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as an aggrieved employee, and on behalf of all other
aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

LLIYANA LUPA QUALAQ, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiff,

v.

ANATOMETAL, LLC, a California limited
liability company; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 24CV02400

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
AND 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff Lliyana Lupa Qualaq, as an aggrieved employee, brings this Action under the Labor
2 Code Private Attorneys' General Act of 2004 ("PAGA") to collect civil penalties under PAGA for
3 all other aggrieved employees, and, in doing so, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against ANATOMETAL,
7 LLC, a California limited liability company, and any of its respective subsidiaries or affiliated
8 companies within the State of California ("Defendant") (collectively, and with DOES 1 through
9 100, as further defined below, "Defendants"), as a proxy of the Labor and Workforce Development
10 Agency of the State of California ("LWDA"), on behalf of all other current and former non-exempt
11 employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as
12 it pertains to the alleged claims for failure to comply with Labor Code sections 96, 98.6, 200, 201,
13 202, 203, 204, 210, 226, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8, 1102.5,
14 1197.5, 1198.5, 1527, 3366, 3457, and 8397.4, on behalf of all employees of Defendants working
15 within the Civil Penalty Period (collectively, "Aggrieved Employees").

16 2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
17 of Civil Procedure section 410.10.

18 3. Venue is proper in Santa Cruz County, California pursuant to Code of Civil
19 Procedure sections 392, *et seq.* because, among other things, Santa Cruz County is where the causes
20 of action complained of herein arose; the county in which the employment relationship began; the
21 county in which performance of the employment contract, or part of it, between Plaintiff and
22 Defendants was due to be performed; and the county in which the employment contract, or part of
23 it, between Plaintiff and Defendants was actually performed. Moreover, the unlawful acts alleged
24 herein have a direct effect on Plaintiff and Aggrieved Employees in Santa Cruz County, and because
25 Defendants employ numerous Aggrieved Employees in Santa Cruz County.

26 4. Plaintiff is an "aggrieved employee" under PAGA, as Plaintiff was employed by
27 Defendants during the applicable statutory period and suffered one or more of the Labor Code
28 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term "civil

1 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
2 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
3 reasonable attorneys’ fees and costs, for all other aggrieved current and former employees of
4 Defendants during the Civil Penalty Period. Plaintiff does not seek to assert his own claim for civil
5 penalties under PAGA as part of this Action.

6 5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
7 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
8 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
9 PAGA allegations described herein is not required.

10 6. During the period beginning one (1) year preceding the provision of notice to the
11 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
12 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210,
13 212, 213, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, 246, 404, 432, 432.3, 432.5, 432.7,
14 432.8, 510, 512, 558, 1102.5, 1174, 1174.5, 11821.12, 1194, 1197, 1197.1, 1197.5, 1198.5, 1527,
15 2699, 2802, 2810.5, 3366, 3457, and 8397.4, among others, California Code of Regulations, Title
16 8, Section 3395, Business and Professions Code sections 16600, 16700, and 17200, Government
17 Code section 12952, as well as applicable Wage Orders.

18 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
19 on behalf of all other aggrieved current and former employees within the statutory period, to bring
20 a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section
21 2699.3 without asserting a claim to bring Plaintiff’s own claim for civil penalties under PAGA.
22 (*See, e.g., Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533.) Specifically,
23 Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the particular Labor
24 Code violations Plaintiff experienced. Rather, this is a purely representative PAGA action wherein
25 Plaintiff seeks to recover all civil penalties for the Labor Code violations experienced by third-party
26 aggrieved employees (Aggrieved Employees) and the State of California’s 75% of the civil penalties
27 for the Labor Code violations Plaintiff experienced.

28 8. On or around February 21, 2024, Plaintiff provided written notice pursuant to Labor

1 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
2 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
3 as well as by certified mail, with return receipt requested to Defendants, and each of them.

4 9. Plaintiff also provided Defendants, and each of them, with notice under Labor Code
5 section 2810.3, subdivision (d) that Plaintiff would seek to hold them liable for each other's wage
6 and hour violations under Labor Code section 2810.3 on February 21, 2024 by certified mail with
7 return receipt requested.

8 10. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
9 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
10 calendar days of the April 26, 2024, postmarked date of the herein-described notice sent by Plaintiff
11 to the LWDA and Defendants.

12 **PAGA REPRESENTATIVE ALLEGATIONS**

13 11. At all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to pay overtime wages to Aggrieved Employees in the State of California in violation of
15 California state wage and hour laws as a result of, without limitation, Aggrieved Employees working
16 over eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
17 workweek without paying them proper overtime wages, as a result of, without limitation, failing to
18 accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
19 employees to work off the clock, including, without limitation, by requiring employees: to come
20 early to work and leave late work without being able to clock in for all that time, to suffer under
21 Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in
22 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
23 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend
24 company meetings off the clock, to make phone calls or drive off the clock, and/or go through
25 security screenings and/or temperature checks off the clock; failing to include all forms of
26 remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask
27 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
28 where overtime was worked and the additional compensation was earned for the purpose of

1 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
2 manipulation of time entries to show less hours than actually worked, for paying straight pay instead
3 of overtime pay, and by attempting but failing to properly implement an alternative workweek
4 schedule ("AWS") (including, without limitation, by failing to implement a written agreement
5 designating the regularly scheduled alternative workweek in which the specified number of work
6 days and work hours are regularly recurring; failing to adopt the AWS in a secret ballot election,
7 before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the
8 work unit; failing to follow the notice/disclosures procedures prior to any AWS election; and/or
9 failing to register an AWS election with the State of California, as required by Labor Code section
10 511 and applicable Wage Orders) all to the detriment of Aggrieved Employees.

11 12. At all relevant times mentioned herein, Defendants had and have a practice or policy
12 of failing to compensate Aggrieved Employees with minimum wages for all hours Aggrieved
13 Employees worked or were otherwise under Defendants' control as a result of, without limitation,
14 failing to accurately track and/or pay for all minutes actually worked; by requiring Aggrieved
15 Employees: to come early to work and leave late work without being able to clock in for all that
16 time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks
17 before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue
18 working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the
19 clock, to attend company meetings off the clock, to make phone calls or drive off the clock;
20 detrimental rounding of employee time entries; editing and/or manipulation of time entries to show
21 less hours than actually worked; and failing to pay split shift premiums. In addition, Aggrieved
22 Employees were required to report to work, and did report, but were not put to work and/or were
23 furnished less than half their usual or scheduled day's work without being paid for half the usual or
24 scheduled work at their regular rate of pay, to the detriment of Aggrieved Employees.

25 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
26 of failing to provide Aggrieved Employees a thirty (30) minute uninterrupted, timely, and complete
27 meal period for days on which the employee worked in excess of five (5) and ten (10) hours per day
28 without being afforded uninterrupted, timely, and complete 30-minute meal periods or

1 compensation in lieu thereof including, without limitation, by interrupting meal periods; not
2 providing timely meal periods; failing to provide first and second meal periods; providing short
3 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
4 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
5 periods; and auto-deducting meal periods that could not be auto-deducted by law or during which
6 employees worked, as required by California wage and hour laws.

7 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to provide Aggrieved Employees paid, uninterrupted, timely, and complete rest periods of
9 at least ten (10) minutes per four (4) hours worked or major fractions thereof, or compensation in
10 lieu thereof, including, without limitation, by failing to provide rest periods all together; requiring
11 that they be bundled together and/or with meal periods; interrupting them; requiring that employees
12 carry cellular telephones or walkie-talkies during rest periods not providing them in a timely fashion;
13 and not permitting employees to leave the premises; and otherwise requiring on-duty/on-call rest
14 periods, as required by California wage and hour laws.

15 15. At all times relevant hereto, Defendants had and have a policy or practice of failing
16 to permit Aggrieved Employees from taking cooldown rest periods as required under California
17 Code of Regulations, Title 8, Section 3395, and have failed to pay premium pay in lieu thereof under
18 Labor Code section 226.7.

19 16. At all times relevant hereto, Defendants had and have a policy or practice of failing
20 to pay premium payments under Labor Code section 226.7 to Aggrieved Employees for non-
21 compliant meal periods and rest periods, as well as the failure to provide cooldown periods, at the
22 proper regular rate of pay in violation of Labor Code sections 512, 226.7, and applicable wage
23 orders.

24 17. At all times mentioned herein, Defendants had and have a policy or practice of
25 issuing payment of wages due, or to become due, or as an advance on wages to be earned: (1) an
26 order, check, draft, note, memorandum, gift card, or other acknowledgment of indebtedness, which
27 was not negotiable and payable in cash, on demand, without discount, at some established place of
28 business in the state; and/or upon which the name and address did not appear on the instrument;

1 and/or at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days,
2 the maker or drawer did not have sufficient funds in, or credit, arrangement, or understanding with
3 the drawee for its payment and/or (2) any scrip, coupon, or other thing redeemable, in merchandise,
4 or purporting to be payable or redeemable otherwise than in money. Plaintiff is further informed
5 and believes, and based thereon alleges that such wages were not compensated at the “regular rate”
6 of compensation as provided under Labor Code sections 226.7 and 510, subsection (a).

7 18. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to comply with Labor Code section 226, subdivision (a), by intentionally failing to furnish
9 Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned;
10 total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in
11 effect during the pay period and the corresponding number of hours worked at each hourly rate by
12 the employee; the legal name of the employer and/or the name and address of the legal entity
13 securing the employer’s services if the employer is a farm labor contractor; and other such
14 information as required by Labor Code section 226, subdivision (a).

15 19. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of failing to comply with Labor Code section 226, subdivision (a), by intentionally failing to furnish
17 Aggrieved Employees with documents signed to obtain or hold employment under Labor Code
18 section 432, personnel records under Labor Code section 1198.5, and time records under Labor
19 Code section 1174, making it difficult for Aggrieved Employees to calculate their unpaid wages
20 and/or premium payments, to the detriment of Aggrieved Employees.

21 20. At all relevant times mentioned herein, Defendants had and have a policy or practice
22 of failing to timely pay Aggrieved Employees, among other wages, all wages owed as a result of
23 Defendants’ practice or policy of failing to pay, among other wages, overtime wages at the regular
24 rate of pay, minimum wages, premium wages at the regular rate of pay, paid time off, paid sick
25 leave, and vacation time owed as required by Labor Code sections 201, 202, and 203.

26 21. At all relevant times herein, Defendants had and have a policy or practice of failing
27 to pay Aggrieved Employees their paid time off and vacation time owed upon separation of
28

1 employment as wages at their final rate of pay in violation of Labor Code section 227.3 and
2 applicable Wage Orders.

3 22. At all relevant times mentioned herein, Defendants have had a policy or practice of
4 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
5 limitation, Aggrieved Employees, with their costs incurred for driving personal vehicles (*i.e.*,
6 mileage and gas), purchasing uniforms, providing uniform and other deposits, separately laundering
7 mandatory uniforms, for the purchase of tools and safety equipment, and for the purchase and
8 maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge of
9 their duties, or of their obedience to the directions of Defendants, as required by Labor Code 2802.

10 23. At all relevant times mentioned herein, Defendants have had a policy or practice of
11 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
12 Protection Act of 2011) by, among other things, failing to provide Aggrieved Employees with the
13 rates of pay and overtime rates of pay applicable to their employment; allowances claimed as part
14 of the minimum wage; the regular payday designated by Defendants; the name, address, and
15 telephone number of the workers' compensation insurance carrier; information regarding paid sick
16 leave; and other pertinent information required to be disclosed by Defendants under Labor Code
17 section 2810.5.

18 24. At all relevant times mentioned herein, Defendants failed to provide Aggrieved
19 Employees with the amount of paid sick leave required to be provided pursuant to California law
20 (including, without limitation Labor Code section 245, *et seq.*), and also did not permit its use upon
21 request as contemplated under California laws, to the detriment of Aggrieved Employees.

22 25. At all relevant times mentioned herein, Defendants had or have a policy or practice
23 of failing to reimburse deposits made, including uniform deposits, together with all interest owed at
24 the separation of employment in violation of Labor Code section 404.

25 26. At all relevant times mentioned herein, Defendants have had a policy or practice of
26 failing to pay Aggrieved Employees their wages in accordance with Labor Code Section 204, which
27 requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month
28 shall be paid for between the 16th and 26th day of the month during which the labor was performed,

1 and labor performed between the 16th and the last day, inclusive of any calendar month, shall be
2 paid for between the 1st and 10th day of the following month.”

3 27. At all times mentioned herein, Defendants have had, and continue to have, a policy
4 of failing to provide all working employees with suitable seats when the nature of the work
5 reasonably permits the use of seats. Defendants have also failed to place an adequate number of
6 seats in reasonable proximity to the work area and/or permitted employees to use such seats when
7 it does not interfere with the performance of their duties and employees are not engaged in the active
8 duties of their employment, and the nature of their work requires standing.

9 28. At all times mentioned herein, Defendants have had, and continue to have, a policy
10 of failing to provide all temporary workers with owed wages weekly by not later than the regular
11 payday of the following week.

12 29. At all times mentioned herein, Defendants have had, and continue to have, a policy
13 of failing to provide adequate and readily accessible sanitation facilities; a regular schedule for
14 servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and
15 serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or
16 blowers; and a sufficient number of toilets to be used by each sex of employee.

17 30. At all times mentioned herein, Defendants have had, and continue to have, a policy
18 of conducting unlawful background checks on prospective and current employees prior to making
19 a conditional offer. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 violated applicable laws by, without limitation: requiring job applicants and employees to disclose
21 their conviction history before Defendants made a conditional offer of employment; inquiring into
22 or considering the conviction history of applicants before Defendants made any conditional offers
23 of employment; considering, distributing, or disseminating information about arrests not followed
24 by conviction, referrals to or participation in a pretrial or posttrial diversion program, convictions
25 that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any
26 conviction for which the convicted person has received a full pardon or has been issued a certificate
27 of rehabilitation, while conducting conviction history background checks in connection with any
28 applications for employment; intending to deny an applicant a position of employment solely or in

1 part because of the applicant's conviction history; and asking applicants for employment to disclose,
2 through any written form or verbally, information concerning or related to an arrest, detention,
3 processing, diversion, supervision, adjudication, or court disposition that occurred while the person
4 was subject to the process and jurisdiction of the juvenile court, to the detriment of Aggrieved
5 Employees.

6 31. At all times mentioned herein, Defendants have had, and continue to have, a practice
7 or policy of relying on the salary history information of an applicant for employment as a factor in
8 determining whether to offer employment to an applicant or what salary to offer the applicant in
9 violation of Labor Code section 432.3 by including, on Defendants' application for employment, an
10 inquiry regarding current and/or former salary history information, including, without limitation,
11 compensation and benefits of the applicant for employment.

12 32. At all times mentioned herein, Defendants have had, and continue to have, a practice
13 or policy of requiring Aggrieved Employees to agree in writing to confidentiality policies that
14 unlawfully restrain trade by prohibiting Aggrieved Employees from speaking with prospective
15 employers about their work with Defendants, including, but not limited to, their wages and working
16 conditions. Defendants also required Aggrieved Employees to inform prospective employers of
17 Defendants' restrictions of Aggrieved Employees' freedom to work.

18 33. At all relevant times mentioned herein, Defendants had and have a policy or practice
19 of preventing Aggrieved Employees from using or disclosing the skills, knowledge and experience
20 they obtained at Defendants' business for purposes of competing with Defendants, including,
21 without limitation, preventing Aggrieved Employees from disclosing their wages in negotiating a
22 new job with a prospective employer and from disclosing who else works at Defendants and under
23 what circumstances that they might be receptive to an offer from a rival employer. Plaintiff is
24 informed and believes that this policy and/or practice violates Business and Professions Code
25 sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code,
26 including Labor Code sections 232, 232.5, and 1197.5, subdivision (k).

27 34. Defendants had and have a policy or practice of preventing Aggrieved Employees
28 from disclosing violations of state and federal law, either within Defendants to their managers or

1 outside to private attorneys or government officials, among others, in violation of Business and
2 Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition,
3 Plaintiff is informed and believes that Defendants' herein-described policies and/or practices
4 prevent Aggrieved Employees from disclosing information about unsafe or discriminatory working
5 conditions or about wage and hour violations in violation of Labor Code section 232 and 232.5.

6 35. Defendants had and have a policy or practice of preventing Aggrieved Employees
7 from engaging in lawful conduct during non-work hours, thus violating state statutes entitling
8 employees to disclose wages, working conditions, and illegal conduct, including, without limitation,
9 Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Plaintiff is
10 informed and believes that this lawful conduct includes the exercise of Aggrieved Employee's
11 constitutional rights of freedom of speech and economic liberty.

12 36. Plaintiff, in Plaintiff's representative capacity *only*, seeks civil penalties under Labor
13 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts on behalf of
14 only and all other Aggrieved Employees, which violate the California Labor Code as described
15 above.

16 **PARTIES**

17 **A. Plaintiff**

18 37. Plaintiff Lliyana Lupa Qualaq is a resident of the State of California. At all relevant
19 times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to,
21 polishing and cleaning jewelry. Plaintiff is informed and believes, and based thereon alleges, that
22 Plaintiff Lliyana Lupa Qualaq worked for Defendants on or around August of 2023.

23 **B. Defendants**

24 38. Plaintiff is informed and believes and based thereon alleges that defendant
25 Anatometal is, and at all times relevant hereto was, a limited liability company organized and
26 existing under and by virtue of the laws of the State of California and doing business in the County
27 of Santa Cruz, State of California.

28 39. The true names and capacities, whether individual, corporate, associate, or otherwise,

1 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
2 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
3 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
4 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
5 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
6 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
7 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
8 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
9 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
10 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
11 include and any of their parent, subsidiary, or affiliated companies within the State of California, as
12 well as DOES 1 through 100 identified herein.

13 **JOINT LIABILITY ALLEGATIONS**

14 40. Plaintiff is informed and believes, and based thereon alleges, that at all times
15 mentioned herein, each of the defendants was the agent, principal, employee, employer,
16 representative, joint venture or co-conspirator of each of the other defendants, either actually or
17 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
18 employment, joint venture, and conspiracy.

19 41. All of the acts and conduct described herein of each and every corporate defendant
20 was duly authorized, ordered, and directed by the respective and collective defendant corporate
21 employers, and the officers and management-level employees of said corporate employers. In
22 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
23 their said employees, agents, and representatives, and each of them; and upon completion of the
24 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
25 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
26 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
27 aforementioned corporate employees, agents and representatives.

28 42. Plaintiff is informed and believes, and based thereon alleges, that despite the

1 formation of the purported corporate existence of Anatometal, and DOES 1 through 50, inclusive
2 (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through
3 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

4 a. The Alter Ego Defendants are completely dominated and controlled by the
5 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
6 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego
7 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
8 inequitable purpose;

9 b. The Individual Defendants derive actual and significant monetary benefits by
10 and through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego Defendants as
11 the funding source for the Individual Defendants’ own personal expenditures;

12 c. Plaintiff is informed and believes, and thereon alleges, that the Individual
13 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
14 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
15 accomplishing some other wrongful or inequitable purpose;

16 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs
17 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
18 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
19 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
20 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
21 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
22 herein were, the alter egos of the Individual Defendants;

23 e. The recognition of the separate existence of the Individual Defendants from
24 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
25 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
26 and other statutory violations. The corporate existence of these defendants should thus be
27 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
28 and injustice to Plaintiff herein;

1 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
2 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
3 disregarded.

4 43. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
5 thereon alleges that Defendants, and each of them, are joint employers.

6 **FIRST CAUSE OF ACTION**

7 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

8 44. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
9 preceding paragraphs as though fully set forth hereat.

10 **Civil Penalties Under Labor Code § 210**

11 45. At all relevant times herein, Labor Code section 204, requires and required that:
12 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
13 between the 16th and 26th day of the month during which the labor was performed, and labor
14 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
15 between the 1st and 10th day of the following month.”

16 46. At all relevant times herein, Labor Code section 210, subdivision (a), states and
17 stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in
18 this article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
19 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
20 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
21 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
22 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

23 47. At all relevant times herein, Defendants have had a consistent policy or practice of
24 failing to pay Aggrieved Employees during their employment on a timely basis as per Labor Code
25 section 204. Thus, pursuant to Labor Code section 210, Aggrieved Employees are entitled to
26 recover civil penalties for Defendants’ violations of Labor Code section 204, in the amount of one
27 hundred dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and
28 two hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in

1 connection with each payment that was made in violation of Labor Code section 204.

2 48. Plaintiff does not seek to recover Plaintiff's 25% share of civil penalties for the
3 particular Labor Code violation(s) that Plaintiff experienced.

4 Civil Penalties Under Labor Code § 226.3

5 49. Defendants had and have a policy or practice of failing to comply with Labor Code
6 section 226, subdivision (a), by intentionally failing to furnish Plaintiff and Aggrieved Employees
7 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
8 wages earned; the name and address of each employer with whom they have been placed to work;
9 all applicable hourly rates in effect during the pay period and the corresponding number of hours
10 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
11 entity securing the employer's services if the employer is a farm labor contractor; and other such
12 information as required by Labor Code section 226, subdivision (a).

13 50. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
14 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
15 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
16 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
17 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

18 51. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
19 this section are in addition to any other penalty provided by law."

20 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
21 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
22 statements that accurately reflect gross wages earned; total hours worked; net wages earned; all
23 deductions; all applicable hourly rates in effect and the corresponding number of hours worked at
24 each hourly rate in effect during the pay period; the legal name of the employer and/or the name and
25 address of the legal entity securing the employer's services if the employer is a farm labor contractor;
26 and other such information as required by Labor Code section 226, subdivision (a).

27 53. Pursuant to Labor Code section 226.3, Aggrieved Employees are entitled to recover
28 civil penalties for Defendants' violation of Labor Code section 226, subdivision (a), in the amount

1 of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial
2 violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period for each
3 subsequent violation.

4 54. Plaintiff does not seek to recover Plaintiff's 25% share of civil penalties for the
5 particular Labor Code violation(s) that Plaintiff experienced.

6 Violation of Labor Code § 558

7 55. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
8 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
9 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
10 penalty as follows:

11 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
12 pay period for which the employee was underpaid in addition to an amount sufficient
13 to recover underpaid wages;

14 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
15 employee for each pay period for which the employee was underpaid in addition to
16 an amount sufficient to recover underpaid wages;

17 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

18 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
19 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
20 failing to provide written notice in the language Defendant normally uses to communicate
21 employment-related information to the employee, containing the following information: pay the
22 rates of pay and overtime rates of pay applicable to their employment; allowances claimed as part
23 of the minimum wage; the regular payday designated by Defendants; Defendants' name(s),
24 including "doing business as" names used; the name, address, and telephone number of the workers'
25 compensation insurance carrier; information regarding paid sick leave; and other pertinent
26 information required to be disclosed by Defendants.

27 57. As a direct and proximate result of the herein-described Labor Code violations,
28 pursuant to Labor Code section 558, Aggrieved Employees are entitled to recover civil penalties for

1 Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each
2 Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for
3 each Aggrieved Employee per pay period for each subsequent violation.

4 58. Plaintiff does not seek to recover Plaintiff's 25% share of civil penalties for the
5 particular Labor Code violation(s) that Plaintiff experienced.

6 Violation of Labor Code § 1174.5

7 59. At all times mentioned herein, Labor Code section 1174, subdivision (b), has
8 required every person employing labor in California to "[a]llow any member of the commission or
9 the employees of the Division of Labor Standards Enforcement free access to the place of business
10 or employment of the person to secure any information or make any investigation that they are
11 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
12 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
13 or papers of the person."

14 60. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
15 every person employing labor in California to "[k]eep a record showing the names and addresses of
16 all employees employed and the ages of all minors."

17 61. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
18 every person employing labor in California to "[k]eep, at a central location in the state or at the
19 plants or establishments at which employees are employed, payroll records showing the hours
20 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
21 piece rate paid to, employees employed at the respective plants or establishments. These records
22 shall be kept in accordance with rules established for this purpose by the commission, but in any
23 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
24 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
25 earned."

26 62. Pursuant to Labor Code section 1174.5, "[a]ny person employing labor who willfully
27 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
28 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any

1 member of the commission or employees of the division to inspect records pursuant to subdivision
2 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

3 63. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
4 willfully failed to keep adequate or accurate time records including wage statements and similar
5 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
6 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
7 under Labor Code section 1174.

8 64. As a direct and proximate result of the herein-described Labor Code violations,
9 pursuant to Labor Code section 1174.5, Aggrieved Employees are entitled to recover civil penalties
10 for Defendants' herein-described Labor Code violations in the amount of five hundred dollars
11 (\$500) per violation per Aggrieved Employee.

12 65. Plaintiff does not seek to recover Plaintiff's 25% share of civil penalties for the
13 particular Labor Code violation(s) that Plaintiff experienced.

14 Violation of Labor Code § 1197.1

15 66. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
16 person acting either individually or as an officer, agent, or employee of another person, who pays
17 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
18 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
19 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
20 Section 203 as follows:

21 (1) For any initial violation that is intentionally committed, one hundred dollars
22 (\$100) for each underpaid employee for each pay period for which the
23 employee is underpaid. This amount shall be in addition to an amount
24 sufficient to recover underpaid wages, liquidated damages pursuant to Section
25 1194.2, and any applicable penalties imposed pursuant to Section 203.

26 (2) For each subsequent violation for the same specific offense, two hundred fifty
27 dollars (\$250) for each underpaid employee for each pay period for which the
28 employee is underpaid regardless of whether the initial violation is

1 intentionally committed. This amount shall be in addition to an amount
2 sufficient to recover underpaid wages, liquidated damages pursuant to Section
3 1194.2, and any applicable penalties imposed pursuant to Section 203.

4 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
5 Section 203, recovered pursuant to this section shall be paid to the affected
6 employee.”

7 67. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
8 Aggrieved Employees not to be paid minimum wages as a result of Defendants, without limitation,
9 routinely failing to pay Aggrieved Employees’ minimum wages for all hours Aggrieved Employees
10 worked or were otherwise under Defendants’ control due to, without limitation, routinely failing to
11 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
12 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at
13 the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,
14 entitling Plaintiff and other Aggrieved Employees to actual and liquidated damages.

15 68. As a direct and proximate result of the herein-described Labor Code violations,
16 pursuant to Labor Code section 1197.1, Aggrieved Employees are entitled to recover civil penalties
17 for Defendants’ herein-described Labor Code violations in the amount one hundred dollars (\$100)
18 for each Aggrieved Employee per pay period for the initial violation, and two hundred and fifty
19 dollars (\$250) for each Aggrieved Employee per pay period for each subsequent violation.

20 69. Plaintiff does not seek to recover Plaintiff’s 25% share of civil penalties for the
21 particular Labor Code violation(s) that Plaintiff experienced.

22 Civil Penalties Under Labor Code § 2699

23 70. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
24 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
25 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
26 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
27 action brought by an aggrieved employee on behalf of himself or herself and other current or former
28 employees pursuant to the procedures specified in Labor Code section 2699.3.

1 71. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
2 Code except those for which a civil penalty is specifically provided, the established civil penalty for
3 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
4 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
5 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
6 employee per pay period for each subsequent violation.

7 72. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
8 each of them, violated the Labor Code sections described herein, including, without limitation, for
9 the failure to provide Aggrieved Employees with the amount of paid sick leave required to be
10 provided pursuant to California and local laws and provide written notice in the language Defendant
11 normally uses to communicate employment-related information to the employee, containing the
12 following information: pay the rates of pay and overtime rates of pay applicable to their
13 employment; allowances claimed as part of the minimum wage; the regular payday designated by
14 Defendants; Defendants' name(s), including "doing business as" names used; the name, address,
15 and telephone number of the workers' compensation insurance carrier; information regarding paid
16 sick leave; and other pertinent information required to be disclosed by Defendants under Labor Code
17 section 2810.5.

18 73. Moreover, Aggrieved Employees within the State of California are entitled to an
19 award of reasonable attorneys' fees and costs in connection with their herein-described claims for
20 civil penalties.

21 74. Plaintiff does not seek to recover Plaintiff's 25% share of civil penalties for the
22 particular Labor Code violation(s) that Plaintiff experienced.

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1 **PRAYER**

2 **WHEREFORE**, on behalf of Aggrieved Employees, Plaintiff prays for judgment against
3 Defendants as follows:

- 4 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
5 1174.5, 1197.1, and 2699 for all Aggrieved Employees aside from Plaintiff;
6 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
7 210, 226.3, 558, 1174.5, 1197.1, and 2699;
8 C. Pre-judgment and post-judgment interest;
9 D. For costs of suit incurred herein; and
10 E. Such other and further relief as the Court deems just and proper.

11
12
13 Dated: August 23, 2024

BIBIYAN LAW GROUP, P.C.

14
15 BY: /s/ Jason Rothman

16 David Bibiyan

17 Jeffrey Klein

18 Jason Rothman

19 Sarah Cohen

20 Attorneys for Plaintiff LLIyana Lupa Qualaq, as an
21 aggrieved employee on behalf of all other aggrieved
22 employees under the Labor Code Private Attorneys'
23 General Act of 2004
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27
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