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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 SAN MATEO

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

Plaintiff,

v.

ZOOX LABS, INC., a Delaware corporation;
HIREART, INC., a Delaware corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 24-CIV-03273

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
\$25,000.00]

Electronically
FILED

by Superior Court of California, County of San Mateo

ON

5/29/2024

By /s/ Hessen Ladcani
Deputy Clerk

1 Plaintiff Jessica Chui, as an aggrieved employee, and on behalf of all other aggrieved
2 employees under the Labor Code Private Attorneys' General Act of 2004, alleges as follows:

3 **JURISDICTION AND VENUE**

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

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

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

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1 4. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
2 Defendants during the applicable statutory period and suffered one or more of the Labor Code
3 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
4 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
5 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
6 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
7 employees of Defendants during the Civil Penalty Period.

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

12 6. During the period beginning one (1) year preceding the provision of notice to the
13 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
14 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210,
15 212, 213, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, 246, 404, 432, 432.3, 432.5, 432.7,
16 432.8, 510, 512, 558, 1102.5, 1174, 1174.5, 11821.12, 1194, 1197, 1197.1, 1197.5, 1198.5, 1527,
17 2699, 2802, 2810.3, 2810.5, 3366, 3457, and 8397.4, among others, California Code of Regulations,
18 Title 8, Section 3395, Business and Professions Code sections 16600, 16700, and 17200,
19 Government Code section 12952, as well as applicable Wage Orders.

20 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
21 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
22 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
23 specified in Labor Code section 2699.3.

24 8. On or around February 20, 2024, Plaintiff provided written notice pursuant to Labor
25 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
26 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
27 as well as by certified mail, with return receipt requested to Defendants, and each of them.

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9. Plaintiff also provided Defendants, and each of them, with notice under Labor Code section 2810.3, subdivision (d) that Plaintiff would seek to hold them liable for each other's wage and hour violations under Labor Code section 2810.3 on February 20, 2024 by certified mail with return receipt requested.

10. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar days of the February 20, 2024 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendants.

PAGA REPRESENTATIVE ALLEGATIONS

11. At all relevant times mentioned herein, Defendants had and have a policy or practice of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of California in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to remain on-call, to suffer under Defendants' control to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off the clock; failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, and other forms of remuneration into the regular rate of pay for the pay periods where overtime was worked and the additional compensation was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked, for paying straight pay instead of overtime pay, and by attempting but failing to properly implement an alternative workweek schedule ("AWS") (including, without limitation, by failing to implement a written agreement designating the regularly scheduled alternative workweek in which the specified number of work days and work

1 hours are regularly recurring; failing to adopt the AWS in a secret ballot election, before the
2 performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit;
3 failing to follow the notice/disclosures procedures prior to any AWS election; and/or failing to
4 register an AWS election with the State of California, as required by Labor Code section 511 and
5 applicable Wage Orders), to the detriment of Plaintiff and other Aggrieved Employees.

6 12. At all relevant times mentioned herein, Defendants had and have a practice or policy
7 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
8 worked or otherwise under Defendants' control as a result of, without limitation, failing to
9 accurately track and/or pay for all minutes actually worked; by requiring Aggrieved Employees: to
10 remain on-call; to suffer under Defendants' control to complete pre-shift tasks before clocking in
11 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to don
12 and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock,
13 to make phone calls or drive off the clock; detrimental rounding of employee time entries, editing
14 and/or manipulation of time entries to show less hours than actually worked; failing to pay reporting
15 time pay; paid time off and vacation time owed; and failing to pay split shift, to the detriment of
16 Plaintiff and other Aggrieved Employees.

17 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
18 of failing to provide Plaintiff and other Aggrieved Employees a thirty (30) minute uninterrupted,
19 timely, and complete meal period for days on which the employee worked in excess of five (5) and
20 ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal
21 periods or compensation in lieu thereof including, without limitation, by interrupting meal periods;
22 not providing timely meal periods; failing to provide first and second meal periods; providing short
23 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
24 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
25 periods; and/or auto-deducting meal periods that could not be auto-deducted by law or during which
26 employees worked, as required by California wage and hour laws.

27 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
28 of failing to provide Plaintiff and other Aggrieved Employees paid, uninterrupted, timely, and

1 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions
2 thereof, or compensation in lieu thereof, including, without limitation, by failing to provide rest
3 periods all together; requiring that they be bundled together and/or with meal periods; interrupting
4 them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not
5 providing them in a timely fashion; and not permitting employees to leave the premises; and/or
6 otherwise requiring on-duty/on-call rest periods, as required by California wage and hour laws.

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

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

16 17. At all times mentioned herein, Defendants had and have a policy or practice of
17 unlawfully deducting wages due, or to become due, or as an advance on wages to be earned; an
18 order, check, draft, note, memorandum, gift card, or other acknowledgment of indebtedness, (unless
19 it was negotiable and payable in cash, on demand, without discount, at some established place of
20 business in the state), the name and address of which must but did not appear on the instrument, and
21 at the time of its issuance and for a reasonable time thereafter, which must be but was not at least
22 30 days, the maker or drawer did not have sufficient funds in, or credit arrangement, or
23 understanding with the drawee for its payment of any scrip, coupon, or other thing redeemable, in
24 merchandise, or purporting to be payable or redeemable otherwise than in money. Plaintiff is further
25 informed and believes, and based thereon alleges that such wages were not compensated at the
26 "regular rate" of compensation as provided under Labor Code sections 226.7 and 510, subsection
27 (a).

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

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

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

22 21. At all relevant times herein, Defendants had and have a policy or practice of failing
23 to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon
24 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
25 and applicable Wage Orders.

26 22. At all relevant times mentioned herein, Defendants have had a policy or practice of
27 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
28 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal

1 vehicles (*i.e.*, mileage and gas), purchasing uniforms, including, without limitation, for steel-toe
2 boots, non-slip shoes, and other safety and/or personal protective equipment (“PPE”), providing
3 uniform and other deposits, separately laundering mandatory uniforms, for the purchase of tools,
4 and for the purchase and maintenance of cellular phones and cellular phone plans, in direct
5 consequence of the discharge of their duties, or of their obedience to the directions of Defendants,
6 as required by Labor Code 2802.

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

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

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

23 26. At all relevant times mentioned herein, Defendants have had a policy or practice of
24 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
25 Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of
26 any calendar month shall be paid for between the 16th and 26th day of the month during which the
27 labor was performed, and labor performed between the 16th and the last day, inclusive of any
28 calendar month, shall be paid for between the 1st and 10th day of the following month.”

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

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

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

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

1 to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that
2 occurred while the person was subject to the process and jurisdiction of the juvenile court, to the
3 detriment of Plaintiff and other Aggrieved Employees

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

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

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

25 34. Defendants had and have a policy or practice of preventing Plaintiff and/or other
26 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
27 to their managers or outside to private attorneys or government officials, among others, in violation
28 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section

1 1102.5. In addition, Plaintiff is informed and believes that Defendants' herein-described policies
2 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
3 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
4 of Labor Code section 232 and 232.5.

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

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

16 **PARTIES**

17 **A. Plaintiff**

18 37. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
19 is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-
20 exempt employee, with duties that included, but were not limited to, cleaning and maintaining
21 company vehicles. Plaintiff is informed and believes that Plaintiff worked for Defendants from
22 approximately March of 2023 through at least May of 2023.

23 **B. Defendants**

24 38. Plaintiff is informed and believes and based thereon alleges that defendant Zoxx is,
25 and at all times relevant hereto was, a corporation organized and existing under and by virtue of the
26 laws of the State of Delaware and doing business in the County of San Mateo, State of California.

27 39. Plaintiff is informed and believes and based thereon alleges that defendant Hireart
28 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of

1 the laws of the State of Delaware and doing business in the County of San Mateo, State of California.

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

15 **JOINT LIABILITY ALLEGATIONS**

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

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

1 aforementioned corporate employees, agents and representatives.

2 43. Plaintiff is informed and believes, and based thereon alleges, that despite the
3 formation of the purported corporate existence of Zoox, Hireart, and DOES 1 through 50, inclusive
4 (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through
5 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

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

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

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

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

25 e. The recognition of the separate existence of the Individual Defendants from
26 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
27 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
28 and other statutory violations. The corporate existence of these defendants should thus be

1 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
2 and injustice to Plaintiff herein;

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

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

8 **FIRST CAUSE OF ACTION**

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

10 45. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
11 preceding paragraphs as though fully set forth hereat.

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

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

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

25 48. At all relevant times herein, Defendants have had a consistent policy or practice of
26 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
27 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
28 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor

1 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
2 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
3 for each subsequent violation in connection with each payment that was made in violation of Labor
4 Code section 204.

5 Civil Penalties Under Labor Code § 226.3

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

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

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

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

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53. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 558

54. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours and days of work in any 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 and 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;
- (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

55. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by employer, the name of the employer, including any “doing business as” names used, the name, address, and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information.

56. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars

1 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

2 Violation of Labor Code § 1174.5

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

10 58. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
11 every person employing labor in California to “[k]eep a record showing the names and addresses of
12 all employees employed and the ages of all minors.”

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

22 60. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
23 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
24 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
25 member of the commission or employees of the division to inspect records pursuant to subdivision
26 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

27 61. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
28 willfully failed to keep adequate or accurate time records including wage statements and similar

1 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
2 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
3 under Labor Code section 1174.

4 62. As a direct and proximate result of the herein-described Labor Code violations,
5 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
6 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five
7 hundred dollars (\$500) per violation per Aggrieved Employee.

8 Violation of Labor Code § 1197.1

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

15 (1) For any initial violation that is intentionally committed, one hundred dollars
16 (\$100) for each underpaid employee for each pay period for which the
17 employee is underpaid. This amount shall be in addition to an amount
18 sufficient to recover underpaid wages, liquidated damages pursuant to Section
19 1194.2, and any applicable penalties imposed pursuant to Section 203.

20 (2) For each subsequent violation for the same specific offense, two hundred fifty
21 dollars (\$250) for each underpaid employee for each pay period for which the
22 employee is underpaid regardless of whether the initial violation is
23 intentionally committed. 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 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
27 Section 203, recovered pursuant to this section shall be paid to the affected
28 employee."

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

9 65. As a direct and proximate result of the herein-described Labor Code violations,
10 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
11 recover civil penalties for Defendants' herein-described Labor Code violations in the amount one
12 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
13 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
14 subsequent violation.

15 Civil Penalties Under Labor Code § 2699

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

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

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68. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described herein, including, without limitation, for the failure to: pay the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the name of the employer, including “doing business as” names used, the name, address, and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Defendants under Labor Code section 2810.5, failing to provide Plaintiff and other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to California and local laws.

69. Moreover, Plaintiff and other Aggrieved Employees within the State of California whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

REQUEST FOR JURY TRIAL

70. Plaintiff hereby requests a trial by jury.

PRAYER

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

- A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- C. Pre-judgment and post-judgment interest;
- D. For costs of suit incurred herein; and

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E. Such other and further relief as the Court deems just and proper.

Dated: May 29, 2024

BIBIYAN LAW GROUP, P.C.

BY: /s/ Henry G. Glitz

DAVID D. BIBIYAN

JEFFREY D. KLEIN

HENRY G. GLITZ

Attorneys for Plaintiff JESSICA CHUI , as an
aggrieved employee, and on behalf of all other
aggrieved employees under the Labor Code
Private Attorneys' General Act of 2004