

1 Thomas D. Rutledge (SBN 200497)
2 Attorney-at-Law
3 16956 Via de Santa Fe, Suite 1847
4 Rancho Santa Fe, California 92091-4606
5 Telephone: (619) 886-7224
6 thomasrutledgelaw@gmail.com

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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Sophia Felix, Deputy Clerk

6 Attorneys for Plaintiffs (Additional Counsel identified on next page)

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF SAN DIEGO-CENTRAL DIVISION

9 LESLIE MENDEZ; JOSE DE JESUS)
10 GONZALEZ; MARCO ANTONIO)
11 PLACENCIA SANCHEZ; and MARTIN)
12 OCHOA, individually and as an)
13 aggrieved employees pursuant to the)
14 Private Attorneys General Act (PAGA))
15 on behalf of the State of California,)
16 aggrieved employees, and others)
17 similarly situated)

16 Plaintiffs,

17 vs.

18)
19)
20 G-GLOBAL LOGISTICS INC., a)
21 California corporation; FIDEL J.)
22 GUTIERREZ III, an individual; and)
23 DOES 1 through 50,)

22 Defendants.

Case No.: 37-2024-00009710-CU-OE-CTL

**INDIVIDUAL, CLASS, AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Failure to pay minimum/regular wages;
2. Failure to Pay State Overtime;
3. Failure to Comply with Meal Break Laws;
4. Failure to Comply with Rest Break Laws;
5. Failure to Reimburse Expenses;
6. Failure to Provide Accurate Wage Statements;
7. Failure to Pay Wages Timely;
8. Failure to Provide and Maintain Records;
9. Violation of B.&P. Code §§ 17200, *et seq.*;
10. Sick Pay Violations; and
11. Violations of Various Miscellaneous Provisions of the Labor Code via the PAGA.

1 Joel Larabee, Esquire (SBN 243117)
2 LARABEE LAW FIRM
3 9655 Granite Ridge Drive, Suite 200
4 San Diego, California 92123
5 Telephone: (619) 376-1780
6 joel@larabeelaw.com

7 Attorneys for Plaintiffs

8 Plaintiffs LESLIE MENDEZ, JOSE DE JESUS GONZALEZ, MARCO
9 ANTONIO PLACENCIA SANCHEZ, and MARTIN OCHOA on behalf of
10 themselves, the State of California, and acting for the interests of other current and
11 former employees (“Aggrieved Employees”), the putative class, and similarly situated
12 individuals (cumulatively “Plaintiffs”), allege the following:

13 **NATURE OF THE ACTION**

14 1. This is a wage and hour individual, class, and representative action.
15 2. Pursuant to Code of Civil Procedure § 382 and the Private Attorney
16 General Act (PAGA), §§ 2698, 2699 of the California Labor Code, Plaintiffs bring this
17 proposed class and representative action against Defendants for workplace abuse in
18 violation of the California Labor Code and the Industrial Welfare Commission (IWC)
19 Wage Orders, all of which contribute to Defendants’ deliberate unfair competition in
20 California.

21 3. Plaintiffs seek all remedies available to them including but not limited to
22 reimbursements, penalties, restitution, injunctive and other equitable relief, reasonable
23 attorneys’ fees, and costs.

24 **JURISDICTION AND VENUE**

25 4. Pursuant to Article VI, § 10 of the California Constitution, subject matter
26 jurisdiction is proper in the Superior Court of California, County of San Diego, State
27 of California because Plaintiffs allege claims arising under California law.

28 5. This Court has jurisdiction over the Defendants because each is an
association, corporation, business entity, or individual that conducts substantial

1 business in the State of California.

2 6. Pursuant to § 395 of the California Code of Civil Procedure, venue is
3 proper in the Superior Court of California for the County of San Diego because
4 Defendant is doing business in the County of San Diego, California and this is where
5 the misconduct occurred to the named Plaintiff.

6 **THE PARTIES**

7 7. Plaintiff LESLIE MENDEZ is an individual.

8 8. Plaintiff JOSE DE JESUS GONZALEZ is an individual.

9 9. Plaintiff MARCO ANTONIO PLACENCIA SANCHEZ is an individual.

10 10. Plaintiff MARTIN OCHOA is an individual.

11 11. Defendant G-GLOBAL LOGISTICS INC. is a California corporation
12 doing business in the State of California.

13 12. Defendant FIDEL J. GUTIERREZ III is and was Defendant G-GLOBAL
14 LOGISTICS INC.'s corporate officer/managing agent and, as such, this Defendant is
15 believed to be an "other person acting on behalf of an employer" within the meaning of
16 Labor Code §§ 558 and 558.1.

17 13. The true names and capacities, whether individual, corporate, associate or
18 otherwise of the Defendants named herein as DOES 1 through 50, are unknown to
19 Plaintiffs at this time. Plaintiffs therefore sues said Defendants by such fictitious names
20 pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will seek leave
21 to amend this Complaint to allege the true names and capacities of DOES 1 through 50
22 when their names are ascertained. Plaintiffs are informed and believe, and based
23 thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiffs
24 for the events and actions alleged herein.

25 14. Unless otherwise specified by name, the named Defendants and DOES 1
26 through 50 will be collectively referred to as "DEFENDANT EMPLOYER" and/or
27 "Defendants."

28 15. Plaintiffs are informed and believe, and based thereon allege, that each

1 Defendant was acting as an agent, joint venturer, an integrated enterprise and/or alter
2 ego for each of the other Defendants and each were co-conspirators with respect to the
3 acts and the wrongful conduct alleged herein so that each is responsible for the acts of
4 the other pursuant to the conspiracy and in proximate connection with the other
5 Defendant(s).

6 16. Plaintiffs are informed and believe, and based thereon allege, that each
7 Defendant was acting partly within and partly without the scope and course of their
8 employment, and was acting with the knowledge, permission, consent, and ratification
9 of every other Defendant.

10 17. Plaintiffs are informed and believe, and based thereon allege that each of
11 the Defendants was an agent, managing general partner, managing member, owner, co-
12 owner, partner, employee, and/or representative of each of the Defendants and was at
13 all times material hereto, acting within the purpose and scope of such agency,
14 employment, contract and/or representation, and that each of them is jointly and
15 severally liable to Plaintiffs.

16 18. Plaintiffs are informed and believe, and based thereon allege that each of
17 the Defendants is liable to Plaintiffs under legal theories and doctrines including but
18 not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter
19 ego, based in part, on the facts set forth below.

20 19. Plaintiffs are informed and believe, and based thereon allege, that each
21 of the named Defendants are part of an integrated enterprise and have acted or
22 currently act as the employer and/or joint employer of the Plaintiffs/Class Members
23 making each of them liable for the wage and hour violations alleged herein.

24 20. Plaintiffs are informed and believe, and therefore allege, that one, more
25 than one, or each of the named Defendants are liable to the Plaintiffs under legal
26 theories and doctrines including but not limited to (1) the common law joint employer
27 doctrine and/or (2) Labor Code § 2810.3 because at least one of these named
28 Defendants worked as the central hub to an overall business operation by which the

1 interrelationship between these Defendants makes each of the Defendants liable for
2 the wage and hour violations alleged herein.

3 **GENERAL ALLEGATIONS**

4 21. Defendants are in the freight forwarding warehousing business.

5 22. During all times relevant, Defendants hired and employed the named
6 Plaintiffs as nonexempt workers.

7 23. The named Plaintiffs are “aggrieved employees” within the meaning of
8 the PAGA because Defendants employed Plaintiffs in California and Plaintiffs
9 experienced one or more of the alleged Labor Code violations committed against the
10 Plaintiffs, and therefore the named Plaintiffs are properly suited to act on behalf the
11 state, and collect civil penalties for all violations committed against the Represented
12 Employees, who are also aggrieved employees as defined by Labor Code § 2699(c).

13 24. California law provides that an aggrieved employee may file a
14 representative action under the PAGA against an employer for civil penalties in
15 connection with violations of the Labor Code and the applicable IWC Wage Order.

16 25. On information and belief, current and former employees of Defendants
17 suffered from Defendants’ Labor Code violations.

18 **Minimum Wage/Regular Wage claims.**

19 26. During all times relevant, Plaintiffs are informed and believe and thereon
20 allege that pursuant to company policy and/or practice and/or direction, DEFENDANT
21 EMPLOYER paid Aggrieved Employees wages at less than the rate required under
22 state, federal, and local law.

23 27. Defendants, for example, had a habit of calling Aggrieved Employees
24 when they were off the clock to ask them work-related questions.

25 28. Defendants required some Plaintiffs/Aggrieved Employees to work “on-
26 call,” meaning they were required to work when the need arose, but Defendants failed
27 to pay them lawful wages for their on-call labor.

28 29. Defendants’ managers sometimes completed Plaintiffs/Aggrieved

1 Employees timesheets, not allowing them to sign or review them before submitting
2 them to payroll, resulting in the underpayment of wages in an amount to be proven at
3 trial.

4 30. Plaintiffs also allege that Defendants underpaid them for their accrued
5 vacation time.

6 31. The foregoing are examples of many instances where Defendants
7 underpaid Plaintiffs/Aggrieved Employees wages.

8 32. As a result of the foregoing, Defendants refused to pay Aggrieved
9 Employees for the above-described hours at their regular rate or minimum wage rate in
10 an amount to be determined at trial.

11 33. This claim is also premised on Plaintiffs' right to pursue all Labor Code
12 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA,*
13 *Inc.* (2018) 23 Cal.App.5th 745.

14 **Failure to Pay State Overtime.**

15 34. During all times relevant, Plaintiffs are informed and believe and thereon
16 allege that pursuant to company policy and/or practice and/or direction, DEFENDANT
17 EMPLOYER failed to pay Aggrieved Employees state overtime compensation and/or
18 the correct amount of overtime compensation.

19 35. This claim is generally premised on the facts described above, but when
20 Aggrieved Employees also had the right to overtime compensation, Defendants failed
21 to pay Aggrieved Employees overtime in an amount to be proven at trial.

22 36. This claim is also premised on Plaintiffs' right to pursue all Labor Code
23 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA,*
24 *Inc.* (2018) 23 Cal.App.5th 745.

25 **Meal and Rest Break Claims.**

26 37. During all times relevant, Plaintiffs are informed and believe and thereon
27 allege that pursuant to company policy and/or practice and/or direction, DEFENDANT
28 EMPLOYER failed to authorize and/or permit Aggrieved Employees to take all their

1 compliant off-duty meal and rest breaks during the required timeframe as required by
2 law and failed to pay them premium pay, in an amount to be proven at trial.

3 38. Plaintiffs are informed and believe and thereon allege that when
4 Aggrieved Employees worked more than five and/or ten hours in a workday, they were
5 deprived their right to take lawful meal breaks and Defendants failed to pay them
6 premium pay for the missed or noncompliant meal breaks, in an amount to be proven
7 at trial.

8 39. By way of example, Plaintiffs would clock out for meal breaks but would
9 continue working, thus unlawfully depriving them of an uninterrupted meal break.

10 40. Plaintiffs also sometimes had late/untimely (after working more than five
11 hours) meal breaks.

12 41. When Plaintiffs worked more than ten hours, Defendants prevented
13 Plaintiffs from taking a second meal break.

14 42. Defendants also sometimes delayed Plaintiffs/Aggrieved Employees their
15 right to take a full uninterrupted meal break because of bag/security checks they had to
16 wait for after checking out for meal breaks.

17 43. As for rest breaks, because of Defendants' policy, practice, and work
18 demands, Defendants prevented Aggrieved Employees from taking all their
19 uninterrupted rest breaks to which they had the right to enjoy, in an amount to be
20 proven at trial, and Defendants failed to pay them premium pay as required under
21 California law. (*See Augustus v. ABM Security Services* (2016) 2 Cal.5th 257.)

22 44. The foregoing are examples of many instances where Defendants
23 prevented Plaintiffs/Aggrieved Employees from taking their lawful breaks.

24 45. This claim is also premised on Plaintiffs' right to pursue all Labor Code
25 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA,*
26 *Inc.* (2018) 23 Cal.App.5th 745.

27 **Failure to Reimburse.**

28 46. During all times relevant, Plaintiffs are informed and believe and thereon

1 allege that pursuant to company policy and/or practice and/or direction, DEFENDANT
2 EMPLOYER required Aggrieved Employees to incur various work-related expenses
3 which were never reimbursed.

4 47. Plaintiffs are informed and believe and thereon allege the unreimbursed
5 purchases the named Plaintiffs and Aggrieved Employees were required to make to
6 perform their work include, but are not limited to cell phone and cell phone data.

7 48. Defendants passed the cost of doing business onto its employees by
8 requiring, without reimbursement, Aggrieved Employees to purchase equipment, tools,
9 and services necessary to perform work for Defendants. *See Aguilar v. Zep, Inc.*, 2014
10 US Dist. LEXIS 120315, *54 (N.D. Cal. Aug. 27, 2014) (Hon. Edward Chen) (where
11 outside sales reps used home internet and computers for work, and even admitted that
12 they would have incurred the same expenses without work duties, the court
13 nevertheless held that the employer was obligated to reimburse some reasonable
14 portion of these expenses); *Ritchie v. Blue Shield of California*, 2014 WL 6982943, at
15 *21 (N.D. Cal. Dec. 9, 2014) (Hon. Edward Chen) (certifying class of home office
16 claims processors with 2802 phone reimbursement claims for landline reimbursements
17 where company required claims processors working from home to have a landline, but
18 rejecting certification of claims for home office supplies as individualized); *Cochran v.*
19 *Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137 (2014) ("We hold that when
20 employees must use their personal cell phones for work-related calls, Labor Code
21 section 2802 requires the employer to reimburse them. Whether the employees have
22 cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is
23 a reasonable percentage of their cell phone bills.")

24 49. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor
25 Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
26 *USA, Inc.* (2018) 23 Cal.App.5th 745.

27 **Erroneous Wage Statements in Violation of Labor Code § 226.**

28 50. During all times relevant, and pursuant to company policy and/or practice

1 and/or direction and continuing to the present, and pursuant to company policy and/or
2 practice and/or direction, Plaintiffs are informed and believe and thereon allege that
3 Defendants issued confusing and inaccurate wage and earning statements to Aggrieved
4 Employees in violation of Labor Code § 226.

5 51. Plaintiffs allege Aggrieved Employees' paystubs were inaccurate because
6 Defendants manipulated their time records and/or failed to pay them all wages, as
7 alleged above, supporting a derivative claim under Labor Code § 226.

8 52. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor
9 Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
10 *USA, Inc.* (2018) 23 Cal.App.5th 745.

11 **Facts Relating to Derivative Claims, such as Labor Code §§ 203, 204, 204b, etc.**

12 53. During all times relevant and pursuant to the above-mentioned policies,
13 Plaintiffs are informed and believe and thereon allege that DEFENDANT
14 EMPLOYER failed to pay all wages to which Aggrieved Employees had the right to
15 receive under the law in a timely manner.

16 54. As to the named Plaintiffs specifically, as alleged above Defendants failed
17 to timely pay Plaintiffs wages in violation of the Labor Code including but not limited
18 to §§ 201-203, and 204.

19 55. Derivative claims are also premised on Plaintiffs' right to pursue all Labor
20 Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
21 *USA, Inc.* (2018) 23 Cal.App.5th 745.

22 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

23 56. This is a wage and hour representative action filed pursuant to the
24 PAGA, Labor Code §§ 2698, 2699 generally consists of the following group:

25 **All persons Defendants employed in the State of California**
26 **from March 1, 2023 to the present.**

27 57. All members of the Aggrieved groups will be referred to as the
28 "Aggrieved Employees."

1 58. The “PAGA Period” means from **March 1, 2023** to the present, the
2 timeframe where the scope of statute allows Plaintiffs to recover wages and penalties.

3 59. California law provides that an employee may file an action against an
4 employer to recover penalties for violations of the Labor Code and the applicable IWC
5 Wage Orders provided the aggrieved employee files an action on behalf of him/her or
6 herself/himself and similarly-situated current and former employees.

7 60. At all material times, DEFENDANT EMPLOYER and DOES 1 through
8 50 were and/or are Aggrieved Employees’ employers or persons acting on behalf of
9 Aggrieved Employees’ employer, within the meaning of California Labor Code § 558,
10 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
11 Labor Code or any provision regulating hours and days of work in any Order of the
12 Industrial Welfare Commission and, as such, are subject to penalties for each
13 underpaid employee as set for in Labor Code § 558.

14 61. As set forth in further detail below, because of the analysis and
15 investigation of the Plaintiffs’ claims, Plaintiffs’ attorneys sent correspondence to the
16 California Labor and Workforce Development Agency (LWDA) and to DEFENDANT
17 EMPLOYER informing DEFENDANT EMPLOYER of their claims and their intent to
18 pursue litigation.

19 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

20 62. As to penalty claims under the Labor Code Private Attorney General
21 Act, on or about **February 29, 2024**, Plaintiffs began to exhaust his/her
22 administrative remedies by sending correspondence to the LWDA and via certified
23 mail to DEFENDANT EMPLOYER indicating Plaintiffs are pursuing the claims
24 alleged in this Complaint.

25 63. By the time the statutory period for Plaintiffs expires from the first letter
26 alleged above, the LWDA likely will not have served Plaintiffs with notice of intent
27 to assume jurisdiction over the applicable penalty claims and did not provide notice as
28 set forth in Labor Code § 2699.3(a)(2)(A) within the statutory period, but more to

1 follow as time expires before this Complaint is amended to report the actual facts.

2 64. Therefore, once the statutory waiting period expires based on the
3 presumed facts above, Plaintiffs will have exhausted all applicable administrative
4 remedies thus permitting Plaintiffs the ability to seek the penalty claims sought in this
5 Complaint.

6 **CLASS ACTION ALLEGATIONS**

7 65. Plaintiffs bring this action on behalf of herself and all others similarly
8 situated as a class action pursuant to § 382 of the Code of Civil Procedure.

9 66. Plaintiffs seek to represent the classes and/or subclasses composed of
10 and defined as follows:

11 **All of Defendants' current or former nonexempt employees**
12 **who worked in the state of California from March 1, 2020**
13 **to the present.**

14 67. Plaintiffs also seek to represent the following subclasses composed of
15 and defined as follows:

16 **Unpaid Minimum/Regular Wage Subclass:** All members of the
17 class who worked less than eight hours a day or less than 40 hours
18 in a workweek for Defendants in California as an hourly-paid non-
19 exempt employee during the applicable statute of limitations
period.

20 **Unpaid Overtime Wage Subclass:** All members of the class who
21 worked overtime as a non-exempt employee during the applicable
22 statute of limitations period.

23 **Wage Statement Subclass:** All members of the class who worked
24 for Defendants in California as an hourly-paid non-exempt
25 employee and did not receive accurate itemized wage statements as
26 required by Labor Code § 226 during the applicable statute of
limitations period.

27 **Meal and Rest Break Subclass:** All members of the class who,
28 during the applicable statute of limitations period worked for
Defendants in California as an hourly-paid non-exempt employee

and were not provided compliant meal and/or rest breaks and were not provided one hour of pay at their regular rate of compensation in lieu thereof during the applicable statute of limitations period.

Waiting Time Penalty Subclass: All members of the class whose employment was terminated during the applicable statute of limitations period and did not receive all wages in a timely manner as required by Labor Code §§ 201-203.

Unreimbursed Expense Subclass: All members of the class who, during the relevant period, Defendants did not reimburse for reasonable and necessary expenses.

68. The above-mentioned class-members will collectively be referred to as “Class Members.”

69. Plaintiffs reserve the right under the California Rules of Court, to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues.

70. This action is brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity.

71. The potential members of the Class as defined are so numerous or many, that joinder of all the members of the Class is impracticable.

72. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe, and based thereon allege, that DEFENDANT EMPLOYER currently employs, and during the relevant time periods employed, a sufficient number of employees to warrant class certification if all other elements are met.

73. Accounting for employee turnover during the relevant periods necessarily increases the number of potential members of the Class.

1 **B. Commonality.**

2 74. There are questions of law and fact common to the Class that predominate
3 over any questions affecting only individual Class Members.

4 75. Common questions of law and fact include, without limitation and subject
5 to possible further amendment, the following:

- 6 a. Whether Defendants failed to pay minimum/regular
7 wages;
- 8 b. Whether Defendants' policy or practice of not paying
9 Plaintiffs and other similarly situated employees' the
10 lawful sum of overtime compensation is illegal under
11 Labor Code §§ 510, 1194, and the applicable Wage
12 Order(s);
- 13 c. Whether Defendants' policy or practice of not paying
14 Plaintiffs and other similarly situated employees all their
15 wages due in their final paychecks immediately upon
16 involuntary termination or when its employees provided
17 72 hours' notice before voluntary resignation, is unlawful
18 under Labor Code §§ 201, 202 and/or 203;
- 19 d. Whether Defendants violated Labor Code § 2802 by
20 failing to reimburse the Class for business expenses;
- 21 e. Whether Defendants violated Labor Code § 226 by not
22 providing accurate paystubs to the Class;
- 23 f. Whether Defendants violated the meal and rest break
24 laws in California; and
- 25 g. Whether the Class May recover restitution pursuant to
26 Business & Professions Code §§ 17200, *et seq.*

27 **C. Typicality.**

28 76. The named Plaintiffs' claims are typical of the claims of the Class

1 because the named Plaintiffs and all members of the Class sustained injuries and
2 damages arising out of and caused by Defendants' common course of conduct and
3 policies in violation of laws, regulations that have the force and effect of law and
4 statutes as alleged herein.

5 **D. Adequacy of Representation.**

6 77. The named Plaintiffs are members of the Class, do not have any conflicts
7 of interest with other Class Members, and will prosecute the case vigorously on
8 behalf of the class.

9 78. Counsel representing the named Plaintiffs and the putative class are
10 competent and experienced in litigating employment class actions.

11 79. The named Plaintiffs will fairly and adequately represent and protect the
12 interests of the Class Members.

13 **E. Superiority of Class Action.**

14 80. A class action is superior to other available means for the fair and efficient
15 adjudication of this controversy because individual joinder of all Class Members is not
16 practicable, and questions of law and fact common to the Class predominate over any
17 questions affecting only individual members of the class.

18 81. Each Class Member was damaged or suffered injury and may recover by
19 reasons of Defendants' illegal policies and/or practices.

20 82. class action treatment will allow those similarly situated persons to litigate
21 their claims in the manner that is most efficient and economical for the parties and the
22 judicial system.

23 83. Plaintiffs are unaware of any difficulties that are likely to be encountered
24 in the management of this action that would preclude maintenance as a class action.

25 84. For the reasons alleged in this Complaint, this action should be certified as
26 a class action.

27
28

FIRST CAUSE OF ACTION

**Individual, Class, and Representative Claim under the PAGA for
Failure to Pay State and Local Minimum/Regular Wages in
Violation of California Labor Code §§ 216, 218, 218.5,
223, 1182.12, 1194, 1194.2, 1197, 1198, and the
applicable IWC Wage Order
(Against all Defendants)**

85. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

86. Pursuant to Labor Code §§ 216, 223, 218, 218.5, 1182.12, 1194, 1194.2, and 1197 it is unlawful for a California employer to suffer or permit an employee to work without paying wages for all hours worked, as required by the applicable IWC Wage Order.

87. During all times relevant, the applicable IWC Wage Order, including but not limited to Wage Order 4, applied to Aggrieved Employees' employment with Defendants.

88. Pursuant to the applicable IWC Wage Order, "hours worked" include the time during which an employee is "suffered or permitted to work, whether or not required to do so."

89. Every employer must pay each employee minimum wage as required under state law and, where applicable and if higher, local law.

90. During all times relevant, Plaintiffs are informed and believe, and based thereupon allege that Aggrieved Employees were not paid minimum/regular wages for all hours suffered or permitted to work in violation of state and, where applicable, local law and/or their agreement with DEFENDANT EMPLOYER.

91. At all material times, DEFENDANT EMPLOYER and DOES 1 through 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the meaning of California Labor Code § 558,

1 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
2 Labor Code or any provision regulating hours and days of work in any Order of the
3 Industrial Welfare Commission and, as such, are subject to penalties for each
4 underpaid employee as set for in Labor Code § 558.

5 92. In committing the violations of state law as herein alleged, Plaintiffs are
6 informed and believe based there upon allege that Defendants have knowingly and
7 willfully refused to perform their obligations to compensate Aggrieved Employees for
8 all wages earned and all hours worked.

9 93. As a direct result, Aggrieved Employees have suffered and continue to
10 suffer, substantial losses related to the use and enjoyment of such compensation,
11 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
12 compel Defendants to fully perform their obligations under state law, all to their
13 respective damage in amounts according to proof at trial and within the jurisdictional
14 limitations of this Court.

15 94. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a
16 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
17 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
18 pay period for each subsequent violation in which DEFENDANT EMPLOYER
19 violated the minimum wage and/or regular wage provisions of the Labor Code,
20 including but not limited to §§ 216, 218, 218.5, 223, 1182.12, 1194, 1194.2, and 1197,
21 the exact amount of the applicable penalty is all in an amount to be shown according to
22 proof at trial.

23 95. Pursuant to the PAGA, Plaintiffs seek to recover from Defendants, and
24 each of them, penalties, attorneys' fees, and costs incurred herein.

25 96. Plaintiffs on behalf of themselves and the putative Class request the
26 recovery of the unpaid minimum wages, all penalties to which they may recover,
27 liquidated damages, interest, attorneys' fees, and costs in an amount to be determined
28 at trial.

SECOND CAUSE OF ACTION

**Individual, Class, and Representative Claim under the PAGA for
Failure to Pay State Overtime and/or Double-Time
Compensation in Violation of California Labor Code §§ 510, 1194, 1198,
and the Applicable Wage Order
(Against all Defendants)**

97. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

98. During all times relevant, the applicable Wage Order, including but not limited to Wage Order 4, applied to Plaintiffs' employment with Defendants.

99. Pursuant to the applicable Wage Order, "hours worked" include the time during which an employee is "suffered or permitted to work, whether or not required to do so."

100. For each hour (or fraction thereof) an employee works over forty (40) hours in a week or more than eight (8) hours in a workday the employer must pay the rate of one and a half times the employee's regular hourly wage.

101. For each hour (or fraction thereof) an employee works more than twelve (12) hours in one day or more than eight (8) hours a day on the seventh consecutive day of work, the employee must be compensated at the rate of no less than twice the regular rate of pay for that employee.

102. According to § 49.1.1 of the California Division of Labor Standards and Enforcement Policies and Interpretations Manual, "In California, as with the federal FLSA, overtime is computed based on the regular rate of pay. The regular rate of pay includes many different kinds of remuneration, for example: hourly earnings, salary, piecework earnings, *commissions*, *certain bonuses*, and the value of meals and lodging." (Emphasis added.)

103. Plaintiffs are informed and believe, and thereon allege that
DEFENDANT EMPLOYER failed to pay all overtime compensation to the Aggrieved

1 Employees.

2 104. At all material times, DEFENDANT EMPLOYER and DOES 1 through
3 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
4 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
5 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
6 Labor Code or any provision regulating hours and days of work in any Order of the
7 Industrial Welfare Commission and, as such, are subject to penalties for each
8 underpaid employee as set for in Labor Code § 558.

9 105. In committing the violations of state law as herein alleged, Defendants
10 have knowingly and willfully refused to perform their obligations to compensate
11 Aggrieved Employees for all wages earned and all hours worked.

12 106. As a direct result, Aggrieved Employees have suffered and continue to
13 suffer, substantial losses related to the use and enjoyment of such compensation,
14 wages, lost interest on such monies and expenses and attorney's fees in seeking to
15 compel Defendants to full perform their obligation under state law, all to their
16 respective damage in amounts according to proof at trial and within the jurisdictional
17 limitations of this Court.

18 107. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
19 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
20 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
21 pay period for each subsequent violation in which DEFENDANT EMPLOYER
22 violated the overtime provisions of the Labor Code, including but not limited to §§ 510
23 at 1194, the exact amount of the penalties sought is in an amount to be shown
24 according to proof at trial.

25 108. Pursuant to the PAGA, Plaintiffs seek to recover from Defendants, and
26 each of them, penalties, attorneys' fees, and costs incurred herein.

27 109. Plaintiffs on behalf of themselves and the putative class request the
28 recovery of the unpaid minimum wages, all penalties to which they may recover,

1 liquidated damages, interest, attorneys' fees, and costs in an amount to be determined
2 at trial.

3 **THIRD CAUSE OF ACTION**

4 **Individual, Class, and Representative Claim under the PAGA for**
5 **Failure to Comply with the Meal Break Requirements of Labor Code §§ 226.7,**
6 **512, 1198, and the applicable IWC Wage Order**

7 (Against all Defendants)

8 110. Plaintiffs re-allege and incorporate by reference the foregoing allegations
9 as though set forth herein.

10 111. Plaintiffs are informed and believe, and based thereon allege, that by
11 failing to provide duty-free meal periods of at least thirty (30) minutes for shifts of five
12 hours or more, which began before the end of the fifth hour of work, and failing to pay
13 such employees premium wages of one (1) hour of pay at their regular rate of
14 compensation for each workday the meal period was not provided, Defendants
15 willfully violated the provisions of Labor Code § 226.7, and the applicable IWC Wage
16 Order.

17 112. Based on the misconduct alleged in this Complaint, Plaintiffs are
18 informed and believe, and based thereon allege, that Defendants failed to pay all
19 premium wages owed.

20 113. At all material times, DEFENDANT EMPLOYER and DOES 1 through
21 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
22 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
23 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
24 Labor Code or any provision regulating hours and days of work in any Order of the
25 Industrial Welfare Commission and, as such, are subject to penalties for each
26 underpaid employee as set for in Labor Code § 558.

27 114. In committing the violations of state law as herein alleged, Plaintiffs are
28 informed and believe and based thereon allege that Defendants have knowingly and

1 willfully refused to perform their obligations to compensate Aggrieved Employees for
2 all wages earned and all hours worked.

3 115. As a direct result, Aggrieved Employees have suffered and continue to
4 suffer, substantial losses related to the use and enjoyment of such compensation,
5 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
6 compel Defendants to fully perform their obligations under state law, all to their
7 respective damage in amounts according to proof at trial and within the jurisdictional
8 limitations of this Court.

9 116. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
10 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
11 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
12 pay period for each subsequent violation in which all culpable Defendants violated Cal.
13 Labor Code § 226.7, the exact amount of the applicable penalty is all in an amount to
14 be shown according to proof at trial.

15 117. Wherefore, Plaintiffs request all remedies available to them pursuant to
16 the PAGA.

17 118. Plaintiffs on behalf of themselves and the putative class request the
18 recovery of the unpaid minimum wages, all penalties to which they may recover,
19 liquidated damages, interest, attorneys' fees, and costs in an amount to be determined
20 at trial.

21 **FOURTH CAUSE OF ACTION**

22 **Individual, Class, and Representative Claim under the PAGA for** 23 **Failure to Comply with the Rest Break Requirements of Labor Code §§ 226.7,** 24 **512, 1198, and the applicable IWC Wage Order** 25 **(Against all Defendants)**

26 119. Plaintiffs re-allege and incorporate by reference the foregoing allegations
27 as though set forth herein.

28 120. Plaintiffs are informed and believe, and based thereon allege, that based

1 on the misconduct alleged in this Complaint, Defendants failed to authorize and permit
2 Plaintiffs to receive a rest period of at least 10 minutes on a separate hourly basis when
3 paid commissions or otherwise to provide paid ten-minute rest periods for every four
4 (4) hours or major fraction thereof worked per day, and by failing to provide premium
5 wages at the regular rate of pay when these periods were not permitted or authorized,
6 Defendants willfully violated the provisions of Labor Code § 226.7, and the applicable
7 IWC Wage Order.

8 121. Plaintiffs are informed and believe, and based thereon allege that based on
9 the misconduct alleged in this Complaint, Defendants failed to pay premium pay for
10 Plaintiffs' missed meal breaks DEFENDANT EMPLOYER failed to provide or
11 authorize.

12 122. At all material times, DEFENDANT EMPLOYER and DOES 1 through
13 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
14 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
15 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
16 Labor Code or any provision regulating hours and days of work in any Order of the
17 Industrial Welfare Commission and, as such, are subject to penalties for each
18 underpaid employee as set for in Labor Code § 558.

19 123. In committing the violations of state law as herein alleged, Plaintiffs are
20 informed and believe and based thereon allege that Defendants have knowingly and
21 willfully refused to perform their obligations to compensate Aggrieved Employees for
22 all wages earned and all hours worked.

23 124. As a direct result, Aggrieved Employees have suffered and continue to
24 suffer, substantial losses related to the use and enjoyment of such compensation,
25 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
26 compel Defendants to fully perform their obligations under state law, all to their
27 respective damage in amounts according to proof at trial and within the jurisdictional
28 limitations of this Court.

125. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated Cal. Labor Code § 226.7, the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

126. Wherefore, Plaintiffs request all remedies available to them pursuant to the PAGA.

127. Plaintiffs on behalf of themselves and the putative class request the recovery of the unpaid minimum wages, all penalties to which they may recover, liquidated damages, interest, attorneys' fees, and costs in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

Individual, Class, and Representative Claim under the PAGA for Failure to Indemnify/Reimburse Business Expenses in Violation of California Labor Code § 1198, 2802, and the applicable Wage Order

(Against all Defendants)

128. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

129. This claim is premised on Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

130. California Labor Code § 2802 requires employers to indemnify their employees for expenses and losses incurred while discharging their duties or obedience to the directions of their employer.

131. California Labor Code § 2804 mandates that this statutory right cannot be waived.

132. The Plaintiffs incurred losses in obedience to the directions of

1 Defendants in the form of purchase of work-related expenses described in this
2 Complaint.

3 133. As a direct result of Defendants' violation of California Labor Code §
4 2802, the Plaintiffs and Class Members suffered and continue to suffer substantial
5 losses related to unpaid expenses, the use and enjoyment of monies owed, lost interest
6 on monies owed, and attorneys' fees in an amount to be proven at the time of trial.

7 134. Defendants derive an unjust and inequitable economic benefit in failing
8 to comply with the law regarding indemnification and reimbursement of employees.

9 135. Further, Plaintiffs request all remedies available to them pursuant to the
10 PAGA.

11 136. Plaintiffs on behalf of themselves and the putative class request the
12 recovery of the unreimbursed work-related expenses, all penalties to which they may
13 recover, liquidated damages, interest, attorneys' fees, and costs in an amount to be
14 determined at trial.

15 **SIXTH CAUSE OF ACTION**

16 **Individual, Class, and Representative Claim under the PAGA for**

17 **Violations of California Labor Code §§ 226 and 1198**

18 (Against all Defendants)

19 137. Plaintiffs re-allege and incorporate by reference the foregoing allegations
20 as though set forth herein.

21 138. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
22 pertinent part, that every employer shall, "semimonthly or at the time of each
23 payment of wages, shall furnish to his or her employees, either as a detachable part of
24 the check, draft, or voucher paying the employee's wages, or separately if wages are
25 paid by personal check or cash, an accurate itemized statement in writing showing (1)
26 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
27 piece-rate units earned and any applicable piece rate if the employee is paid on a
28 piece-rate basis, (4) all deductions, provided that all deductions made on written

1 orders of the employee may be aggregated and shown as one item, (5) net wages
2 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
3 name of the employee and only the last four digits of his or her social security
4 number..., (8) the name and address of the legal entity that is the employer. . . , and
5 (9) all applicable hourly rates in effect during the pay period and the corresponding
6 number of hours worked at each hourly rate by the employee and, beginning July 1,
7 2013, if the employer is a temporary services employer as defined in Section 201.3,
8 the rate of pay and the total hours worked for each temporary services assignment. . .”
9 (Labor Code § 226 subdivision (a).)

10 139. Likewise, California Labor Code § 226, subdivisions (b) and (c), require
11 employers doing business in the State of California to provide current and former
12 employees access to their payroll records.

13 140. Upon information and belief, during all times relevant to this action,
14 Defendants did not provide accurate wage statements throughout the class period.

15 141. Plaintiffs allege that on numerous occasions, an exact amount by which
16 will be proven at trial, Defendants violated various provisions of § 226, including but
17 not limited to subdivisions (a)(1), (a)(2), (a)(4), (a)(5), (a)(6), (a)(8), and (a)(9) by
18 failing to provide Plaintiffs accurate itemized statement in writing accurately showing
19 gross wages earned, total hours worked by the employee, net wages earned, among
20 other things.

21 142. At all material times DEFENDANT EMPLOYER and DOES 1 through
22 50 were and/or are Aggrieved Employees’ employers or persons acting on behalf of
23 Aggrieved Employees’ employer, within the meaning of California Labor Code § 558,
24 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
25 Labor Code or any provision regulating business hours and days of work in any Order
26 of the Industrial Welfare Commission and, as such, are subject to penalties for each
27 underpaid employee as set forth in Labor Code § 558.

28 143. In committing the violations of state law as herein alleged, Defendants

1 have knowingly and willfully refused to perform their obligations to compensate
2 Aggrieved Employees for all wages earned and all hours worked.

3 144. As a direct result, Aggrieved Employees have suffered and continue to
4 suffer, substantial losses related to the use and enjoyment of such compensation,
5 wages, lost interest on such monies and expenses and attorney's fees in seeking to
6 compel Defendants to fully perform their obligations under state law, all to their
7 respective damage in amounts according to proof at trial and within the jurisdictional
8 limitations of this Court.

9 145. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a
10 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
11 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
12 pay period for each subsequent violation in which DEFENDANT EMPLOYER
13 violated Labor Code § 226, the exact amount of the applicable penalty is all in an
14 amount to be shown according to proof at trial.

15 146. Further, Plaintiffs request all remedies available to them pursuant to the
16 PAGA.

17 147. Plaintiffs on behalf of themselves and the putative class request the
18 recovery of the damages, penalties, costs, and attorneys' fees available to them
19 pursuant to the Labor Code including but not limited to §§ 226, 226.3, 226.6.

20 **SEVENTH CAUSE OF ACTION**

21 **Individual, Class, and Representative Claim under the PAGA for**
22 **Failure to Pay Timely Earned Wages during Employment and**
23 **Upon Separation of Employment in Violation of**
24 **California Labor Code §§ 201, 202, 203,**
25 **204 and/or 204b, 218.5, and 218.6**
26 **(Against all Defendants)**

27 148. Plaintiffs re-allege and incorporate by reference the foregoing allegations
28 as though set forth herein.

1 149. Pursuant to Labor Code § 201, “If an employer discharges an employee,
2 the wages earned and unpaid at the time of discharge are due and payable
3 immediately.”

4 150. Pursuant to Labor Code § 202, “If an employee not having a written
5 contract for a definite period quits his or her employment, his or her wages shall
6 become due and payable not later than 72 hours thereafter, unless the employee has
7 given 72 hours previous notice of his or her intention to quit, in which case the
8 employee is entitled to his or her wages at the time of quitting.”

9 151. Labor Code § 203 provides, in pertinent part: “If an employer willfully
10 fails to pay, without abatement or reduction, ... any wages of an employee who is
11 discharged or who quits, the wages of the employee shall continue as a penalty from
12 the due date thereof at the same rate until paid or until an action therefore is
13 commenced; but the wages shall not continue for more than 30 days. ...”

14 152. Pursuant to Labor Code § 204, “all wages ... earned by any person in any
15 employment are due and payable twice during each calendar month, on days
16 designated in advance by the employer as the regular paydays.”

17 153. Alternatively, pursuant to Labor Code § 204b, employers must pay its
18 employees on a weekly basis on a regular day determined by the employer as the
19 regular payday.

20 154. Pursuant to Labor Code §§ 218.5 and 218.6, an action may be brought for
21 the nonpayment of wages and fringe benefits.

22 155. Plaintiffs are informed and believe and based thereon allege that some
23 Aggrieved Employees were not properly paid pursuant to the requirements of Labor
24 Code §§ 201, 202, and 204/204b and thereby seek all remedies available to them.

25 156. At all material times, DEFENDANT EMPLOYER and DOES 1 through
26 50 were and/or are Aggrieved Employees’ employers or persons acting on behalf of
27 Aggrieved Employees’ employer, within the meaning of California Labor Code § 558,
28 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California

1 Labor Code or any provision regulating hours and days of work in any Order of the
2 Industrial Welfare Commission and, as such, are subject to penalties for each
3 underpaid employee as set for in Labor Code § 558.

4 157. In committing the violations of state law as herein alleged, Defendants
5 have knowingly and willfully refused to perform their obligations to compensate
6 Aggrieved Employees for all wages earned and all hours worked.

7 158. As a direct result, Aggrieved Employees have suffered and continue to
8 suffer, substantial losses related to the use and enjoyment of such compensation,
9 wages, lost interest on such monies and expenses and attorney's fees in seeking to
10 compel Defendants to full perform their obligation under state law, all to their
11 respective damage in amounts according to proof at trial and within the jurisdictional
12 limitations of this Court.

13 159. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a
14 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
15 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
16 pay period for each subsequent violation in which DEFENDANT EMPLOYER
17 violated Labor Code §§ 201, 202, 203, and 204/204b. The exact amount of the
18 applicable penalty is all in an amount to be shown according to proof at trial.

19 160. Wherefore, Plaintiffs request all remedies available to them pursuant to
20 the PAGA.

21 161. Plaintiffs on behalf of themselves and the putative class request the
22 recovery of all penalties to which they may recover, interest, attorneys' fees, and costs
23 in an amount to be determined at trial.

EIGHTH CAUSE OF ACTION

Representative Claim for PAGA Penalties

For Failure to Maintain and Provide Required Records in Violation of

California Labor Code § 1174

and the Applicable Wage Order and/or § 1198

(Against all Defendants)

162. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

163. Section 7 of the typical Wage Order requires every employer to maintain time and payroll records.

164. Plaintiffs are informed and believe and based thereon alleges that during all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders and with Labor Code § 1174 by failing to maintain certain records which employers are required to maintain, including but not limited to, an accurate record indicating the number hours worked by the Plaintiffs.

165. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount of the applicable penalty is in an amount to be shown according to proof at trial.

166. Wherefore, Plaintiffs request all remedies available to them pursuant to the PAGA.

1 **NINTH CAUSE OF ACTION**

2 **Individual and Class Claim for Remedies for Violations**

3 **of the California Unfair Business**

4 **Practices Code §§ 17200, *et seq.***

5 (Against all Defendants)

6 167. Plaintiffs re-allege and incorporate by reference the foregoing allegations
7 as though set forth herein.

8 168. Defendants, and each of them, are “persons” as defined under Business
9 and Professions Code § 17021.

10 169. Plaintiffs are informed and believe and based thereon allege that
11 Defendants committed the unfair business practices, as defined by Cal. Bus. & Prof.
12 Code § 17200, *et seq.*, by violating the laws alleged to have been violated in this
13 Complaint and which allegations are incorporated herein by reference and which
14 allegations include, but are not limited to:

- 15 a. Failing to provide the class and Plaintiffs an accurate
16 itemized wage statement in violation of § 226 of the
17 Labor Code;
18 b. Failure to reimburse employees for all employer incurred
19 expenses;
20 c. Failing to pay meal and rest break premiums; and
21 d. Failing to pay the class and Plaintiffs all wages due and
22 owing including but not limited to overtime
23 compensation, minimum/regular wages, or both.

24 170. Defendants’ conduct, as alleged above, constitutes unlawful, unfair, and
25 fraudulent activity prohibited by Business and Professions Code §§ 17200, *et seq.*

26 171. The unlawful and unfair business practices conducted by Defendants,
27 and each of them, are ongoing and present a threat and likelihood of continuing
28 against Plaintiffs and, accordingly, Plaintiffs seek injunctive relief where appropriate.

172. Plaintiffs have suffered injury in fact and lost money or property because of the aforementioned unfair competition.

173. Because of their improper acts, Defendants, and each of them, have reaped and continue to reap unfair benefits and illegal profits at the expense of Plaintiffs and other employees and former employees of Defendants, and each of them.

174. Defendants, and each of them, should be enjoined from this activity and made to disgorge these ill-gotten gains and restore to Plaintiffs and the class the wrongfully withheld wages and/or penalties, pursuant to Business and Professions Code §§ 17202 and/or 17203.

175. Plaintiffs and the class have also incurred and continue to incur attorneys' fees and legal expenses in an amount according to proof at the time of trial and for which they seek compensation pursuant to law including but not limited to Code of Civil Procedure § 1021.5.

TENTH CAUSE OF ACTION

Representative Claim for Penalties via the PAGA

For Violations of California's Sick Pay Laws

(Against all Defendants)

176. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

177. Under Labor Code §§ 245, 246 and 246(l), employers in California must provide employees with paid sick leave to be paid at a specified rate of pay which must factor in additional earnings during a given pay period wherein such leave is used.

178. During their employment, the named Plaintiffs and Aggrieved Employees earned sick pay, both under state and local law.

179. Pursuant to subdivision (i) of Labor Code § 246, "[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave

1 available, or paid time off leave an employer provides in lieu of sick leave, for use on
2 either the employee's itemized wage statement described in Section 226 or in a
3 separate writing provided on the designated pay date with the employee's payment of
4 wages.”

5 180. Plaintiffs are informed and believe and based thereon allege that
6 Defendants failed to comply with California sick pay laws under the Labor Code.

7 181. The PAGA imposes upon Defendants, and each of them, civil penalties
8 for violating California sick pay laws under the Labor Code.

9 182. Civil penalties under the PAGA are equitable in nature. (*Nationwide*
10 *Biweekly Admin., Inc. v. Superior Ct. of Alameda Cty.*, (2020) 9 Cal.5th 279.)

11 183. Labor Code § 2699(f) imposes upon Defendants, and each of them, civil
12 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for
13 initial violations, and two hundred dollars (\$200) per pay period, per aggrieved
14 employee for subsequent violations for all Labor Code provisions for which a civil
15 penalty is not specifically provided.

16 184. Pursuant to the PAGA, Labor Code § 2699(f), and/or any other
17 applicable statute, Plaintiffs seek civil penalties against Defendants in an amount to
18 be shown according to proof.

19 185. Pursuant to Labor Code § 248.5, if applicable herein, Plaintiff seeks to
20 recover attorneys' fees, costs, equitable relief in the form of civil penalties, in an
21 amount to be shown according to proof.

22 186. Pursuant to the PAGA, and/or Labor Code § 2699(g), Plaintiff seeks to
23 recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an
24 amount to be shown according to proof.

ELEVENTH CAUSE OF ACTION

Representative Claim for Penalties via the PAGA

Under California Labor Code §§ 2698, 2699, *et seq.* for

Individual and Representative Claim for PAGA Penalties and Wage

Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California

Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, 1198.5, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2751, 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7 and the Applicable Wage Order

(Against all Defendants)

187. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

188. This claim is premised on Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

189. Pursuant to Labor Code § 2699, any provision of the Labor Code that

1 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
3 the code may, as an alternative, be recovered through a civil action brought by an
4 aggrieved employee on behalf of himself or herself and other current or former
5 employees pursuant to the procedures specified in Labor Code § 2699.3.

6 190. Plaintiffs are informed and believe, and based thereon allege that because
7 of the acts alleged above and Defendants' violations of the Labor Code provisions
8 alleged herein, Plaintiffs are entitled to penalties under Labor Code §§ 2698 and
9 2699.

10 191. Plaintiffs are "aggrieved employees" because Plaintiffs were employed
11 by the alleged violator and had one or more of the alleged violations committed
12 against Plaintiffs, and therefore are properly suited to represent the interests of other
13 current and former Represented Employees.

14 192. Labor Code § 2699(f) imposes upon Defendants, and each of them, civil
15 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for
16 initial violations, and two hundred dollars (\$200) per pay period, per aggrieved
17 employee for subsequent violations for all Labor Code provisions for which a civil
18 penalty is not specifically provided.

19 193. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
20 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
21 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
22 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
23 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
24 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,
25 subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450, 511, 513,
26 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923,
27 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via
28 the applicable Wage Order, subdivision (b) of Section 1198.3, 1198.5, Sections

1 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301,
2 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695,
3 subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9,
4 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47,
5 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2,
6 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6,
7 6310, 6311, and 6399.7.

8 194. Labor Code § 558 establishes a civil penalty as follows: Any employer
9 or other person acting on behalf of an employer who violates, or causes to be violated,
10 a section of this chapter or any provision regulating hours and days of work in any
11 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
12 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
13 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
14 which the employee was underpaid in addition to an amount sufficient to recover
15 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
16 each underpaid employee for each pay period for which the employee was underpaid
17 in addition to an amount sufficient to recover underpaid wages; and (3) wages
18 recovered pursuant to this section shall be paid to the affected employee.

19 195. Wherefore, Plaintiffs request all remedies available to them pursuant to
20 the PAGA.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 23 1. An order that this action may proceed and be maintained as a class
24 action;
25 2. For appointment of the named Plaintiffs as the representatives of the
26 Class;
27 3. For appointment of counsel for Plaintiffs as Class Counsel;
28 4. That the Court award to Plaintiffs and/or the class and/or Aggrieved

1 Employees damages for the amount subject to proof at trial;

2 5. For payment of all unpaid wages and reimbursements subject to proof
3 at trial;

4 6. That Defendants, and each of them, be ordered and enjoined to pay
5 restitution to Plaintiffs and/or the class and/or Aggrieved Employees pursuant to
6 Business and Professions Code §§ 17200-05;

7 7. That Defendants, and each of them, be required to issue to Plaintiffs
8 and/or the class and/or Aggrieved Employees accurate wage and earning
9 statements;

10 8. For maximum civil penalties available under the Labor Code and
11 applicable Wage Order as described more particularly in this Complaint,
12 representative PAGA claims including the payment of wages as set forth in Labor
13 Code § 558;

14 9. For Labor Code § 226(e) penalties in the amount of \$4,000.00;

15 10. For costs, interest, special and general damages;

16 11. That Plaintiffs and/or the class and/or Aggrieved Employees be
17 awarded reasonable attorneys' fees where available by law, including but not limited
18 to pursuant to Labor Code §§ 2698, *et seq.*, Code of Civil Procedure § 1021.5, and/or
19 other applicable laws; and

20 12. Such other and further relief as this Court may deem proper and just.

21 Dated: February 29, 2024

Law Office of
Thomas D. Rutledge

23 By: Thomas D. Rutledge
24 /s/Thomas D. Rutledge
25 Attorneys for Plaintiffs

26 **DEMAND FOR JURY TRIAL**

27 Plaintiffs hereby demand a jury trial of this matter.
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Dated: February 29, 2024

Law Office of
Thomas D. Rutledge

By: Thomas D. Rutledge
/s/Thomas D. Rutledge
Attorneys for the Plaintiffs