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Electronically Filed
Superior Court of California
County of San Bernardino
Rancho Cucamonga District
6/21/2024 3:20 PM
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Attorneys for Plaintiff HUGO RAMIREZ, on behalf
of himself and others similarly situated

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

HUGO RAMIREZ, an individual on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

AMERESCO, INC., a Delaware corporation;
BERNARD NICKELS INC., a New York
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CIVRS2400221

REPRESENTATIVE ACTION

Assigned for All Purposes To:
Hon.
Dept.:

**COMPLAINT FOR REPRESENTATIVE
ACTION FOR PENALTIES UNDER
PRIVATE ATTORNEYS GENERAL ACT,
LABOR CODE § 2698 *et seq.* FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code §§ 510 and 1198
3. Meal Period Liability Under Labor Code §§ 226.7, 512(a),
4. Rest-Break Liability Under Labor Code §§ 226.7
5. Violation of Labor Code §§ 226(a) and 1174;
6. Violation of Labor Code § 204;
7. Violation of Labor Code §§ 201, 203; and
8. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802

DEMAND FOR JURY TRIAL

1 Plaintiff HUGO RAMIREZ (hereinafter “Plaintiff”), on behalf of himself and other
2 similarly Aggrieved Employees complains of Defendants, and each of them, as follows:

3 **INTRODUCTION**

4 1. This is a Representative Action, pursuant to the Private Attorneys General Act of
5 2004, Labor Code § 2698 *et seq.* (“PAGA”) on behalf of Plaintiff and similarly situated aggrieved
6 employees who currently work or formerly worked as non-exempt, hourly employees, during the
7 relevant period (“Aggrieved Employees” or “Employees”) for Defendants AMERESCO, INC., a
8 Delaware corporation; BERNARD NICKELS INC., a New York corporation; and DOES 1
9 through 50 (all defendants being collectively referred to herein as “Defendants”). From at least
10 one year prior to the date Plaintiff began the process of exhausting the administrative requirements
11 pursuant to Labor Code § 2698 *et seq.* on February 27, 2024 (LWDA-CM-1013578-24) and
12 continuing through resolution (the “liability period”), Defendants have had a consistent policy of
13 failing to timely pay all wages due to their Employees during their employment and timely upon
14 separation from employment, failing to provide Employees with meal and rest periods, failing to
15 maintain required records, and failing to issue accurately itemized wage statements, among other
16 violations. Plaintiff alleges that Defendants violated various provisions of the California Labor
17 Code and relevant orders of the Industrial Welfare Commission (“IWC”) and seeks redress for
18 these violations in the form of civil penalties and other amounts as authorized under the PAGA.

19 2. Upon information and belief, Plaintiff was employed by Defendants and (1) shared
20 similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3)
21 endured similar violations at the hands of Defendants as the other Aggrieved Employees who
22 served in similar and related positions.

23 **THE PARTIES**

24 **A. The Plaintiff**

25 3. Plaintiff HUGO RAMIREZ resides in California, during the time period relevant to
26 this Complaint, was employed by Defendants as a non-exempt hourly employee within the State
27 of California.

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1 **B. The Defendants**

2 4. Defendant AMERESCO, INC. is a Delaware corporation and is registered with the
3 California Secretary of State. Defendant AMERESCO, INC. has been the employer listed on the
4 employment records issued to Plaintiff during the relevant time period that Plaintiff was employed
5 with Defendants.

6 5. Defendant BERNARD NICKELS, INC. is a New York corporation and is
7 registered with the California Secretary of State. Defendant BERNARD NICKELS, INC. has been
8 the employer listed on the wage statements and employment records issued to Plaintiff during the
9 relevant time period that Plaintiff was employed with Defendants.

10 6. The true names and capacities, whether individual, corporate, associate, or
11 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
12 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
13 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
14 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
15 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
16 this Complaint to reflect the true names and capacities of the Defendants designated herein as
17 Does 1 through 50 when their identities become known.

18 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
19 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
20 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
21 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
22 all respects as the employers or joint employers of Employees. Defendants, and each of them,
23 exercised control over the wages, hours or working conditions of Employees, created and
24 implemented the policies and practices that governed the employment of Plaintiff and the
25 Aggrieved Employees and dictated their job duties and responsibilities, or otherwise suffered or
26 permitted Plaintiff and the other Aggrieved Employees to work, or engaged them, thereby creating
27 a common law employment relationship with the Aggrieved Employees. Therefore, Defendants,
28 and each of them, employed or jointly employed the Aggrieved Employees.

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1 respond immediately. Furthermore, Defendants required Aggrieved Employees' to work through
2 their meal breaks and failed to compensate Aggrieved Employees for this time.

3 11. Moreover, Defendants had a consistent policy and practice of unlawfully rounding
4 hours worked to the detriment of the Aggrieved Employees. Rather than paying Aggrieved
5 Employees for all hours and minutes they actually worked, Defendants followed a uniform policy
6 and practice of rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest
7 15-minute or 30-minute time increment), and generally did so to the detriment of the Aggrieved
8 Employees, and Plaintiff contend this policy is not neutral and resulted, over time, to the detriment
9 of the Aggrieved Employees by systematically under-compensating them. Rather than reflecting
10 the actual hours worked by Aggrieved Employees, the time entries were rounded and reduced to
11 reflect the scheduled work time rather than the actual hours worked. These unlawfully rounded
12 time entries were inputted into Defendants' payroll system from which wage statements and
13 payroll checks were created.

14 12. By implementing policies, programs, practices, procedures and protocols which
15 resulted in off the clock work and unlawful rounding by Defendants, Defendants' willful actions
16 resulted in the systematic underpayment of wages to Aggrieved Employees, including
17 underpayment of overtime pay to Aggrieved Employees over the relevant time period. For
18 example, the above described off the clock work addressed above caused Plaintiff to begin
19 receiving overtime pay later than they should have.

20 13. As a result of the above described requirements to work off the clock, unlawful
21 rounding by Defendants, and the other wage violations they endured at Defendants' hands,
22 Aggrieved Employees were not properly paid all wages earned and all wages owed to them by
23 Defendants, including when working more than eight (8) hours in any given day and/or more than
24 forty (40) hours in any given week.

25 14. As a result of Defendants' unlawful policies and practices, Aggrieved Employees
26 incurred overtime hours worked for which they were not adequately and completely compensated,
27 in addition to the hours they were required to work off the clock. To the extent applicable,
28 Defendants also failed to pay Aggrieved Employees at an overtime rate of 1.5 times the regular

1 rate for the first eight hours of the seventh consecutive work day in a week and overtime payments
2 at the rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive
3 work day, as required under the Labor Code and applicable IWC Wage Orders.

4 15. Therefore, from at least four (4) years prior to the filing of this lawsuit and
5 continuing to the present, Defendants had a consistent policy or practice of failing to pay
6 Aggrieved Employees for all hours worked, and failing to pay minimum wages for all time
7 worked, as required by California law. Defendants thus failed to pay Aggrieved Employees at least
8 minimum wages for all the time they worked for Defendants in violation of the Labor Code and
9 applicable IWC Wage Orders as the actual times when Aggrieved Employees were under the
10 control and direction of Defendants was under reported in the hours reflected on the timekeeping
11 records. Furthermore, Defendants' willful actions resulted in the systematic underpayment of
12 wages to Aggrieved Employees, including underpayment of overtime pay to Aggrieved
13 Employees over a period of time.

14 16. Therefore, from at least four (4) years prior to the filing of this lawsuit and
15 continuing to the present, Defendants had a consistent policy or practice of failing to pay
16 Aggrieved Employees for all hours worked. Also, from at least four (4) years prior to the filing of
17 this lawsuit and continuing to the present, Defendants also had a consistent policy or practice of
18 failing to pay Aggrieved Employees their true and correct overtime compensation at premium
19 overtime rates for all hours worked in excess of eight (8) hours a day and/or forty (40) hours a
20 week, and double-time rates for all hours worked in excess of twelve (12) hours a day, in violation
21 of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

22 17. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
23 meal periods and all the legally required paid, off-duty rest periods to Aggrieved Employees, as
24 required by the applicable Wage Order and Labor Code. Aggrieved Employees were required to
25 perform work as ordered by Defendants for more than five (5) hours during a shift but were often
26 required to do so without receiving a lawful and timely meal break. In addition to untimely meal
27 periods, Defendants also required Aggrieved Employees to respond to work demands. Defendants
28 placed their needs over Aggrieved Employees lawful meal and rest breaks and this resulted in

1 Aggrieved Employees often having to work through their scheduled meal and/or rest breaks, or
2 otherwise taking shortened ones, because the demands of the job would not avail them the
3 opportunity to take a lawfully uninterrupted and off duty meal and/or rest break.

4 18. On the occasions when Aggrieved Employees worked over 10 hours in a shift,
5 Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal
6 period. As a result, Defendants' failure to provide Aggrieved Employees with all legally required
7 off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be
8 evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay
9 Aggrieved Employees "premium pay," i.e. one hour of wages at each Class Member's effective
10 hourly rate of pay, for each meal period or rest break that Defendants failed to provide or
11 deficiently provided.

12 19. Therefore, for at least four years prior to the filing of this action and through to the
13 present, Defendants have regularly required Aggrieved Employees to work shifts in excess of five
14 (5) hours without providing them with uninterrupted meal periods of not less than thirty (30)
15 minutes, and shifts in excess of (10) hours without providing them with second meal periods of
16 not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e.
17 one hour of wages at each Class Member's effective hourly rate of pay, for each meal period that
18 Defendants failed to provide or deficiently provided.

19 20. Meal period violations thus occurred in one or more of the following manners:

- 20 (a) Aggrieved Employees were not provided full thirty-minute duty free meal
21 periods for work days in excess of five (5) hours and were not compensated
22 one (1) hour's wages in lieu thereof, all in violation of, among others, Labor
23 Code §§ 226.7, 512, and the applicable Industrial Welfare Commission
24 Wage Order(s);
- 25 (b) Aggrieved Employees were not provided second full thirty-minute duty free
26 meal periods for work days in excess of ten (10) hours;
- 27 (c) Aggrieved Employees were required to work through at least part of their
28 daily meal period(s);

- 1 (d) Meal periods were provided after five (5) hours of continuous work during
2 a shift; and
- 3 (e) Aggrieved Employees were restricted in their ability to take a full thirty-
4 minute meal period.

5 21. Aggrieved Employees were also not authorized and permitted to take lawful rest
6 periods, were systematically required by Defendants to work through or during breaks and were
7 not provided with one (1) hour's wages in lieu thereof. Aggrieved Employees were restricted in
8 their ability to take their full ten (10) minutes net rest time or were otherwise not provided with
9 duty-free rest periods. Therefore, from at least four years prior to the filing of this lawsuit and
10 continuing to the present, Defendants have consistently failed to provide Aggrieved Employees
11 with paid rest breaks of not less than ten minutes for every work period of four or more
12 consecutive hours; or major fraction thereof, nor did Defendant pay Aggrieved Employees
13 premium pay for each day on which requisite rest breaks were not provided or were deficiently
14 provided.

15 22. Rest period violations therefore arose in one or more of the following manners:

- 16 (a) Aggrieved Employees were required to work without being provided a
17 minimum ten (10) minute rest period for every four (4) hours or major
18 fraction thereof worked and were not compensated one (1) hour of pay at
19 their regular rate of compensation for each workday that a rest period was
20 not provided;
- 21 (b) Aggrieved Employees were not authorized and permitted to take timely
22 rest periods for every four hours worked, or major fraction thereof; and
- 23 (c) Aggrieved Employees were required to remain on-duty during rest periods
24 or otherwise had their rest periods interrupted by work demands.

25 23. Defendants also consistently failed to issue accurate itemized wage statements as
26 required by Labor Code § 226(a). Specifically, the wage statements given to Aggrieved
27 Employees failed to accurately account for unpaid wages and overtime because Defendants had
28 unlawfully rounded time entries to the detriment of the Aggrieved Employees and their actual

1 hours worked were under-reported due to off the clock work. Additionally, the wage statements
2 given to Aggrieved Employees failed to accurately account for premium pay for deficiently
3 provided meal periods and rest breaks.

4 24. From at least four (4) years prior to filing this lawsuit and continuing to the present,
5 Defendants have thus also had a consistent policy of failing to pay all wages owed to Aggrieved
6 Employees at the time of their termination of within seventy-two (72) hours of their resignation, as
7 required by California wage-and-hour laws. Specifically, Aggrieved Employees were not paid all
8 regular and overtime wages because Defendants failed to pay for all hours worked, unlawfully
9 rounded to the detriment of Aggrieved Employees, and required off the clock work. Additionally,
10 Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as
11 further detailed in this Complaint. Defendants' failure to pay said wages within the required time
12 was willful within the meaning of Labor Code § 203.

13 25. Additionally, from at least four (4) years prior to the filing of this lawsuit and
14 continuing to the present, Defendants have regularly required Aggrieved Employees to incur
15 business expenses in the course of performing their required job duties for Defendants including
16 for cell phone expenses. Upon information and belief, Aggrieved Employees incurred similar
17 costs. These expenses incurred by Aggrieved Employees were necessary and required of them in
18 performing their assigned job duties, but Defendants failed to reimburse Aggrieved Employees for
19 all such necessary expenditures, thus entitling them to reimbursement according to proof as
20 required under Labor Code § 2802 and the applicable provisions of the IWC Wage Orders.

21 26. In light of the foregoing, Plaintiff and Aggrieved Employees bring this action
22 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 248, 510,
23 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, and
24 California Code of Regulations, Title 8, section 11000 *et seq.*

25 **PAGA NOTICE AND ALLEGATIONS**

26 27. Plaintiff brings this PAGA representative action on behalf of himself and all other
27 similarly situated Aggrieved Employees employed by Defendants during the liability period
28 pursuant to Labor Code § 2698 *et seq.* Plaintiff and the Employees are aggrieved under Labor

Code § 2699(c) in that they suffered the violations alleged in this Complaint and in Plaintiff's
PAGA Notice Letters to the LWDA and either were or are employed by the alleged violators,
Defendants. Upon information and belief, at all times during the liability period, Plaintiff and the
Aggrieved Employees were employees of Defendants subject to the protections of the California
Labor Code and the applicable Industrial Welfare Commission ("IWC") Wage Orders.

28. In failing to pay Aggrieved Employees their earned wages for all hours worked and
overtime, failing to provide lawful meal and rest periods, failing to provide accurate itemized
wage statements, and failing to pay Employees wages timely or twice monthly and upon
termination or resignation, along with the other violations addressed herein, Defendants failed to
timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code §
204. Defendants also failed to maintain records showing accurate hours worked daily and the
wages paid to Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC
Wage Orders. Each of these violations gives rise to penalties under the PAGA.

29. As such, Plaintiff and the Aggrieved Employees seek penalties under Labor Code
§§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code
§ 2699.5, including under California Labor Code §§ 201, 201.3, 202, 203, 204, 212, 226, 226.7,
510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802,
and 2698 *et seq.* Plaintiff and the Aggrieved Employees seek further statutory and civil penalties
as applicable for Defendants' violations, including under sections 201, 201.3, 202, 203, 204, 212,
226, 226.7, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5,
1199, 2802, and 2698 *et seq.*

30. More specifically, after complying with the notice procedures of Labor Code §
2699.3, Plaintiff now asserts, as a representative action on behalf of the California Attorney
General and the State of California and the other similarly Aggrieved Employees, PAGA claims
for violations of the underlying claims addressed herein and seeking penalties as specified by the
applicable corresponding provisions, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees
all earned regular pay and minimum wages for regular hours worked and for failure to pay

1 overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197,
2 and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s)
3 seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558,
4 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
5 to Labor Code § 2699(g)(1);

6 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
7 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
8 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
9 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
10 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
11 paragraph 20 of the applicable IWC Wage Orders and under Labor Code §§ 226.7, 512, 558,
12 including sections 558(a)(1)-(2), 1199 and 2699(f)(2), and also for attorneys' fees and costs
13 pursuant to Labor Code § 2699(g)(1);

14 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
15 provide Plaintiff and the Aggrieved Employees with wage statements or with accurate, itemized
16 wage statements and failure to maintain employment records for Plaintiff and Aggrieved
17 Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the
18 applicable IWC Wage Order(s) seeking all civil penalties available and applicable under Labor
19 Code §§ 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage
20 Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More
21 specifically, by providing inaccurate wage statements and failing to maintain records as required
22 under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties
23 under Labor Code § 226.3, which in addition to other penalties provided by law, subjects
24 Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per
25 violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in
26 a subsequent citation, ...";

27 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including
28 at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203,

204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Failure to Reimburse Necessary Business Expenses: For Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code §§ 212 and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

31. The penalties will be allocated under Labor Code § 2699(i) as follows: 75% to the Labor and Workforce Development Agency (LWDA) and 25% to the affected employees.

32. As also addressed above, Plaintiff also seeks on behalf of the Aggrieved Employees the penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages...

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

1 (c) The civil penalties provided for in this section are in addition to any other
2 civil or criminal penalty provided by law.

3 33. Plaintiff has exhausted her administrative remedy by sending a certified letter to the
4 LWDA and Defendants postmarked on **February 27, 2024**, addressing in detail the specific
5 provisions of the Labor Code Defendants have violated and addressing the facts and legal theories
6 to support the alleged violations (LWDA-CM-1013578-24). If the LWDA does not provide notice
7 of its intent to investigate the alleged violations within 65 calendar days of the postmark date of
8 the letter, Plaintiff will be entitled to file this Complaint following full compliance and exhaustion
9 of the notice requirements under the PAGA and will be entitled to seek civil penalty assessments
10 against Defendants as a Representative of the State of California as hereinafter alleged and in
11 accordance with the law, in addition to costs and reasonable attorneys' fees as provided by the
12 PAGA statute. The concurrently provided PAGA Notice Letter to the LWDA is also hereby
13 incorporated into this Complaint as if set forth in full. Plaintiff alleges that the notice period
14 provided by statute has expired and this PAGA only Complaint will then be proper pursuant to
15 Labor Code § 2699.3(a)(2)(C).

16 34. This action has been brought and may properly be maintained as a representative
17 action under the provisions of Labor Code § 2698 *et seq.* seeking civil and statutory penalties and
18 wages based, *inter alia*, on the following claims addressed in detail herein:

- 19 a. Defendants failed to pay Employees minimum wages and wages for all hours
20 worked;
- 21 b. Defendants failed to pay Employees overtime as required under Labor Code § 510;
- 22 c. Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage
23 Orders, by failing to provide Employees with requisite meal periods or premium
24 pay in lieu thereof;
- 25 d. Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders,
26 by failing to authorize and permit Employees to take requisite rest breaks or
27 provide premium pay in lieu thereof;
- 28 e. Defendants violated Labor Code § 226(a) by providing Employees with inaccurate

wage statements;

f. Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

g. Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of Aggrieved Employees' earned wages and work periods;

h. Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly.

i. Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;

FIRST CAUSE OF ACTION

PENALTIES UNDER THE PAGA FOR FAILURE TO PAY MINIMUM WAGES

(Against All Defendants)

35. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

36. Defendants failed to pay Aggrieved Employees minimum wages for all hours worked. Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work and unlawful rounding of hours, including all the time required to remain on duty and under Defendants' control during breaks and due to the work demands placed upon them by Defendants' management and customers. Defendants' uniformly applied policies required systematic off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. To the extent any local wage ordinances were also applicable to paying the employees an hourly rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a

1 whole, as a result of implementing a uniform policy and practice that denied accurate
2 compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

3 37. California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require
4 employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage
5 than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 4
6 as “the time during which an employee is subject to the control of an employer, and includes all
7 the time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
8 Code. Regs. tit. 8, § 11040(2)(K) (defining “Hours Worked”).

9 38. Defendants therefore did not pay minimum wages for all hours worked by the
10 Aggrieved Employees. To the extent that these off-the-clock hours did not qualify for overtime
11 premium payment, Defendants did not pay at least minimum wages for those hours worked off-
12 the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

13 39. Pursuant to Labor Code § 2699, Plaintiff seeks all applicable PAGA civil
14 penalties and remedies for each Aggrieved Employee for each pay period in the applicable statute
15 of limitations in which the Aggrieved Employee was not paid for all hours worked for each pay
16 period, plus reasonable attorneys’ fees and costs.

17 40. The Private Attorneys General Act of 2004 (“PAGA”) provides that:

18 ... an aggrieved employee may recover the civil penalty described in subdivision
19 (I) in a civil action pursuant to the procedures specified in Section 2699.3 filed on
20 behalf of himself or herself and other current or former employees against whom
21 one or more of the alleged violations was committed. Any employee who prevails
22 in any action shall be entitled to an award of reasonable attorney’s fees and costs.
23 Nothing in this part shall operate to limit an employee’s right to pursue or recover
24 other remedies available under state or federal law, either separately or
25 concurrently with an action taken under this part. (Labor Code § 2699(g)(1)).

26 41. Plaintiff is an “Aggrieved Employees” under the PAGA, was employed by
27 Defendants during the applicable statutory period and suffered one or more of the California
28 Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of
himself and all other current and former aggrieved non-exempt employees, as defined above, the
civil penalties provided by the PAGA, plus reasonable attorneys’ fees and costs, after having
satisfied the PAGA notice requirements as set forth above.

1 42. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
2 policies, practices, and business acts of Defendants to the extent provided by law as a
3 Representative Action, including reasonable attorneys' fees and costs, and for civil or statutory
4 penalties as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute.
5 Plaintiff thus seeks penalties against Defendants for failure to provide Plaintiff and other
6 aggrieved non-exempt employees proper regular pay and minimum wages for regular hours
7 worked and/or overtime premium pay for overtime hours worked during the applicable statutory
8 period pursuant to section 558, and also pursuant to the default PAGA penalties provisions of
9 Labor Code § 2699(f)(2).

10 43. In California, employees must be paid at least the then applicable state minimum
11 wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014,
12 and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H)
13 of the applicable IWC Wage Orders defines "Hours Worked" as "the time during which an
14 employee is subject to the control of an employer and includes all the time the employee is
15 suffered or permitted to work, whether or not required to do so." Additionally, pursuant to Labor
16 Code § 204, other applicable laws and regulations, and public policy, an employer must timely
17 pay its employees for all hours worked. Defendants failed to do so.

18 44. Additionally, pursuant to California Labor Code § 204, other applicable laws and
19 regulations, and public policy, an employer must timely pay its employees for all hours worked.
20 Defendants failed to do so.

21 45. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
22 states: "The minimum wage for employees fixed by the commission is the minimum wage to be
23 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The
24 applicable minimum wage rate fixed by the commission for work during the relevant period is
25 found in the Wage Orders.

26 46. The minimum wage provisions of California Labor Code are enforceable by private
27 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
28 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal

1 overtime compensation applicable to the employee is entitled to recover in a civil action the
2 unpaid balance of the full amount of this minimum wage or overtime compensation, including
3 interest thereon, reasonable attorney's fees and costs of suit."

4 47. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
5 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
6 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
7 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
8 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
9 the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved
10 Employees is and has been a direct consequence of Defendants' unlawful compensation policies
11 and practices, which applied uniformly to the Aggrieved Employees working at locations and
12 work sites throughout California.

13 48. In committing the above-described violations of the California Labor Code,
14 Defendants inaccurately recorded, or required Aggrieved Employees to input times that did not
15 reflect their actual hours worked, or calculated the correct time worked and consequently
16 underpaid the actual time worked by Aggrieved Employees, including by requiring off the clock
17 work and refusing to pay all incurred overtime, as addressed in detail above. Defendants acted in
18 an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
19 California Labor Code, the Industrial Welfare Commission requirements and other applicable laws
20 and regulations. As a result of these violations, Defendants also failed to timely pay all wages
21 earned in accordance with California Labor Code § 1194.

22 49. California Labor Code § 1194.2 also provides for the following remedies: "In any
23 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
24 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
25 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon."

26 50. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
27 1197.1, Plaintiff and Aggrieved Employees are entitled to recover a penalty of \$100.00 for the
28 initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent

1 failure to pay each employee minimum wages.

2 51. Pursuant to California Labor Code § 1197.1, Plaintiff and Aggrieved Employees
3 are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee
4 minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

5 52. Labor Code § 1198 also requires that: “The maximum hours of work and the
6 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
7 standard conditions of labor for employees. The employment of any employee for longer hours
8 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
9 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
10 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
11 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

12 53. Additionally, Labor Code § 1199 provides that: “Every employer or other person
13 acting either individually or as an officer, agent, or employee of another person is guilty of a
14 misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100)..., who does
15 any of the following: (a) Requires or causes any employee to work for longer hours than those
16 fixed, or under conditions of labor prohibited by an order of the commission. (b) Pays or causes to
17 be paid to any employee a wage less than the minimum fixed by an order of the commission....”

18 54. Section 20 of IWC Wage Order No. 1 addresses further penalties as follows: “(A)
19 In addition to any other civil penalties provided by law, any employer or any other person acting
20 on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall
21 be subject to the civil penalty of: (1) Initial Violation — \$50.00 for each underpaid employee for
22 each pay period during which the employee was underpaid in addition to the amount which is
23 sufficient to recover unpaid wages. (2) Subsequent Violations — \$100.00 for each underpaid
24 employee for each pay period during which the employee was underpaid in addition to an amount
25 which is sufficient to recover unpaid wages. (3) The affected employee shall receive payment of
26 all wages recovered.”

27 55. Labor Code § 2699(f)(2) states: “For all provisions of this code except those
28 for which a civil penalty is specifically provided, there is established a civil penalty for a violation

1 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
2 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
3 employee per pay period for the initial violation and two hundred dollars (\$200) for each
4 aggrieved employee per pay period for each subsequent violation.”

5 56. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
6 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
7 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
8 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
9 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 204,... 221,
10 ...510, 512,... 1194, 1197, 1197.1 and 1198...1199”, and these provisions of the Code allow for
11 recovery of civil penalties pursuant to the PAGA in this action. Plaintiff has fully complied with
12 procedures specified in Labor Code § 2699.3.

13 57. Defendants’ conduct, as alleged herein, violates the aforementioned regulations
14 because Defendants failed to properly compensate Plaintiff and other aggrieved non-exempt
15 employees applicable minimum wages and contractually agreed upon wages for all hours they
16 were required to work and remain under Defendants’ control.

17 58. As such, Defendants are liable for PAGA penalties resulting from their failure to
18 provide Plaintiff and the other Aggrieved Employees minimum wages and all wages owed for all
19 hours worked. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this
20 representative action, all civil and statutory penalties authorized for violations of California Labor
21 Code §§ 510, 1194, 1197, 1197.1, 1198, 221 and 204 and Sections 2(K), 4, and 20 of the
22 applicable IWC Wage Order(s), and Plaintiff seeks all civil and statutory penalties available and
23 applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also
24 attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

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SECOND CAUSE OF ACTION
PENALTIES UNDER THE PAGA FOR FAILURE TO PAY WAGES
AND OVERTIME UNDER LABOR CODE § 510 and §1198
(Against All Defendants)

59. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

60. California Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a claim with the Division of Labor Standards and Enforcement.

61. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

62. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above, by under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have also failed to begin paying overtime when it was incurred due to the off the clock work, as detailed above.

63. Defendants thus had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted, and/or modified certain employees’ hours, including Plaintiff’s, and caused them to work off the

1 clock to avoid paying Plaintiff and the Aggrieved Employees all earned and owed straight time
2 and overtime wages and other benefits, in violation of the California Labor Code, the California
3 Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor
4 Standards and Enforcement. Defendants have also violated these provisions by requiring Plaintiff
5 and other similarly situated non-exempt employees to work through meal periods or remain under
6 Defendants' control when they were required to be clocked out or to otherwise work off the clock
7 to complete their daily job duties and respond to demands from customers and managers.
8 Therefore, Employees were not properly compensated, nor were they paid overtime rates for hours
9 worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on
10 information and belief, Defendants did not make available to Employees a reasonable protocol for
11 correcting time records when Employees worked overtime hours or to fix incorrect time entries or
12 those that Defendants unlawfully rounded or under-recorded to the Employee's detriment.
13 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
14 Aggrieved Employees to work through meal periods when they were required to be clocked out or
15 to otherwise work off the clock to complete their daily job duties.

16 64. Defendants' failure to pay Plaintiff and the Aggrieved Employees the unpaid
17 balance of regular wages owed and overtime compensation for all hours worked, as required by
18 California law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the
19 applicable IWC Wage Order, and is therefore unlawful.

20 65. Pursuant to Labor Code § 2699, Plaintiff seeks all applicable PAGA civil
21 penalties and remedies for each Aggrieved Employee for each pay period in the applicable statute
22 of limitations in which the Aggrieved Employee was not paid at the correct overtime rate for all
23 hours worked for each pay period, plus reasonable attorneys' fees and costs. Plaintiff is entitled
24 to bring this claim pursuant to Labor Code § 2699(g)(1) and after having satisfied the PAGA
25 notice requirements, as addressed above. Plaintiff further seeks civil penalties pursuant to Labor
26 Code 558(a)(1)-(2) and Labor Code 2699(f)(2), as detailed above, for Defendants' failure to pay
27 all overtime wages in violation of the underlying Labor Code sections addressed herein.

28 66. Defendants' failure to pay compensation in a timely fashion also constituted a

1 violation of California Labor Code § 204, which requires that all wages shall be paid
2 semimonthly. Defendants have failed to pay all wages and overtime compensation earned by
3 Employees. Each such failure to make a timely payment of compensation to Employees
4 constitutes a separate violation of California Labor Code § 204.

5 67. As a result of these violations, Defendant also failed to timely pay all wages
6 earned in accordance with California Labor Code § 1194. California Labor Code § 1194.2 also
7 provides for the following remedies: “In any action under Section 1194 . . . to recover wages
8 because of the payment of a wage less than the minimum wages fixed by an order of the
9 commission, an employee shall be entitled to recover liquidated damages in an amount equal to
10 the wages unlawfully unpaid and interest thereon.”

11 68. Labor Code § 1198 also requires that: “The maximum hours of work and the
12 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
13 standard conditions of labor for employees. The employment of any employee for longer hours
14 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
15 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
16 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
17 for which a representative PAGA action may be commenced under Labor Code § 2699.3. Section
18 20 of IWC Wage Orders addresses further penalties derived from Section 1198 violations.

19 69. Labor Code § 2699(f)(2) states: “For all provisions of this code except those
20 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
21 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
22 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
23 employee per pay period for the initial violation and two hundred dollars (\$200) for each
24 aggrieved employee per pay period for each subsequent violation.”

25 70. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
26 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
27 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
28 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section

1 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 204, ...510,
2 512,... 1194, 1197, 1197.1 and 1198...1199” among the provisions of the Code that allow for
3 recovery of civil penalties pursuant to the PAGA As a direct and proximate result of the
4 Defendants’ unlawful acts, as alleged in detail herein, Plaintiff and other aggrieved non-exempt
5 employees have been deprived, and continue to be deprived, of overtime wages owed for all hours
6 they worked. Plaintiff has fully complied with procedures specified in Labor Code § 2699.3.

7 71. As such, Defendants are liable for PAGA penalties resulting from their failure to
8 timely provide Plaintiff and the other Aggrieved Employees overtime and premium wages for all
9 hours worked. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this
10 representative action, all civil and statutory penalties authorized for violations of California Labor
11 Code §§ 510, 1194, 1197, 1197.1, 1198, and 204 and Sections 2(K), 4, and 20 of the applicable
12 IWC Wage Order(s), and Plaintiff seeks all civil and statutory penalties available and applicable
13 under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also attorneys’
14 fees and costs pursuant to Labor Code § 2699(g)(1).

15 **THIRD CAUSE OF ACTION**

16 **PENALTIES UNDER THE PAGA FOR MEAL-PERIOD LIABILITY**

17 **UNDER LABOR CODE §§ 226.7, 512**

18 **(Against All Defendants)**

19 72. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
20 full herein.

21 73. Employees regularly worked shifts greater than five hours and in some instances,
22 greater than ten hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC
23 Wage Order, an employer may not employ someone for a shift of more than five hours without
24 providing him or her with a meal period of not less than thirty minutes or for a shift of more than
25 ten hours without providing him or her with a second meal period of not less than thirty minutes.
26 Section 11(A)-(E) of the applicable Wage Orders provides similar requirements to those of Labor
27 Code § 512,

28 74. Defendants failed to provide Employees with meal periods as required under the

1 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
2 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
3 provided them after Employees worked beyond the fifth hour of their shifts or Employees
4 otherwise had them shortened and interrupted by work demands and requirements to perform off
5 the clock work and remain under Defendants' control. Furthermore, upon information and belief,
6 on the occasions when Employees worked more than ten hours in a given shift, they did so
7 without receiving a second uninterrupted thirty-minute meal period as required by law.

8 75. Defendants thus failed to provide Plaintiff and the Aggrieved Employees with meal
9 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
10 including by not providing them with the opportunity to take meal breaks, by providing them late
11 or for less than thirty minutes, or by requiring them to perform work during breaks.

12 76. Moreover, Defendants failed to compensate Employees for each meal period not
13 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
14 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
15 employee a meal period in accordance with this section, the employer shall pay the employee one
16 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
17 period is not provided. As detailed above, on the occasions when Defendants did pay any meal
18 period premiums, they upon information and belief underpaid them by miscalculating the regular
19 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
20 compensate the Aggrieved Employees for each meal period not provided or inadequately
21 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
22 Wage Order.

23 77. Plaintiff seeks civil penalties against Defendants for failure to provide Plaintiff and
24 other aggrieved non-exempt employees lawful off-duty unpaid meal periods. Pursuant to Labor
25 Code § 2699, Plaintiff seeks all applicable PAGA civil penalties and remedies for each Aggrieved
26 Employee for each pay period in the applicable statute of limitations in which the Aggrieved
27 Employee was not provided with a meal period, plus reasonable attorneys' fees and costs. Plaintiff
28 is entitled to bring this claim pursuant to Labor Code § 2699(g)(1) and after having satisfied the

1 PAGA notice requirements, as addressed above. Plaintiff further seeks civil penalties pursuant to
2 Labor Code 558(a)(1)-(2) and Labor Code 2699(f)(2), as detailed above, for Defendants' failure to
3 provide all required meal periods in violation of the underlying Labor Code sections addressed
4 herein.

5 78. Premium pay for denied lawful meal and rest periods is considered a "wage" rather
6 than a penalty. *See, e.g. Murphy v. Kenneth Cole Prods., Inc.* (2007) 40 Cal. 4th 1094, 1114;
7 *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022). Plaintiff therefore seeks to
8 recover civil penalties pursuant to the PAGA that arise from the policies, practices, and business
9 acts of Defendants to the extent provided by law as a Representative Action, including reasonable
10 attorneys' fees and costs, and civil penalties for the underpayment of wages as permitted by Labor
11 Code § 558, as a separate penalty provided by the PAGA statute. Aggrieved employees may
12 recover penalties for denied meal periods under the PAGA, as the civil penalty under California
13 Labor Code 558 applies to any provision regulating hours and days of work in any Order, and
14 Plaintiff has fully complied with procedures specified in Labor Code § 2699.3.

15 79. Labor Code § 2699(f)(2) states: "For all provisions of this code except those
16 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
17 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
18 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
19 employee per pay period for the initial violation and two hundred dollars (\$200) for each
20 aggrieved employee per pay period for each subsequent violation."

21 80. Labor Code § 2699.3 allows "(a) A civil action by an aggrieved employee pursuant
22 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
23 2699.5" to commence upon satisfaction of its written notice requirements. Additionally, Labor
24 Code § 2699.5 provides, in pertinent part that "[t]he provisions of subdivision (a) of Section
25 2699.3 apply to any alleged violation of the following provisions: "[Labor Code §§] 226.7,
26 ...512,...558,... and 1198" among the provisions of the Code that allow for recovery of civil
27 penalties pursuant to the PAGA.

28 81. Defendants' conduct, as alleged herein, violates the aforementioned regulations

1 because Defendants failed to properly provide Plaintiff and other aggrieved non-exempt
2 employees with lawful uninterrupted off-duty meal periods throughout the applicable statutory
3 period. Defendants also systematically denied Plaintiff and other Aggrieved Employees proper
4 premium pay at the rate of one hour of pay at their regular pay rates for each work shift they were
5 denied an unpaid, off-duty 30-minute meal period.

6 82. As such, Defendants are liable for PAGA penalties resulting from their failure to
7 provide Plaintiff and other aggrieved non-exempt employees lawful meal periods and the
8 corresponding meal period premium pay. Accordingly, Plaintiff is entitled to recover, and hereby
9 seeks through this Representative Action, all civil and statutory penalties authorized for violations
10 of California Labor Code §§ 226.7, 512, 558, and 1198, and Section 11(A)-(E) of the applicable
11 IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable
12 under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(2), and 2699(f)(2), and also
13 for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

14 **FOURTH CAUSE OF ACTION**

15 **PENALTIES UNDER THE PAGA FOR REST-BREAK LIABILITY**

16 **UNDER LABOR CODE § 226.7**

17 **(Against All Defendants)**

18 83. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 84. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
21 provide that employers must authorize and permit all employees to take rest periods at the rate of
22 ten minutes net rest time per four (4) work hours.

23 85. Employees consistently worked consecutive four hour shifts and were generally
24 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
25 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
26 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
27 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
28 breaks of not less than ten minutes for each consecutive four hour shift. Employees were often

1 required to work or to otherwise remain under Defendants' control during rest periods, including
2 by responding to work requirements or walk to break areas, and had breaks provided untimely as a
3 result of the above described off the clock work.

4 86. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
5 Orders provide that if an employer fails to provide an employee rest period in accordance with this
6 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
7 compensation for each workday that the rest period is not provided. Defendants failed to do so.

8 87. Defendants, and each of them, have therefore intentionally and improperly denied
9 rest periods to Plaintiff and the Aggrieved Employees in violation of Labor Code §§ 226.7 and
10 512 and paragraph 12 of the applicable IWC Wage Orders.

11 88. Defendants failed to authorize and permit Plaintiff and the Aggrieved Employees to
12 take rest periods, as required by the Labor Code. Moreover, Defendants did not compensate
13 Employees with an additional hour of pay at each Employee's hourly rate for each day that
14 Defendants failed to provide them with adequate rest breaks, as required under Labor Code §
15 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders.

16 89. Plaintiff seeks civil penalties against Defendants for failure to provide Plaintiff and
17 other aggrieved non-exempt employees lawful off-duty rest periods. Pursuant to Labor Code §
18 2699, Plaintiff seeks all applicable PAGA civil penalties and remedies for each Aggrieved
19 Employee for each pay period in the applicable statute of limitations in which the Aggrieved
20 Employee was not provided with a rest break, plus reasonable attorneys' fees and costs. Plaintiff is
21 entitled to bring this claim pursuant to Labor Code § 2699(g)(1) and after having satisfied the
22 PAGA notice requirements, as addressed above. Plaintiff further seeks civil penalties pursuant to
23 Labor Code 558(a)(1)-(2) and Labor Code 2699(f)(2), as detailed above, for Defendants' failure to
24 provide required rest periods in violation of the underlying Labor Code sections addressed herein.

25 90. Premium pay for denied lawful meal and rest periods is considered a "wage" rather
26 than a penalty. *See, e.g. Murphy v. Kenneth Cole Prods., Inc.* (2007) 40 Cal. 4th 1094, 1114;
27 *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022). Plaintiff therefore seeks to
28 recover civil penalties pursuant to the PAGA that arise from the policies, practices, and business

1 acts of Defendants to the extent provided by law as a Representative Action, including reasonable
2 attorneys' fees and costs, and civil penalties for the underpayment of wages as permitted by Labor
3 Code § 558, as a separate penalty provided by the PAGA statute. Aggrieved employees may
4 recover penalties for denied meal periods under the PAGA, as the civil penalty under California
5 Labor Code § 558 applies to any provision regulating hours and days of work in any Order.

6 91. Labor Code § 2699(f)(2) states: "For all provisions of this code except those
7 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
8 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
9 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
10 employee per pay period for the initial violation and two hundred dollars (\$200) for each
11 aggrieved employee per pay period for each subsequent violation."

12 92. Labor Code § 2699.3 allows "(a) A civil action by an aggrieved employee pursuant
13 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
14 2699.5" to commence upon satisfaction of its written notice requirements. Additionally, Labor
15 Code § 2699.5 provides, in pertinent part that "[t]he provisions of subdivision (a) of Section
16 2699.3 apply to any alleged violation of the following provisions: "[Labor Code §§] 226.7,
17 ...512,...558,... and 1198" among the provisions of the Code that allow for recovery of civil
18 penalties pursuant to the PAGA. Plaintiff have fully complied with procedures specified in Labor
19 Code § 2699.3.

20 93. Defendants' conduct, as alleged herein, violates the aforementioned regulations
21 because Defendants failed to properly provide Plaintiff and other aggrieved non-exempt
22 employees with lawful uninterrupted off-duty rest breaks throughout the applicable statutory
23 period. Defendants also systematically denied Plaintiff and other Aggrieved Employees proper
24 premium pay at the rate of one hour of pay at their regular pay rates for each work shift they were
25 denied an off-duty rest period.

26 94. As such, Defendants are liable for PAGA penalties resulting from their failure to
27 provide Plaintiff and other aggrieved non-exempt employees lawful rest periods and the
28 corresponding rest period premium pay. Accordingly, Plaintiff is entitled to recover, and hereby

1 seeks through this Representative Action, all civil and statutory penalties authorized for violations
2 of California Labor Code §§ 226.7, 512, 558, and 1198, and Section 12(A)-(B) of the applicable
3 IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable
4 under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(2), and 2699(f)(2), and also
5 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

6 **FIFTH CAUSE OF ACTION**

7 **PENALTIES UNDER THE PAGA FOR FAILURE TO PROVIDE ACCURATE**
8 **ITEMIZED WAGE STATEMENTS UNDER LABOR CODE § 226(a) AND KEEP**
9 **ACCURATE PAYROLL RECORDS UNDER LABOR CODE § 1174**

10 **(Against All Defendants)**

11 95. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
12 full herein.

13 96. Plaintiff seeks civil penalties against Defendants for failure to provide Plaintiff and
14 the other Aggrieved Employees accurate itemized wage statements during the applicable statutory
15 period

16 97. California Labor Code § 226(a) requires an employer to furnish each of his or her
17 employees with an accurate, itemized statement in writing showing the gross and net earnings,
18 total hours worked, and the corresponding number of hours worked at each hourly rate; these
19 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
20 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
21 statements may be given to the employee separately from the payment of wages; in either case the
22 employer must give the employee these statements twice a month or each time wages are paid.

23 98. Defendants failed to provide Plaintiff and the similarly situated Aggrieved
24 Employees with accurate itemized wage statements in writing, as required by the Labor Code and
25 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements given to
26 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
27 including by unlawfully rounding to the detriment of Aggrieved Employees, failing to pay for all
28 hours worked, and failure to pay for all overtime hours worked and for providing deficient meal

1 periods and rest breaks, all of which Defendants knew or reasonably should have known were
2 owed to the Employees, as alleged above. Defendants thus provided Aggrieved Employees with
3 wage statements that failed to accurately report all hours worked and applicable hourly rates for all
4 hours worked. Plaintiff and the Aggrieved Employees were unable to discern from their wage
5 statements alone the actual hours they worked in total during a pay period.

6 99. Paragraph 7(C) of the applicable IWC Wage Orders further requires that: “All
7 required records shall be in the English language and in ink or other indelible form, properly
8 dated, showing month, day, and year and shall be kept on file by the employer for at least three (3)
9 years at the place of employment or at a central location within the State of California. An
10 employee’s records shall be available for inspection by the employee upon reasonable request.”

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

18 101. Throughout the liability period, Defendants intentionally failed to furnish to
19 Aggrieved Employees, upon each payment of wages, itemized statements accurately showing: (1)
20 gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
21 earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages
22 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
23 employee and only the last four digits of his or her social security number or an employee
24 identification number other than a social security number, (8) the name and address of the legal
25 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
26 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
27 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
28 requirements. Defendants knowingly and intentionally failed to provide Aggrieved Employees

1 with such timely and accurate wage and hour statements.

2 102. Aggrieved Employees suffered injury as a result of Defendants' knowing and
3 intentional failure to provide them with the wage and hour statements as required by law and are
4 presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
5 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
6 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
7 inclusive, and the Plaintiff and Aggrieved Employees cannot promptly and easily determine from
8 the wage statement alone one or more of the following: (i) The amount of the gross wages or net
9 wages paid to the employee during the pay period or any of the other information required to be
10 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
11 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
12 wages paid to the employee during the pay period, (iii) The name and address of the employer
13 and, (iv) The name of the employee and only the last four digits of his or her social security
14 number or an employee identification number other than a social security number. For purposes
15 of Labor Code § 226(e) "promptly and easily determine" means a reasonable person [i.e. an
16 objective standard] would be able to readily ascertain the information without reference to other
17 documents or information.

18 103. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
19 are required "to pay each employee, on the established payday for the period involved, not less
20 than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor
21 Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order
22 or under conditions of labor prohibited by the order is unlawful." Aggrieved Employees may
23 therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of
24 the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC
25 Wage Orders.

26 104. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
27 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Aggrieved
28 Employees suffered injuries, including among other things confusion over whether they received

1 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
2 forcing them to make mathematical computations to analyze whether the wages paid in fact
3 compensated them correctly for all hours worked. For PAGA claims arising from violations of
4 Section 226(a), Plaintiff need not establish injury or that Defendants acted knowingly and
5 intentionally in issuing inaccurate wage statements.

6 105. Plaintiff therefore seeks civil penalties under the PAGA against Defendants for
7 providing inaccurate wage statements and also for failure to maintain accurate Employee records
8 during the applicable statutory period.

9 106. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
10 policies, practices and business acts of Defendants to the extent provided by law as a
11 Representative Action, including reasonable attorneys' fees and costs. As alleged in more detail
12 above, Defendants violated the above statutes by failing to maintain accurate payroll records
13 showing the hours worked daily by, and the wages paid to, Plaintiff and other aggrieved non-
14 exempt employees. Defendants' payroll records pertaining to Plaintiff and other aggrieved non-
15 exempt employees, and in turn the wage statements issued to them, fail to accurately reflect all
16 regular and overtime hours worked, overtime hourly rates, actual gross wages and net wages
17 earned, meal periods, and premium wages owed for denied lawful meal and rest periods.

18 107. Labor Code § 2699(f)(2) states that: "For all provisions of this code except those
19 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
20 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
21 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
22 employee per pay period for the initial violation and two hundred dollars (\$200) for each
23 aggrieved employee per pay period for each subsequent violation."

24 108. Labor Code § 2699.3 allows "(a) A civil action by an aggrieved employee pursuant
25 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
26 2699.5" to commence upon satisfaction of its written notice requirements. Additionally, Labor
27 Code § 2699.5 provides, in pertinent part that "[t]he provisions of subdivision (a) of Section
28 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 226,...

1 subdivisions (c) and (d) of Section 1174,... 1198,...1199,...” among the provisions of the Code
2 that allow for recovery of civil penalties pursuant to the PAGA.

3 109. Labor Code § 1198 also requires that: “The maximum hours of work and the
4 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
5 standard conditions of labor for employees. The employment of any employee for longer hours
6 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
7 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
8 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
9 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

10 110. As such, Defendants are liable for PAGA penalties resulting from their failure to
11 provide accurate itemized wage statements to Plaintiff and the Aggrieved Employees and failure
12 to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
13 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s),
14 and Plaintiff seeks all civil penalties available and applicable under Labor Code §§ 226.3, 558,
15 1174.5, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code §
16 2699(g)(1).

17 **SIXTH CAUSE OF ACTION**
18 **VIOLATION OF LABOR CODE § 204**
19 **(Against All Defendants)**

20 111. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 112. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
23 employment are due and payable twice during each calendar month, on days designated in
24 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
25 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
26 during which the labor was performed, and labor performed between the 16th and the last day,
27 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
28 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment

1 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
2 calendar days following the close of the payroll period.” As detailed above, Defendants
3 maintained a consistently applied policy and practice of not paying all wages earned between the
4 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
5 between the 16th and the last day of the month between the 1st and 10th day of the following month.
6 Defendants similarly failed to pay all wages earned by not more than seven calendar days
7 following the close of the payroll period.

8 113. All wages due and owing to Plaintiff and the Aggrieved Employees, including as
9 required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally,
10 wages required by Labor Code § 1194 and other sections became due and payable to each
11 employee in each pay period that he or she was not provided with a meal period or rest period or
12 paid straight or overtime wages to which he or she was entitled.

13 114. Defendants violated Labor Code § 204 by systematically refusing to timely pay
14 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
15 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
16 payday for the period involved, not less than the applicable minimum wage for all hours worked in
17 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
18 hours than those fixed by the order or under conditions of labor prohibited by the order is
19 unlawful.” Plaintiff and the Aggrieved Employees may therefore pursue damages and penalties for
20 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
21 penalties under paragraph 20 of the applicable IWC Wage Orders.

22 115. Therefore, pursuant to California Labor Code § 204, other applicable laws and
23 regulations, and public policy, an employer must timely pay its employees for all hours worked
24 and do so at least twice monthly. Defendants failed to do so. These failure to timely pay wages
25 violations give rise to PAGA penalties, and Labor Code § 204 is an enumerated provision under
26 Labor Code § 2699.5. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee
27 pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in
28 Section 2699.5” to commence upon satisfaction of its written notice requirements. Additionally,

1 Labor Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
2 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 204,... 221,
3 ...510, 512,... 1194, 1197, 1197.1 and 1198...1199,” and these provisions of the Code allow for
4 recovery of civil penalties pursuant to the PAGA in this action.

5 116. Defendants unlawfully failed to timely pay all wages owed to Plaintiff and the
6 Aggrieved Employees as addressed above. As such, Defendants are liable for PAGA penalties
7 resulting from these violations and Plaintiff is entitled to recover, and hereby seeks through this
8 representative action, all civil and statutory penalties authorized for violations of California Labor
9 Code §§ 204, 1197, 1197.1, 1198 and Sections 2(K), 4, and 20 of the applicable IWC Wage
10 Order(s), and Plaintiff seeks all civil and statutory penalties available and applicable under Labor
11 Code §§ 204, 1197, 1197.1, 1199, 2699(f)(2), and 2699.5, and also attorneys’ fees and costs
12 pursuant to Labor Code § 2699(g)(1). Plaintiff have fully complied with procedures specified in
13 Labor Code § 2699.3.

14 **SEVENTH CAUSE OF ACTION**

15 **PENALTIES UNDER THE PAGA FOR VIOLATION OF LABOR CODE §§ 201, 203**

16 **(Against All Defendants)**

17 117. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 118. As addressed in the preceding paragraphs, in violation of Labor Code § 204,
20 Defendants maintained a consistently applied policy and practice of not paying all wages earned
21 between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages
22 earned between the 16th and the last day of the month between the 1st and 10th day of the following
23 month. Defendants similarly failed to pay all wages earned by not more than seven calendar days
24 following the close of the payroll period.

25 119. As detailed above, all wages due and owing to Plaintiff and the Aggrieved
26 Employees, including as required under Labor Code § 510, were therefore not timely paid by
27 Defendants. Additionally, wages required by Labor Code § 1194 and other sections became due
28 and payable to each employee in each pay period that he or she was not provided with a meal

1 period or rest period or paid straight or overtime wages to which he or she was entitled.

2 120. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
3 are required “to pay each employee, on the established payday for the period involved, not less
4 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
5 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
6 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Aggrieved
7 Employees may therefore pursue damages and penalties for violations of Labor Code § 204 and
8 paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the
9 applicable IWC Wage Orders.

10 121. Additionally, Plaintiff and numerous Aggrieved Employees are no longer
11 employed by Defendants; they either quit Defendants’ employ or were fired therefrom during the
12 relevant liability period. Plaintiff seeks civil penalties against Defendants for their failure to timely
13 pay Plaintiff and the Aggrieved Employee all wages owed during the applicable statutory period.
14 Defendants failed to pay these Employees all wages due and certain at the time of termination or
15 within seventy-two (72) hours of resignation. The wages withheld from these Employees by
16 Defendants remained due and owing for more than thirty (30) days from the date of separation
17 from employment.

18 122. Labor Code § 203 further provides: “(a) If an employer willfully fails to pay,
19 without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and
20 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall
21 continue as a penalty from the due date thereof at the same rate until paid or until an action
22 therefor is commenced; but the wages shall not continue for more than 30 days....”

23 123. Under Labor Code § 2926, “[a]n employee who is not employed for a specified
24 term and who is dismissed by his employer is entitled to compensation for services rendered up to
25 the time of such dismissal.” Also, under Labor Code § 2927, “[a]n employee who is not employed
26 for a specified term and who quits the service of his employer is entitled to compensation for
27 services rendered up to the time of such quitting.”

28 124. Defendants failed to pay these Aggrieved Employees without abatement, all wages

1 as defined by applicable California law. Among other things, these Employees were not paid all
2 regular and overtime wages, including by Defendants failing to pay for all hours worked or
3 requiring off the clock work, and Defendants failed to pay premium wages owed for unprovided
4 meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said
5 wages within the required time was willful within the meaning of Labor Code § 203.

6 125. All wages due and owing to Plaintiff and the Aggrieved Employees, including as
7 required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally,
8 wages required by Labor Code § 1194 and other sections became due and payable to each
9 employee in each pay period that he or she was not provided with a meal period or rest period or
10 paid straight or overtime wages to which he or she was entitled.

11 126. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
12 are required "to pay each employee, on the established payday for the period involved, not less
13 than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor
14 Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order
15 or under conditions of labor prohibited by the order is unlawful." Plaintiff on behalf of these
16 Aggrieved Employees may therefore pursue damages and penalties for violations of Labor Code §
17 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph
18 20 of the applicable IWC Wage Orders. Also, under Labor Code § 1199(a)-(c), it is a
19 misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees "to
20 work for longer hours than those fixed, or under conditions of labor prohibited by an order of the
21 commission" or if the employer pays "a wage less than the minimum fixed by an order of the
22 commission" or "violates...any provision of this chapter or any order or ruling of the
23 commission."

24 127. Under Labor Code § 210, "(a) In addition to, and entirely independent and apart
25 from, any other penalty provided in this article, every person who fails to pay the wages of each
26 employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be
27 subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for
28 each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional

1 violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
2 amount unlawfully withheld.”

3 128. Similarly, Section 20 of IWC Wage Order No. 1 addresses further penalties as
4 follows: “(A) In addition to any other civil penalties provided by law, any employer or any other
5 person acting on behalf of the employer who violates, or causes to be violated, the provisions of
6 this order, shall be subject to the civil penalty of: (1) Initial Violation — \$50.00 for each
7 underpaid employee for each pay period during which the employee was underpaid in addition to
8 the amount which is sufficient to recover unpaid wages. (2) Subsequent Violations — \$100.00 for
9 each underpaid employee for each pay period during which the employee was underpaid in
10 addition to an amount which is sufficient to recover unpaid wages. (3) The affected employee shall
11 receive payment of all wages recovered.”

12 129. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
13 policies, practices and business acts of Defendants to the extent provided by law as a
14 Representative Action, including reasonable attorneys’ fees and costs, and as permitted by Labor
15 Code § 558, as a separate civil penalty provided by the PAGA statute.

16 130. Defendants violated the above statutes by failing to promptly pay Plaintiff and
17 other aggrieved non-exempt employees all earned wages due each and every pay period, as well as
18 immediately upon termination and/or within 72 hours upon resignation.

19 131. During the applicable statutory period, Defendants violated, and continue to
20 violate, California Labor Code § 204 and Section 20 of IWC Wage Orders by failing to
21 compensate Plaintiff and other aggrieved hourly employee overtime premium wages for overtime
22 hours worked, premium pay for denied off-duty meal and rest periods (wages), and other wages
23 due to Plaintiff and other Aggrieved Employees each pay period, as alleged in more detail herein.

24 132. Further, Defendants violated, and continue to violate, California Labor Code §§
25 201-204, 2926, and 2927 by failing to compensate employees, including Plaintiff and other
26 Aggrieved Employees no longer working for Defendants, for services rendered up to the time of
27 dismissal or quitting, and for failing to timely do so.

28 133. Labor Code § 2699(f)(2) states: “For all provisions of this code except those

1 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
2 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
3 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
4 employee per pay period for the initial violation and two hundred dollars (\$200) for each
5 aggrieved employee per pay period for each subsequent violation.”

6 134. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
7 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
8 2699.5” to commence upon satisfaction of its written notice requirements. Plaintiff have fully
9 complied with procedures specified in Labor Code § 2699.3. Additionally, Labor Code § 2699.5
10 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section 2699.3 apply to any
11 alleged violation of the following provisions: “[Labor Code §§] 201,... 202, 203, ...204,...
12 558,...1198,...” among the provisions of the Code that allow for recovery of civil or statutory
13 penalties pursuant to the PAGA.

14 135. Defendants are liable for PAGA penalties resulting from their failure to timely pay
15 all wages owed to Plaintiff and other Aggrieved Employees at the time of their termination of
16 separation from employment, and failure to timely pay all wages owed twice monthly.
17 Accordingly, Plaintiff is entitled to recover, and hereby seeks through this Representative Action,
18 all civil and statutory penalties authorized for violations under Labor Code §§ 201, 201, 203, 204,
19 1197.5, 1198, 2926, and 2927, and Plaintiff seeks all civil penalties available and applicable under
20 Labor Code §§ 201, 203, 210, 558, 1197, and 2699(f)(2), and Section 20 of the applicable IWC
21 Wage Order(s), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

22 EIGHTH CAUSE OF ACTION

23 PENALTIES UNDER THE PAGA FOR FAILURE TO REIMBURSE NECESSARY

24 BUSINESS EXPENSES; LABOR CODE § 2802

25 (Against All Defendants)

26 136. Plaintiff re-alleges and incorporates all preceding paragraphs as though set forth in
27 full herein.

28 137. Under Labor Code § 2802(a) an employer must indemnify its employees for all

1 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
2 of his or her duties, or of his or her obedience to the directions of the employer.

3 138. Defendants have regularly required Aggrieved Employees to incur business
4 expenses in the course of performing their required job duties for Defendants including for cell
5 phone expenses. These expenses incurred by Aggrieved Employees were necessary and required
6 of them in performing their assigned job duties, but Defendants failed to reimburse Aggrieved
7 Employees for all such necessary expenditures. Aggrieved Employees were not reimbursed for
8 those lawful and necessary work related expenses or losses incurred in direct discharge of their job
9 duties during employment with Defendants and at the direction of the Defendants pursuant to
10 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

11 139. Defendants' knowing and willful failure to reimburse lawful necessary work related
12 expenses and losses to Plaintiff and the Aggrieved Employees resulted in damages because,
13 among other things, Defendants did not inform employees of their right to be reimbursed for those
14 work related expenses. As Defendants failed to inform and misled Plaintiff and the Aggrieved
15 Employees with regard to their rights, Plaintiff and the Aggrieved Employees were led to believe
16 that incurring those lawful and necessary expenses was an expected and essential function of their
17 employment with Defendants and that failure to incur those expenses would have adverse
18 consequences on their employment.

19 140. Labor Code § 2699(f)(2) states that: "For all provisions of this code except those
20 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
21 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
22 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
23 employee per pay period for the initial violation and two hundred dollars (\$200) for each
24 aggrieved employee per pay period for each subsequent violation."

25 **RELIEF REQUESTED**

26 WHEREFORE, Plaintiff prays for the following relief:

27 1. On the First Cause of Action: For recovery of all civil penalties for unpaid
28 minimum and regular wages for all hours worked during the applicable statutory period as

1 permitted by California Labor Code §§ 510, 1194, 1197, 1197.1, 1198, 221 and 204 and Sections
2 2(K), 4, and 20 of the applicable IWC Wage Order(s), including civil and statutory penalties
3 available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and
4 2699.5, to be distributed in the manner provided by Labor Code § 2699(i), with 75% of recovery
5 to the LWDA and 25% of the recovery to the Aggrieved Employees in an amount according to
6 proof and subject to approval by the Court;

7 2. On the Second Cause of Action: For recovery of all civil penalties for unpaid
8 overtime and premium wages for all hours worked during the applicable statutory period as
9 permitted by Labor Code §§ 510, 1194, 1197, 1197.1, 1198, and 204 and Sections 2(K), 4, and 20
10 of the applicable IWC Wage Order(s), including all civil and statutory penalties available and
11 applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, with
12 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved Employees in an
13 amount according to proof and subject to approval by the Court;

14 3. On the Third Cause of Action: For recovery of all civil penalties for non-compliant
15 meal periods during the applicable statutory period and failure to pay one-hour of premium wages
16 to Plaintiff and the Aggrieved Employees as permitted by Labor Code §§ 226.7, 512, 558, and
17 1198, and Section 11(A)-(E) of the applicable IWC Wage Orders, including all civil and statutory
18 penalties available and applicable under Labor Code §§ 226.7, 512, 558, including sections
19 558(a)(1)-(2), 2699.3, and 2699(f)(2), to be distributed in the manner provided by Labor Code §
20 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved
21 Employees in an amount according to proof and subject to approval by the Court;

22 4. On the Fourth Cause of Action: For recovery of all civil penalties for non-
23 compliant rest periods during the applicable statutory period and failure to pay one-hour of
24 premium wages to Plaintiff and the Aggrieved Employees as permitted by Labor Code §§ 226.7,
25 512, 558, and 1198, and Section 11(A)-(E) of the applicable IWC Wage Orders, including all civil
26 and statutory penalties available and applicable under Labor Code §§ 226.7, 512, 558, including
27 sections 558(a)(1)-(2), 2699.3, and 2699(f)(2), to be distributed in the manner provided by Labor
28 Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved

1 Employees in an amount according to proof and subject to approval by the Court;

2 5. On the Fifth Cause of Action: For recovery of all civil penalties for inaccurate wage
3 statements Defendants provided to Plaintiff and the Aggrieved Employees and failure to maintain
4 employment records as permitted by Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections
5 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s), including all civil and statutory
6 penalties available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, and
7 2699(f)(2), and specifically electing civil penalties under Labor Code § 226.3, which in addition to
8 other penalties provided by law, subjects Defendants to “a penalty in the amount of two hundred
9 fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars
10 (\$1,000) per employee for each violation in a subsequent citation, ...” to be distributed in the
11 manner provided by Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of the
12 recovery to the Aggrieved Employees in an amount according to proof and subject to approval by
13 the Court;

14 6. On the Sixth Cause of Action: For recovery of all civil penalties pursuant to Labor
15 Code § 2699(f)(2) where a statutory civil penalty is not provided, and where Aggrieved
16 Employees were not paid, all wages due to them, including, but not limited to, overtime wages,
17 minimum wages, and/or meal and rest period premiums, within any time period specified by
18 California Labor Code § 204, including for all civil and statutory penalties available and
19 applicable under Labor Code §§ 204, 2699(f)(2), and 2699.5, to be distributed in the manner
20 provided by Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery
21 to the Aggrieved Employees in an amount according to proof and subject to approval by the
22 Court;

23 7. On the Seventh Cause of Action: For failing to pay all wages due and owing and to
24 timely pay them to Aggrieved Employees upon termination or separation from employment as
25 permitted under Labor Code §§ 201, 201, 203, 204, 1197.5, 1198, 2926, and 2927, including all
26 civil and statutory penalties available and applicable under Labor Code §§ 201, 202, 203, 210,
27 558, 1197, and 2699(f)(2), and Section 20 of the applicable IWC Wage Order(s), to be distributed
28 in the manner provided by Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of

1 the recovery to the Aggrieved Employees in an amount according to proof and subject to approval
2 by the Court;

3 8. On the Eighth Cause of Action: For recovery of all civil penalties for Defendants'
4 failure to reimburse all necessary business expenses incurred by Plaintiff and the Aggrieved
5 Employees as permitted by Labor Code §§ 1198 and 2802, and 6401 and 6403, and Section 9(B)
6 of the applicable IWC Wage Orders, including all civil and statutory penalties available and
7 applicable under Labor Code §§ 2802 and 2699(f)(2), to be distributed in the manner provided by
8 Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the
9 Aggrieved Employees and for further penalties pursuant to Labor Code § 6243 *et seq.* in an
10 amount according to proof and subject to approval by the Court;

11 9. For reasonable attorneys' fees and costs of suit to the extent permitted under the
12 PAGA and applicable Labor Code sections, including Labor Code § 2699(g)(1), in an amount
13 according to proof and subject to Court approval;

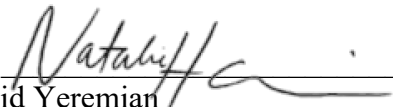
14 10. For pre-judgment and post-judgment interest at the legal rate of 10% in the State of
15 California on readily calculable monies due to the extent provided by California law and
16 authorized under the PAGA, in an amount according to proof;

17 11. For the Court to otherwise determine the appropriate remedy to compensate
18 Plaintiff and each Aggrieved Employee as required to promote fairness and justice; and

19 12. For such other and further relief as this Court may deem necessary, proper and just.

20
21 DATED: June 21, 2024

D.LAW, INC.

22
23 By: 
24 David Yeremian
25 Natalie Haritonian
26 Jonas Agle
27 Attorneys for Plaintiff HUGO RAMIREZ,
28 and all others similarly situated

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DATED: June 21, 2024

By: Natalie Haritonian
David Yeremian
Natalie Haritonian
Jonas Agle
Attorneys for Plaintiff HUGO RAMIREZ,
and all others similarly situated