY STAFF was in violation of California Labor Code
27 sections 2800 and 2802.
28

1 19. Furthermore, DRAY STAFF did not provide proper and correct/accurate sick pay that
2 was also accurately delineated on employee pay stubs and also failed to provide proper sick leave
3 in violation of Labor Code sections 233 and 246. Furthermore, DRAY STAFF failed to provide
4 suitable seating for breaks in violation of Industrial Welfare Commission Wage order no. 4-
5 2001/9-2001, sections 13(B) and 14(B) by not providing suitable resting facilities and not
6 providing suitable seating for breaks as Plaintiff and others' jobs required them to stand most of
7 the time in effectuating their job duties.
8

9 20. Furthermore, Plaintiff believes that by virtue of Defendants violating the
10 aforementioned labor code sections, Defendants have engaged in business practices which
11 violate Business and Professions Code Section 17200.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

14 **(California Industrial Welfare Commission Order 4-2001/9-2001, California Code of**
15 **Regulations Title 8 Section 11040/11090, and California Labor Code Section 1198)**

16 **(Plaintiff against all named defendants and all DOE defendants)**

17
18 21. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 20, inclusive, of this Complaint as though fully set forth herein.

20 22. At all times relevant herein, Defendants were required to compensate its employees for
21 all hours worked upon reporting for work at the appointed time stated by the employer
22 pursuant to Industrial Welfare Commission Order 4-2001/9-2001, California Code of
23 Regulations, Title 8, Section 11040/11090.
24

25 23. For the three (3) years preceding filing of this action, Defendants failed to compensate
26 Plaintiff for all hours worked.

27 24. Under the aforementioned wage order and regulations, Plaintiff is to recover
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1 compensation for all hours worked but not paid by Defendants for the three (3) years
2 preceding the filing of this Complaint.

3 25. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
4 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
5 this Court.

6 26. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
7 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
8 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
9 reasonable attorney's fees and costs of suit.
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11 27. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
12 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
13 amount known to Plaintiff once he has obtained all of his payroll records from
14 Defendants.
15

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY MINIMUM WAGES**

18 **(California Labor Code Sections 1194, 1194.2, 1197)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 28. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 27, inclusive, of this Complaint as though fully set forth herein.
22

23 29. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
24 to suffer or permit a California employee to work without paying wages at the minimum wage
25 rate for all hours worked as required by the applicable Industrial Welfare Commission
26 (hereinafter "IWC") Wage Order No. 4-2001/9-2001, codified at California Code of
27 Regulations, Title 8, Section 11040/11090, subdivision 4.
28

1 30. Pursuant to IWC Wage Order no. 4-2001/9-2001, subdivision 2(K)/(H), at all
2 relevant times, "hours worked" included "the time during which an employee is subject to the
3 control of an employer, and includes all the time the employee is suffered or permitted to work,
4 whether or not required to do so..."

5 31. During his employment, Plaintiff was regularly required as a matter of uniform
6 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
7 was paid less than the minimum wage rate by Defendants for hours worked in violation of
8 California Labor Code Section 1197 and the applicable California Industrial Wage
9 Commission wage order(s).
10

11 32. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
12 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
13 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
14 to believe that their acts or omissions were not contrary to California law.
15

16 33. For all hours worked by Plaintiff for which he was paid less than the minimum wage
17 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
18 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
19 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
20 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.
21

22 34. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
23 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
24 trial.

25 **THIRD CAUSE OF ACTION**

26 **FAILURE TO PAY OVERTIME**

27 **(California Industrial Welfare Commission Order 4-2001/9-2001, California Code**
28

of Regulations Title 8 Section 11040/11090; California Labor Code Section 510)

(Plaintiff against all named defendants and all DOE defendants)

35. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 34, inclusive, of this Complaint as though fully set forth herein.

36. Pursuant to Industrial Welfare Commission Order No. 4-2001/9-2001, Cal. Code of Regs., Title 8, Section 11040/11090, for the period of Plaintiff's employment, Defendants were required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

37. Plaintiff was a non-exempt employee entitled to the protections of the California Industrial Welfare Commission Order No. 4-2001/9-2001, California Code of Regulations, Title 8, Section 11040/11090.

38. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a single workday or forty (40) hours in a single workweek on numerous occasions.

39. Plaintiff was entitled to the above overtime premiums.

40. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past twelve (12) in a day.

41. Defendants did not pay Plaintiff premium wages of at least one and one-half times Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

42. Plaintiff worked at least one pay period in which he was not properly paid overtime

1 within the three (3) years prior to the initiation of this lawsuit.

2 43. Defendants know or should know the actual dates of overtime worked, the amount of
3 overtime worked, and the amount of unpaid overtime due.

4 44. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
5 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
6 Court.

7 45. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
8 Regulations, Title 8, Sections 11040/11090, Plaintiff is entitled to recover damages for
9 the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
10 reasonable attorney's fees and costs of suit.

11 46. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
12 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
13 trial.
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16 **FOURTH CAUSE OF ACTION**

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

18 **(California Labor Code Section 226)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 47. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 46, inclusive, of this Complaint as though fully set forth herein.

22 48. Pursuant to California Labor Code Section 226, every employer must furnish each
23 employee an itemized statement of wages and deductions at the time of payment of wages.
24

25 49. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
26 accurately reflected all information required by Labor Code Section 226, including but not
27 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
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1 missed meal and rest breaks, net wages earned, total hours worked by the employee, and all
2 deductions. Therefore, Defendants failed to maintain and provide accurate itemized wage
3 statements to Plaintiff in accordance with California Labor Code Section 226(a).

4 50. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
5 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
6 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
7 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
8 reasonable attorney's fees.
9

10 51. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
11 sustained damages, including loss of earnings, in an amount to be established at trial. As a
12 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
13 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
14 and attorney's fees pursuant to statute.
15

16 52. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
17 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
18 trial.

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

21 **(California Labor Code Section 204)**

22 **(Plaintiff against all named defendants and all DOE defendants)**

23 53. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 52, inclusive, of this Complaint as though fully set forth herein.
25

26 54. California Labor Code Section 204 establishes the fundamental right of all employees
27 in the State of California to be paid wages in a timely fashion for their work.
28

1 55. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
2 full amount of all owed wages when due as required by California Labor Code Section 204.

3 56. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
4 informed, believes, and thereon alleges, that all times relevant during the liability period,
5 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
6 including overtime hours, the minimum wage, and premium pay for missed meal and rest
7 breaks.

8 57. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
9 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
10 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
11 from Defendants' records or indirectly based on information from Defendants' records.
12

13 58. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
14 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
15 trial.
16

17 **SIXTH CAUSE OF ACTION**

18 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

19 **(California Labor Code Sections 201, 203)**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.
23

24 60. Pursuant to California Labor Code Section 201(a), an employer who discharges an
25 employee must immediately pay for all compensation due and owing.

26 61. Pursuant to California Labor Code Section 202, when an employee resigns, the
27 employer must pay all compensation due and owing within 72 hours of resignation, or on the
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1 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

2 62. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
3 without abatement or reduction, any wages of an employee whose employment ends, the wages
4 of the employee shall continue as a penalty from the due date at the same rate until paid or until
5 an action is commenced; however, the wages shall not continue for more than 30 days for
6 failure to pay an employee owed wages.

7 63. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
8 continue to refuse to pay his unpaid wages as required by Labor Code Section 203.

9 64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
10 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
11 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
12 preceding the filing of this lawsuit.

13 65. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
14 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
15 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

16 66. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
17 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
18 trial.

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21 **SEVENTH CAUSE OF ACTION**

22 **FAILURE TO GIVE REST BREAKS**

23
24 **(Plaintiff against all named defendants and all DOE defendants)**

25 67. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 66, inclusive, of this Complaint as though fully set forth herein.

27 68. Plaintiff brings this cause of action under the following laws, for the following reasons:
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- 1 a. Title 8 of the California Code of Regulations Sections 11040/11090(12)(A), which
2 provides that every employer shall authorize and permit all employees to take rest
3 periods, which insofar as practicable shall be in the middle of each work period.
4 The authorized rest period time shall be based on the total hours worked daily at the
5 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
6 b. Title 8 of the California Code of Regulations Sections 11040/11090(12)(B), which
7 provides that if an employer fails to provide an employee a rest period in
8 accordance with the applicable provisions of this order, the employer shall pay the
9 employee one (1) hour of pay at employee's regular rate of compensation for each
10 workday that the rest period is not provided;
11 c. Title 8 of the California Code of Regulations sections 11040/11090(20)(A), which
12 penalizes the employer \$50.00 for each initial violation, per employee, of any
13 provision of the Wage Order, and \$100.00 for each additional violation thereafter
14 per employee; and
15 d. California Labor Code section 226.7, which states that (a) no employer shall require
16 any employee to work during any rest period mandated by an applicable order of
17 the Industrial Welfare Commission, and (b) if an employer fails to provide an
18 employee a rest period in accordance with an applicable order of the Industrial
19 Welfare Commission, the employer shall pay the employee one (1) additional hour
20 of pay at employee's regular rate of compensation for each work day that the rest
21 period is not provided.
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25 69. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
26 rest break after every four (4) hours of work or major fraction thereof, as required by California
27 law.
28

1 70. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
2 regulations, and wage orders alleged in this cause of action along with any allowable interest,
3 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
4 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

5 71. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
6 fees as well as interest under Labor Code section 218.6.

7 72. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
8 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
9 trial.
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11 **EIGHTH CAUSE OF ACTION**

12 **FAILURE TO GIVE MEAL BREAKS**

13 **(Plaintiff against all named defendants and all DOE defendants)**

14 73. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 72, inclusive, of this Complaint as though fully set forth herein.
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17 74. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 18 a. California Labor Code section 512(a), which requires that employees be given a 30-
19 minute uninterrupted meal break after five (5) hours of work, and a second
20 uninterrupted meal break after ten (10) hours of work;
21 b. California Labor Code section 226.7, which states that (a) no employer shall require
22 any employee to work during any meal period mandated by an applicable order of
23 the Industrial Welfare Commission, and (b) if any employer fails to provide an
24 employee a meal period in accordance with an applicable order of the Industrial
25 Welfare Commission, the employer shall pay the employee one (1) additional hour
26 of pay at the employee's regular rate of compensation for each workday that the
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meal period is not provided;

- c. California Industrial Welfare Commission Order No. 4/9 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11040/11090, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 4/9 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11040/11090, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 4/9 Section 20(A), as codified under California Code of Regulations Section 11040/11090, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4, and 9) as enforceable law.

75. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 4/9, as codified under California Code of Regulations Section 11040/11090 et. seq. requires

1 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
2 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
3 work duty. California Labor Code section 226.7 provides that employers may not require their
4 employees to work through their meal periods. California Labor Code section 226.7 and
5 California Code of Regulations section 11040/11090 requires that if the employer fails to
6 provide the employee with an uninterrupted meal period, the employer must pay the employee
7 one (1) hour of pay for each work day that the meal period is not given.
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9 76. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
10 regulations, and wage orders alleged in this cause of action along with any allowable interest,
11 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
12 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
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14 77. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
15 fees as well as interest under Labor Code section 218.6.
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17 78. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
19 trial.

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

22 **(Plaintiff against All Named Defendants and all DOE defendants)**

23 79. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 78, inclusive, of this Complaint as though fully set forth herein.

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

1 81. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
2 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
3 of completing his job duties, which were not reimbursed by Defendant. These expenses
4 include, but are not limited to, uniforms, head lamps, and use of personal cell phones for work
5 purposes.

6 82. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
7 and attorney's fees and costs, under Labor Code section 2802.

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9 **TENTH CAUSE OF ACTION**

10 **PRIVATE ATTORNEYS GENERAL ACT**

11 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
12 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5,**
13 **1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802 and Wage Order nos. 4-2001/9-2001)**

14 **(Plaintiff against All Named Defendants and all DOE defendants)**

15 83. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 82, inclusive, of this Complaint as though fully set forth herein.

17 84. Plaintiff has complied with the procedures for bringing suit specified in California
18 Labor Code § 2699.3.

19 85. By letter dated January 12, 2024, Plaintiff gave written notice by certified mail to the
20 Labor and Workforce Development Agency ("LWDA") and Defendants of the specific
21 provisions of the California Labor Code alleged to have been violated, including the facts and
22 theories to support the alleged violations.

23 86. Pursuant to California Labor code section 2699.3, no response was received from
24 the LWDA within 65 days of the postmark date of the above-alleged letter.

25 87. Plaintiff therefore has exhausted all administrative remedies required of him under
26 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
27 cause of action and pursue penalties in a representative action for Defendants' violations of the
28 Labor Code.

88. Pursuant to California Labor Code section 2699, any provisions of the Labor

1 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
2 departments, divisions, commissions, boards, agencies, or employees for violation of the code
3 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
4 on behalf of himself or herself and other current or former employees pursuant to the procedures
5 specified in California Labor Code section 2699.3.

6 89. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
7 violator and had one or more of the alleged violations committed against him, and therefore is
8 properly suited to represent the interests of other current and former employees, including all
9 current and former hourly, non-exempt employees who worked for DRAY STAFF at all
10 locations in the State of California during the applicable PAGA Period.

11 90. Based on the acts alleged above, Plaintiff, on behalf of others, seeks penalties
12 under California Labor Code sections 2698 and 2699 because of Defendants’ violations of
13 numerous provisions of the California Labor Code as alleged in this Complaint.

14 91. Plaintiff therefore has exhausted all administrative remedies required of him under
15 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute
16 this cause of action and pursue penalties in a representative action for Defendants’ violations of
17 the Labor Code.

18 92. California Labor Code section 2699 et seq. imposes penalties upon culpable
19 Defendants for violating the Labor Code.

20 93. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
21 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
22 seeking individual penalties/victim specific relief or underpaid wages for himself or other
23 employees under this specific PAGA cause of action. Plaintiff has separate causes of action in
24 this Complaint for individual wages but is not seeking wages through the PAGA action.

25 94. Specifically, Plaintiff seeks penalties under California Labor Code
26 section 2699, for the following:

27 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
28

226.3, 226.7, 233, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802), and any other Labor Codes/Industrial Welfare Commission Order (No. 4/9) violated based on the facts alleged in this Complaint.

95. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of other current and former aggrieved employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

ELEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE PERSONNEL RECORDS

(Plaintiff against all named Defendants and all DOE Defendants)

96. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 95, inclusive, of this Complaint as though fully set forth herein.

97. Labor Code section 1198.5 dictates "every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee."

98. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times..." On information and belief, Defendants failed to provide Plaintiff with personnel records when requested by Plaintiff via certified letters on January 12, 2024, as required by law. Plaintiff requested his personnel records in accordance with California Labor Code section 1198.5(k) on January 12, 2024, via U.S. certified mail.

99. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and continues to suffer substantial losses related to Defendants' failure to provide personnel records.

100. Plaintiff seeks all available remedies for Defendants' violations including, but not

1 limited penalties, and costs to the extent permitted by law and according to proof at trial.
2 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
3 amount of \$750.00, along with costs and attorney's fees.

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6 **TWELFTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE PAY RECORDS**

8 **(Plaintiff against all named Defendants and all DOE Defendants)**

9 101. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.

11 102. Labor Code section 226 sub-section (b) dictates "an employer...shall afford
12 current and former employees the right to inspect or copy records pertaining to their
13 employment, upon reasonable request to the employer..."

14 103. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer
15 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
16 pertaining to a current or former employee shall comply with the request as soon as practicable,
17 but no later than 21 calendar days from the date of the request." On information and belief,
18 Defendants failed to provide Plaintiff with pay records when requested by Plaintiff via certified
19 letter, on January 12, 2024, and as required by law. Plaintiff requested his pay records in
20 accordance with California Labor Code section 226 on January 12, 2024, via certified mail.
21 Defendants failed to provide Plaintiff with an opportunity to inspect or copy his pay records
22 within 21 days.

23 104. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered
24 and continues to suffer substantial losses related to Defendants' failure to provide pay records.
25 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the
26 amount of \$750.00, along with costs and attorney's fees.

27 105. Plaintiff seeks all available remedies for Defendants' violations including, but
28 not limited penalties, and costs to the extent permitted by law and according to proof at trial.

1 **THIRTEENTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

3 **(California Business and Professions Code Section 17200)**

4 **(Plaintiff against Defendant DRAY STAFF, INC. and all DOE defendants)**

5 106. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 105, inclusive, of this Complaint as though fully set forth herein.

7 107. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
8 constitute unfair and unlawful business practices under California Business and Professions
9 Code Section 17200, et seq.

10 108. Defendant's violations of the California labor laws and the Labor Code constitutes a
11 business practice because it was done repeatedly over a significant period of time
12 in a systematic manner that was detrimental to Plaintiff and other employees.

13 109. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
14 reasonable attorneys' fees and costs of said suit as specifically provided in California Code of
15 Civil Procedure Section 1021.5 and California Business and Professions Code section 17200 et
16 seq.

17 110. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
18 multiple damages as specifically provided in California Business and Professions Code section
19 17200 et seq.

20 111. For the four years preceding the filing of this action, Plaintiff has suffered damages
21 and request damages and/or restitution of all monies and profits to be disgorged from
22 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
23 this Court.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as follows:

1. For compensatory damages including lost past and future wages, regular wages, overtime, and all other sums of money, including employment benefits, together with interest on said amounts, and any other economic injury to Plaintiff, up to an amount of **\$350,000**;
2. For special and consequential damages to Plaintiff in an amount up to **\$250,000**;
3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount up to **\$4,000**;
4. For damages and penalties pursuant to Labor Code Section 203 in an amount up to **\$15,000**;
5. For damages and penalties pursuant to Labor Code Section 204/210 in an amount up to **\$50,000**;
6. For penalties pursuant to Labor Code Sections 226 and 1198.5 in the amount of **\$1,500.00** in the aggregate for failure to provide Plaintiff's personnel file and pay records;
7. For restitution and disgorgement for all unfair business practices by corporate Defendants against Plaintiff in an amount subject to proof at trial;
8. For an order enjoining corporate Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period for an amount up to **\$50,000**;
10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break for an amount up to **\$50,000**;
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative

