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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

BRYAN HEREDIA, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

REMEDI8, LLC, a Kansas Limited Liability
Company; and DOES 1-100, inclusive,

Defendants.

Case No.: **CVRI 2403198**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, BRYAN HEREDIA, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 REMEDI8, LLC, a Kansas Limited Liability Company; and DOES 1-100, inclusive, (collectively
4 referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges
5 as follows:

6 **INTRODUCTION**

7 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
8 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
9 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
10 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
11 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

12 **JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
14 California statutes, including but not limited to the PAGA, and decisional law and regulations.

15 3. Venue is proper in this judicial district and the County of Riverside pursuant to
16 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
17 this judicial district and conduct alleged by PLAINTIFF herein occurred in this this judicial district.
18 *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue
19 in a PAGA action is proper in any county where the defendants committed Labor Code violations
20 against some of its employees). Venue is also proper pursuant to section 393 of the California Code
21 of Civil Procedure because the cause, or some part of the cause, arose in the County of Riverside.

22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California.

25 5. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
26 DEFENDANTS as a non-exempt employee with a job title(s) of door technician, fire door inspector,
27 installer, repairer and/or a similar title(s) and/or job position(s) from in or around January 2023
28 through in or around July 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS’

1 client(s)' locations in Riverside County, Los Angeles County, San Bernardino County, and San
2 Diego County, California, as assigned by DEFENDANTS.

3 6. Defendant REMEDI8, LLC is a Kansas Limited Liability Company that, at all
4 relevant times, was authorized to do business within the State of California and is doing business in
5 the State of California.

6 7. DEFENDANTS own, operate, manage and/or staff its employees to work at the
7 DEFENDANTS' clients' facilities and/or other location(s) in California, including but not limited
8 to, DEFENDANTS' clients' facilities and/or other locations in Riverside County, Los Angeles
9 County, San Bernardino County, and San Diego County, California. DEFENDANTS, through its
10 various locations, serve the facilities support services industry.¹

11 8. The true names and capacities of the DOE Defendants sued herein as DOES 1
12 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
13 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
14 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
15 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
16 become known.

17 9. PLAINTIFF is further informed and believes that, at all relevant times, each
18 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
19 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
20 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
21 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
22 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
23 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
24 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
25 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
26 controlled, aided and abetted the conduct of all other Defendants.

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28 ¹ See <https://www.myremedi8.com/>. Last visited on June 3, 2024.

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1 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
2 policies and practices regardless of the location(s) where they worked. Among other things,
3 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
4 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
5 over the day-to-day operations and employment matters, including the power to hire and fire, set
6 schedules, issue employee policies, and determine rates of compensation across its locations in
7 California; (3) DEFENDANTS utilize the same policies and procedures for all California
8 employees, including issuing the same employee handbooks and other form agreements; (4)
9 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
10 employment matters; and, (6) DEFENDANTS share employees.

11 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
12 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and Aggrieved
13 Employees upon whose behalf PLAINTIFF brings these allegations and cause of action, in that
14 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
15 wages, hours and working conditions, and/or suffered or permitted them to work so as to be
16 considered the joint employers of PLAINTIFF and Aggrieved Employees.

17 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
18 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
19 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
20 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
21 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
22 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
23 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
24 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
25 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
26 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
27 writing the details of their compensation, and the manner in which they were to take meal and rest
28 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked

1 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
2 collectively would evaluate their wage rates.

3 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
4 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
5 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
6 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
7 PLAINTIFF seeks relief in this Complaint.

8 16. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
9 control over, applied the same policies and practices, and engaged in the same acts and omissions
10 with regard to the other Aggrieved Employees.

11 17. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must
12 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
13 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
14 services from which they benefited, and furthermore that the aforementioned entities had the right
15 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
16 times herein, so as to be considered the joint employers of PLAINTIFF.

17 18. By reason of their status as joint employers of PLAINTIFF and Aggrieved
18 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
19 Code and applicable Wage Orders as to all Aggrieved Employees.

20 **PAGA ALLEGATIONS**

21 19. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
22 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
23 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

24 All current and former non-exempt employees that worked either
25 directly or via a staffing agency for any one or more of the
26 DEFENDANTS at any location in California at any time from one
27 year plus 65 days from the filing of the initial Complaint through the
28 present ("PAGA Period").

1 20. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
2 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
3 limitations period and suffered one or more of the Labor Code violations set forth herein.
4 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
5 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
6 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
7 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
8 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
9 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
10 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
11 *Id.* at 760-761.

12 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

13 21. PLAINTIFF, on March 28, 2024, through counsel, gave written notice by online
14 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
15 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
16 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
17 certified mail.

18 22. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
19 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
20 Employees.

21 23. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
22 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
23 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
24 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
25 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

26 24. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
27 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
28 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

1 **FACTUAL ALLEGATIONS**

2 25. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees
3 worked for DEFENDANTS in the State of California. At all times referenced herein,
4 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or
5 permitted them to work.

6 26. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
7 DEFENDANTS as a non-exempt employee with a job title(s) of door technician, fire door inspector,
8 installer, repairer and/or a similar title(s) and/or job position(s) from in or around January 2023
9 through in or around July 2023.

10 27. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Riverside County, Los
11 Angeles County, San Bernardino County, and San Diego County, California location(s).
12 PLAINTIFF regularly worked at least eight (8) to twelve (12) hours per day.

13 28. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
14 hourly basis for time counted by DEFENDANTS as hours worked.

15 29. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
16 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
17 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
18 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
19 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
20 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
21 below.

22 30. Based on information and belief, DEFENDANTS implemented a policy and/or
23 practice of rounding meal period start and end times and/or automatically deducting at least thirty
24 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
25 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
26 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
27 PLAINTIFF and Aggrieved Employees of all wages owed.

28 31. Based on information and belief, Aggrieved Employees were not paid for all hours
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PLAINTIFF'S REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS
GENERAL ACT

1 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
2 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
3 the clock work policies and/or practices.

4 32. For example, based on information and belief, DEFENDANTS required Aggrieved
5 Employees to be at their assigned workstations at the start of a scheduled shift, thereby forcing
6 Aggrieved Employees to gather work-related equipment and/or safety gear, make any necessary
7 adjustments to tools/equipment and/or perform maintenance/cleaning tasks, don work
8 clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their
9 scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock
10 work.

11 33. Based on information and belief, at times, Aggrieved Employees were required to
12 stand in line behind other employees to access DEFENDANTS' time-keeping system and/or were
13 required to spend time reinitiating DEFENDANTS' time-keeping system before they could clock
14 in for the start of their shifts and/or after completing a purported meal period.

15 34. Based on information and belief, Aggrieved Employees were required to complete
16 other off-the-clock work tasks after clocking out for the end of their shifts and/or during
17 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum
18 and overtime wages owed to Aggrieved Employees.

19 35. For example, based on information and belief, DEFENDANTS required Aggrieved
20 Employees to clock out for the end of their shifts but to continue working due to the need to
21 return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates
22 and/or debriefings and/or participate in work meetings, respond to work-related communications
23 and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages
24 and overtime wages owed to Aggrieved Employees.

25 36. For example, DEFENDANTS required PLAINTIFF to perform work prior to
26 clocking in for the start of his shift and/or after clocking out for the end of his shift and/or during
27 unpaid meal periods, including but not limited to, completing off-the-clock work-related driving
28 and/or other off-the-clock work tasks, however, DEFENDANTS did not compensate PLAINTIFF

1 at all and/or in full for all work-related travel time, including but not limited to, all time spent
2 performing off-the-clock work-related driving tasks and/or completing other off-the-clock work
3 tasks.

4 37. For example, at times, DEFENDANTS required PLAINTIFF to drive for at least
5 approximately two (2) hours per workday, however, DEFENDANTS would only compensate
6 PLAINTIFF for a maximum of one (1) hour of drive time per workday, if at all, resulting in
7 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
8 wages owed to PLAINTIFF.

9 38. Based on information and belief, DEFENDANTS did not compensate Aggrieved
10 Employees for all time spent donning and doffing personal protective equipment, safety equipment
11 and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses, headwear/protective headgear,
12 coveralls and/or face masks) during meal periods, before the start of a scheduled shift, and after
13 completing a scheduled shift, resulting in DEFENDANTS' failure to pay Aggrieved Employees for
14 all work time and the underpayment of minimum wages and overtime wages owed to Aggrieved
15 Employees.

16 39. Based on information and belief, at times, EMPLOYER's electronic time-keeping
17 system/app malfunctioned such that Aggrieved Employees were required to either reinitiate and/or
18 otherwise troubleshoot the system and/or wait for the system to boot prior to being able to clock in
19 and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal
20 periods, resulting in off-the-clock work and the underpayment of wages owed to Aggrieved
21 Employees. Based on information and belief, Aggrieved Employees experienced the same issues
22 when clocking out for shifts and/or back in for meal periods. This time spent under EMPLOYER's
23 control was not recorded and not compensated and resulted in unpaid minimum wages owed to
24 Aggrieved Employees.

25 40. Based on information and belief, Aggrieved Employees were required to undergo
26 security screenings and/or other mandated screenings before and/or after a scheduled shift and/or
27 before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

28 41. Based on information and belief, DEFENDANTS required Aggrieved Employees to

1 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
2 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

3 Based on information and belief, Aggrieved Employees were also pressured to complete at least
4 some additional work tasks off-the-clock in order to meet DEFENDANTS' goals and expectations.

5 42. For example, based on information and belief, Aggrieved Employees were required
6 to complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-
7 related phone calls and/or messages they received to their phones and/or mobile devices and were
8 required to respond to, including but not limited to, communications from supervisors regarding
9 scheduling and/or other work tasks, resulting in the underpayment of wages owed to Aggrieved
10 Employees.

11 43. Based on information and belief, DEFENDANTS failed to compensate Aggrieved
12 Employees for all time spent completing DEFENDANTS' required trainings and/or courses and/or
13 testings and/or certifications, resulting in DEFENDANTS' failure to compensate Aggrieved
14 Employees for all hours worked and the underpayment of wages owed to Aggrieved Employees.

15 44. Based on information and belief, DEFENDANTS engaged in systemic time record
16 manipulation to shave time worked off PLAINTIFF and other Aggrieved Employees' workdays,
17 by, for example, editing time records to delete portions of total hours worked or otherwise understate
18 actual hours worked by PLAINTIFF and other Aggrieved Employees, resulting in denied wages
19 owed to Aggrieved Employees.

20 45. For example, at times, PLAINTIFF was required to complete work tasks before
21 clocking in for work and/or after clocking out of work as DEFENDANTS did not want PLAINTIFF
22 to continue working overtime hours. As such, PLAINTIFF was frequently forced to complete his
23 work tasks off-the-clock in order to avoid and/or reduce the number of overtime hours worked.
24 DEFENDANTS knew that the assigned workload would require PLAINTIFF to work well over
25 eight (8) hours in a workday and/or forty hours in a workweek, however, DEFENDANTS would
26 systemically alter PLAINTIFF's time records to delete portions of PLAINTIFF's total hours
27 worked, including but not limited to, hours worked above eight (8) hours in a day and/or beyond
28 forty hours in a week, thereby failing to compensate PLAINTIFF for all hours worked resulting in

1 the underpayment of minimum wages and overtime wages owed to PLAINTIFF.

2 46. For example, on at least one occasion, PLAINTIFF worked at least twelve and one-
3 half (12 1/2) hours, however, DEFENDANTS only compensated PLAINTIFF for a maximum of
4 eight (8) hours worked for the workday, resulting in DEFENDANTS' failure to compensate
5 PLAINTIFF for all hours worked as well as denied minimum wages, overtime wages, and double
6 time wages.

7 47. Based on information and belief, DEFENDANTS failed to pay Aggrieved
8 Employees the applicable minimum wage for the county and/or city within which the Aggrieved
9 Employee worked in California.

10 48. Based on information and belief, DEFENDANTS failed to pay Aggrieved
11 Employees for time they were required to spend completing orientation, policy questionnaires,
12 and/or time spent completing the onboarding process including but not limited to reviewing various
13 documents and policies provided by DEFEDANTS. Based on information and belief, this work time
14 was completed off-the-clock and was not compensated.

15 49. Based in information and belief, DEFENDANTS implemented a time-rounding
16 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
17 compensable time because the time-rounding system implemented by DEFENDANTS would
18 almost always, if not always, result in understating actual compensable work time.

19 50. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
20 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
21 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
22 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
23 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
24 forty (40) hours in a week.

25 51. Based on information and belief, DEFENDANTS had actual and/or constructive
26 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
27 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
28 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation

1 of California's minimum and overtime wage laws.

2 52. Based on information and belief, DEFENDANTS failed and continue to fail to pay
3 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
4 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
5 a work week, in violation of California's overtime laws.

6 53. Based on information and belief, DEFENDANTS failed to incorporate all non-
7 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
8 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
9 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
10 wages owed to PLAINTIFF and other Aggrieved Employees.

11 54. For example, based on information and belief, DEFENDANTS compensated
12 Aggrieved Employees with non-discretionary bonuses/incentive pay and/or shift differential pay
13 and/or other non-discretionary compensation during pay periods in which those Aggrieved
14 Employees worked overtime, however, DEFENDANTS failed to incorporate all non-discretionary
15 compensation into the regular rate(s) of pay used to calculate the owed overtime rate(s) resulting in
16 the miscalculation of the owed overtime rate(s) and the underpayment of overtime wages owed to
17 Aggrieved Employees as well as wage statement violations described below.

18 55. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
19 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
20 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
21 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
22 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
23 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
24 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
25 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
26 completely.

27 56. For example, based on information and belief, Aggrieved Employees were forced to
28 take late meal periods in order to complete assigned job duties.

1 57. Based on information and belief, Aggrieved Employees were also interrupted during
2 purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS'
3 premises due to the need to continue assigned job duties.

4 58. For example, PLAINTIFF was frequently if not always required to take shortened
5 meal periods, late meal periods and/or interrupted meal periods and/or work through his meal
6 periods completely due to the need to complete assigned job duties.

7 59. For example, at times, PLAINTIFF was forced to take his meal period late (i.e. after
8 the fifth hour of work) due to the need to complete assigned job duties. For example,
9 DEFENDANTS' time records for PLAINTIFF for including but not limited to the following dates
10 show a clock out for a meal period after the fifth hour of work: May 4, 2023, May 22, 2023, and
11 July 10, 2023. DEFENDANTS' wage statements for PLAINTIFF for pay periods inclusive of these
12 dates do not reflect the payment of a single meal period premium.

13 60. At other times, PLAINTIFF was forced to work through his meal period completely
14 due to the need to continue completing assigned job duties. For example, DEFENDANTS' time
15 records for PLAINTIFF for including but not limited to the following dates show PLAINTIFF
16 worked shifts lasting more than five and one-half hours without clocking out for any meal period:
17 June 8, 2023, June 19, 2023, June 21, 2023, June 22, 2023, June 28, 2023, June 29, 2023, July 10,
18 2023, and July 11, 2023. DEFENDANTS' wage statements for PLAINTIFF for pay periods
19 inclusive of these dates do not reflect the payment of a single meal period premium.

20 61. Still, at other times, PLAINTIFF was required to take shortened meal periods due to
21 the need to complete assigned job duties. For example, DEFENDANTS' time records for including
22 but not limited to, May 22, 2023, show PLAINTIFF clocked out for a meal period that was less than
23 thirty minutes, in violation of California meal period law. DEFENDANTS' wage statements for
24 PLAINTIFF for pay periods inclusive of these dates do not reflect the payment of a single meal
25 period premium.

26 62. Based on information and belief, at times, DEFENDANTS would unlawfully edit
27 the clock in and out times for his and other Aggrieved Employees' meal periods in order to display
28 at least a thirty- minute, timely, off-duty meal period during most if not all shifts worked,

1 notwithstanding the fact that DEFENDANTS had actual and/or constructive knowledge that
2 DEFENDANTS had required PLAINTIFF and other Aggrieved Employees' to perform work-
3 related tasks during their meal periods.

4 63. Based on information and belief, other Aggrieved Employees were consistently
5 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
6 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
7 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
8 expectations.

9 64. Based on information and belief, DEFENDANTS implemented policies and/or
10 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
11 during unpaid meal periods.

12 65. Based on information and belief, DEFENDANTS required Aggrieved Employees to
13 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
14 into account when scheduling meal periods for Aggrieved Employees. Based on information and
15 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

16 66. Based on information and belief, despite DEFENDANTS' failure to provide lawful
17 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
18 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
19 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
20 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
21 Employees did not receive lawful meal periods.

22 67. Moreover, based on information and belief, Aggrieved Employees who worked shifts
23 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

24 68. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
25 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
26 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
27 did DEFENDANTS have any sort of compliant policy in practice.

28 69. Moreover, based on information and belief, DEFENDANTS failed to keep accurate

1 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
2 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
3 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
4 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
5 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

6 70. Based on information and belief, DEFENDANTS had actual and/or constructive
7 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
8 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
9 violation of California's meal period laws.

10 71. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
11 additional hour of wages at their respective regular rates of compensation for each workday a lawful
12 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
13 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
14 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
15 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
16 compensation for purposes of calculating the owed meal period premium.

17 72. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
18 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
19 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
20 middle of the work period, as required by law.

21 73. PLAINTIFF and other Aggrieved Employees were not adequately informed,
22 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
23 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
24 the taking or timing of duty-free rest periods.

25 74. Based on information and belief, DEFENDANTS did not have a have a compliant
26 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
27 practice.

28 75. For example, based on information and belief, Aggrieved Employees were frequently

1 if not always unable to take compliant rest periods due to their need to complete assigned job duties
2 and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported
3 rest periods restricted to DEFENDANTS' premises.

4 76. For example, PLAINTIFF was frequently required to work through part or all of his
5 owed rest periods during most if not all shifts worked during his employment due to the need to
6 complete assigned job duties.

7 77. Based on information and belief, any purported rest periods were interrupted, cut
8 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
9 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
10 completely and/or take non-compliant rest periods.

11 78. Moreover, based on information and belief, DEFENDANTS failed to provide any
12 form of a third rest period on shifts lasting longer than ten hours.

13 79. Based on information and belief, DEFENDANTS implemented policies and/or
14 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
15 DEFENDANTS' control during rest periods.

16 80. Based on information and belief, Aggrieved Employees were pressured to complete
17 their work duties according to a designated schedule such that rest periods were only taken once
18 tasks were completed, and/or as time permitted.

19 81. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
20 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
21 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
22 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
23 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
24 shift differential pay, and/or other non-discretionary compensation into the regular rate of
25 compensation for purposes of calculating the owed rest period premium.

26 82. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
27 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
28 Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the

1 toilet rooms and shall be available to employees during work hours.”

2 83. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
3 there was, and continues to be, space that allows for a resting facility that employees may use to
4 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
5 Employees with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no
6 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
7 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to
8 resting, including but not limited to leaning up against the wall, or search for facilities outside of
9 DEFENDANTS’ premises which are not designated or reserved for their rest, such as their personal
10 vehicles.

11 84. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
12 during their hours of work, particularly during meal and/or rest periods.

13 85. DEFENDANTS’ failure to provide suitable resting facilities to Aggrieved
14 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
15 California Labor Code, including but not limited to section 1198.

16 86. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
17 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
18 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
19 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
20 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
21 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
22 applicable hourly rates in effect during the pay period and the corresponding number of hours
23 worked at each hourly rate by the employee.

24 87. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
25 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
26 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
27 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
28 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid

1 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
2 other off-the-clock work policies and practices described above) which results in a violation of
3 Labor Code section 226(a).

4 88. Separately, and independent of the above allegations, based on information and
5 belief, DEFENDANTS issued wage statements to Aggrieved Employees that failed to list the total
6 hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

7 89. Based on information and belief, DEFENDANTS issued wage statements to
8 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
9 226(a)(4).

10 90. Based on information and belief, wage statements issued by DEFENDANTS failed
11 to list all applicable hourly rates in effect during the pay period and the corresponding number of
12 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
13 Code section 226(a)(9).

14 91. Moreover, based on information and belief, DEFENDANTS issued wage statements
15 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
16 other things, failing to list the correct name and/or address of the legal entity that is the employer,
17 in violation of Labor Code section 226(a)(8).

18 92. Based on information and belief, wage statements issued by DEFENDANTS failed
19 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

20 93. For example, based on information and belief, at times, DEFENDANTS issued wage
21 statements to Aggrieved Employees containing payment for hours worked during previous pay
22 periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate
23 pay period for that retroactive pay, further failing to list the total hours worked for the pay period,
24 including but not limited to, the total hours worked for the pay period the retroactive pay corresponds
25 with, in violation of including but not limited to, Labor Code section 226(a)(2) and/or 226(a)(6).

26 94. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
27 not include all of the statutorily required information, including but not limited to, the correct name
28 and/or address of the legal entity that is the employer.

1 95. Based on further information and belief, DEFENDANTS issued wage statements to
2 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential
3 wages were paid in violation of Labor Code section 226.

4 96. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
5 Employees that were not accurate and did not include all of the statutorily required information. As
6 such, DEFENDANTS violated Labor Code section 226.

7 97. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
8 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
9 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
10 from Aggrieved Employees paychecks during the relevant period including without limitation,
11 deducting business costs and/or deducting wages for purported overpayments from previous pay
12 periods and/or unlawfully deducting wages for negligently damaged property and/or unlawfully
13 deducting transaction fees/pay/money card fees and/or deducting costs advanced by
14 DEFENDANTS. Such a practice is in violation of including but not limited to, Labor Code Sections
15 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

16 98. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
17 provides as follows:

18 99. (A) Each workday an employee is required to report for work and does report, but is
19 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the
20 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two
21 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less
22 than the minimum wage. (B) If an employee is required to report for work a second time in any one
23 workday and is furnished less than two (2) hours of work on the second reporting said employee
24 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
25 minimum wage.

26 100. Aggrieved Employees were not paid reporting time wages in accordance with
27 California law, including but not limited to the applicable IWC Wage Order. For example, based on
28 information and belief, at times, PLAINTIFF and/or other Aggrieved Employees reported to work

1 for a scheduled shift but were sent home and/or were not put to work and were not paid all owed
2 reporting time pay wages in accordance with California law.

3 101. Based on information and belief, DEFENDANTS have a policy and practice of
4 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
5 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
6 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
7 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

8 102. **Failure to Produce Employment Records.** Based on information and belief,
9 DEFENDANTS have a uniform policy and practice of failing to produce or make available a current
10 or former employee's time, pay, and/or personnel records when requested pursuant to Labor Code
11 sections 226, 1198.5, 432, and/or the applicable Wage Order.

12 103. For example, PLAINTIFF, through counsel, sent a written request for payroll and
13 personnel records to DEFENDANTS on or around including but not limited to the following dates:
14 March 26, 2024 and May 9, 2024. Yet, DEFENDANTS failed to timely produce complete records
15 within the time periods delineated by California labor law.

16 104. Based on information and belief, DEFENDANTS failed and continues to fail to
17 timely produce complete payroll and personnel records when requested by other Aggrieved
18 Employees. Based on information and belief, DEFENDANTS failed and continue to fail to timely
19 produce complete time, pay, and personnel records when requested by other Aggrieved Employees.

20 105. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
21 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
22 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
23 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
24 required by law, including but not limited to the following records: total daily hours worked,
25 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
26 began and ended each work period, time records of meal periods, and accurate itemized wage
27 statements.

28 106. DEFENDANTS have failed and continue to fail to keep accurate and complete

1 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
2 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
3 employer control during unpaid meal periods, failure to record the true start and end times of meal
4 periods, shift start times and shift end times, and other off-the-clock work policies and practices
5 described herein.

6 107. **Unreimbursed Business Expenses.** Based on information and belief,
7 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses
8 as a direct consequence of the performance of their job duties without providing reimbursement, in
9 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
10 Aggrieved Employees were improperly required to provide and maintain work tools that are
11 supposed to be the responsibility of the employer.

12 108. Based on information and belief, DEFENDANTS shifted the costs of doing business
13 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
14 to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of Aggrieved
15 Employees' personal cell phones/mobile devices, internet and/or data usage for work-related
16 purposes, including but not limited to, to receive and respond to work-related messages and/or phone
17 calls. For example, based on information and belief, Aggrieved Employees were required to receive
18 and respond to work-related calls and/or messages from supervisors and/or other employees
19 regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all
20 and/or in full for these business expenses.

21 109. For example, DEFENDANTS required PLAINTIFF to use his personal cell phone /
22 mobile device including but not limited to. to download and use work-related applications, including
23 without limitation, a work-related employee time-keeping app he was required to use to clock in
24 and out for his shifts and meal periods, however, at times, including but not limited to, during
25 approximately at least the first few weeks of his employment, DEFENDANTS failed to provide
26 PLAINTIFF with any and/or full reimbursement for these business expenses, including but not
27 limited to, reimbursement for increased data plan charges and/or other business expenses
28 PLAINTIFF incurred as a result of being required to use his personal cell phone/mobile device for

1 work.

2 110. Based on information and belief, Aggrieved Employees were not reimbursed for the
3 cost of purchasing and/or maintaining their own hand tools and/or equipment required to perform
4 their assigned job duties and/or for the costs of purchasing and/or maintaining work
5 uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

6 111. For example, PLAINTIFF was required to purchase and/or maintain his own work-
7 related hand tools and/or power tools and/or other work-related tools and/or work-related
8 equipment, however, DEFENDANTS failed to provide PLAINTIFF with any and/or full
9 reimbursement for the business expenses PLAINTIFF incurred in connection with DEFENDANTS
10 requirement that PLAINTIFF use his personal tools/equipment for work.

11 112. Based on information and belief, at times, Aggrieved Employees were not
12 reimbursed for the business use of their personal vehicles, including mileage, wear and tear and/or
13 cost of fuel when they were required to drive around and/or between job sites, and/or otherwise use
14 their personal vehicles in carrying out the duties assigned by DEFENDANTS.

15 113. For example, PLAINTIFF was required to use his personal vehicle for work,
16 including but not limited to, for driving between assigned job sites on a near daily, if not daily basis,
17 and/or use his personal vehicle for other work-related purposes, however, DEFENDANTS did not
18 provide PLAINTIFF with any and/or full reimbursement for these business expenses PLAINTIFF
19 incurred in connection with being required to use his personal vehicle for work including but not
20 limited to, reimbursement for fuel, mileage and/or vehicle wear and tear.

21 114. As such, DEFENDANTS failed to compensate Aggrieved Employees at the legally
22 mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant
23 period.

24 115. As explained above, based on information and belief, Aggrieved Employees were
25 not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost
26 of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal
27 protective/safety gear.

28 116. Based on information and belief, DEFENDANTS regularly failed to reimburse and

1 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
2 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
3 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
4 assigned by DEFENDANTS.

5 117. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
6 for all reasonable expenses associated with carrying out their duties required that Aggrieved
7 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
8 2802.

9 118. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
10 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
11 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
12 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
13 accrued sick leave hours on the correct number of hours worked (as a result of the
14 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
15 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
16 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
17 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
18 compensation into the sick leave pay rate calculation.

19 119. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
20 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
21 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
22 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
23 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
24 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
25 used sick leave and the balance of paid sick leave.

26 120. Based on information and belief, throughout the relevant time period,
27 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
28 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for

1 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
2 prior to their respective separations, for as on several occasions thereafter, he or she would have
3 been entitled to use the banked sick leave and earn appropriate compensation.

4 121. Upon information and belief, DEFENDANTS failed and continue to fail to comply
5 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
6 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
7 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
8 wages.

9 122. As such, DEFENDANTS have violated California's paid sick leave laws and
10 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
11 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
12 unlawful practices and policies violate Labor Code sections 245-248.5.

13 123. **Seating Violations.** Per section 14(A-B) of all applicable IWC Wage Orders,
14 employees shall be provided with suitable seats when the nature of the work reasonably permits the
15 use of seats and when they are not actively engaged in the work duties that would not permit them
16 to be seated.

17 124. All applicable IWC Wage Orders, Section 14(A-B) provides:

18 (A) All working employees shall be provided with suitable seats when the nature of the
19 work reasonably permits the use of seats.

20 (B) When employees are not engaged in the active duties of their employment and the
21 nature of the work requires standing, an adequate number of suitable seats shall be placed in
22 reasonable proximity to the work area and employees shall be permitted to use such seats when it
23 does not interfere with the performance of their duties.

24 125. Suitable seating is one of the worker protections covered by California's Wage
25 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
26 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
27 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

28 126. Based on information and belief, DEFENDANTS failed to provide Aggrieved
25
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1 Employees with suitable seating, and when such employees were not engaged in duties which
2 required them to stand, no seating was placed in reasonable proximity to their workstations.

3 127. Moreover, based on information and belief, the nature of the work reasonably
4 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
5 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
6 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
7 of seats would not interfere with the performance of their duties.

8 128. **Failure to Pay Vested Vacation/Paid Time Off:** Based on information and belief,
9 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
10 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
11 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
12 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
13 limited to, shift differentials) to Aggrieved Employees upon separation of employment, in violation
14 of California law, including but not limited to, Labor Code section 227.3.

15 129. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
16 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
17 were due and owing upon termination or resignation. Based on information and belief,
18 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
19 requirements of Labor Code sections 201-202.

20 130. Upon separation of employment, Aggrieved Employees' final paychecks were not
21 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
22 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
23 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
24 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
25 accrued rates.

26 131. For example, DEFENDANTS failed to furnish PLAINTIFF with any final paycheck
27 for at least approximately one (1) week following PLAINTIFF's date of resignation, and
28 PLAINTIFF's late final paycheck was devoid of all wages owed, including without limitation, and

1 PLAINTIFF's late final paycheck was devoid of all wages owed, including without limitation, all
2 owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or
3 paid time off wages at the properly accrued rates, (including but not limited to, all owed vacation
4 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
5 limited to, shift differentials).

6 132. For example, PLAINTIFF's employment with DEFENDANTS separated on or
7 around July 12, 2023, however, PLAINTIFF's final paycheck is dated more than a week later – i.e.
8 July 21, 2023, and PLAINTIFF's late final paycheck is devoid of all wages owed, including without
9 limitation, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick
10 leave and/or paid time off wages at the properly accrued rates, (including but not limited to, all owed
11 vacation pay/paid time off paid at the final rate including non-discretionary compensation, including
12 but not limited to, shift differentials).

13 133. Based on further information and belief, DEFENDANTS failed to timely provide all
14 owed wages immediately upon discharge of employment. Based on information and belief, at times,
15 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
16 Aggrieved Employees would not be called in for work for longer than a single pay period due to
17 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
18 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
19 the end of such periods of employment, in violation of including but not limited to Labor Code
20 section 201-202.

21 134. **Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
22 employee who is discharged shall be paid at the place of discharge, and every employee who quits
23 shall be paid at the office or agency of the employer in the county where the employee has been
24 performing labor. All payments shall be made in the manner provided by law.

25 135. Based on information and belief, DEFENDANTS have a policy and practice of
26 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
27 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
28 office or agency of DEFENDANTS in the county where the work was performed, in violation of

1 Labor Code Section 208.

2 136. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

3 137. Based on information and belief, DEFENDANTS required Aggrieved Employees to
4 agree in writing to unlawful conditions of employment, including but not limited to unlawful non-
5 solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements,
6 unlawful releases and/or waivers, including but not limited to, unlawful meal period waivers,
7 unlawful forum selection clauses and/or choice of law provisions/agreements and/or unlawful
8 criminal and/or financial checks in violation of Labor Code section 432.5.

9 138. Violation of Labor Code Section 432.6:

10 139. Based on information and belief, DEFENDANTS required Aggrieved Employees to
11 sign meal period waivers that were universally signed as a condition of employment, including but
12 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
13 under Labor Code section 432.6.

14 140. Labor Code Section 432.6(a) provides:

15 141. “[A] person shall not, as a condition of employment, continued employment, or the
16 receipt of any employment-related benefit, require any applicant for employment or any employee
17 to waive any right...”

18 142. Labor Code Section 432.6(b) provides in pertinent part:

19 143. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
20 applicant for employment or any employee because of the refusal to the waiver of any right...”

21 144. Based on information and belief, DEFENDANTS require/required Aggrieved
22 Employees to waive their right to first and/or second meal periods as a condition of working for
23 DEFENDANTS. Based on further information and belief, if/when Aggrieved Employees do not
24 abide by DEFENDANTS’ policies and rules, of which this waiver is included as part of
25 DEFENDANTS’ policies/rules, said Aggrieved Employees are subject to disciplinary action, up to
26 and including termination. As such, DEFENDANTS violated including but not limited to, Labor
27 Code sections 432.6 and/or 432.5 by virtue of including but not limited to, requiring Aggrieved
28 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,

1 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
2 refusal to waive their meal period rights. Based on information and belief, DEFENDANTS ordered
3 unlawful financial credit checks on Aggrieved Employees, in violation of Labor Code section
4 1024.5, and required Aggrieved Employees to provide ongoing written consent to the unlawful
5 credit checks as a condition of employment, in violation of California and Federal law, which results
6 in a further violation of Labor Code section 432.5.

7 145. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
8 condition of employment, DEFENDANTS violated Labor Code section 432.5.

9 Unlawful Inquires into Criminal History

10 146. Labor Code section 432.7 prohibits an employer from asking applicants about past
11 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
12 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
13 convictions on its employment application, in violation of California law.

14 147. Upon information and belief, DEFENDANTS, in violation of California law,
15 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
16 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
17 employment and/or otherwise impermissibly inquired into criminal history on its employment
18 application in violation of California law, and in violation of Labor code section 432.5.

19 Unlawful PAGA Waiver

20 148. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
21 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
22 to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

23 149. An action pursuant to PAGA “...is a representative action on behalf of the state”
24 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
25 purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and
26 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
27 (“We conclude that where, as here, an employment agreement compels the waiver of representative
28 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

1 150. Moreover, the California Supreme Court has ruled that a court cannot compel
2 arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an
3 individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is
4 no individual component to a PAGA action because 'every PAGA action ... is a representative
5 action on behalf of the state.'")

6 151. Upon information and belief, DEFENDANTS required Aggrieved Employees to
7 agree in writing to waive their right to a trial of PAGA claims in violation of California law. By
8 requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS
9 required written agreement to an unlawful provision as a condition of employment which is a
10 violation of labor code section 432.5.

11 152. **Violation of Labor Code Section 432.6.** Based on information and belief,
12 DEFENDANTS require/required Aggrieved Employees to waive their right to first and/or second
13 meal periods as a condition of working for DEFENDANTS in violation of California law. As such,
14 DEFENDANTS violated including but not limited to, Labor Code section 432.6 by virtue of
15 including but not limited to, requiring Aggrieved Employees to sign invalid meal period waivers as
16 a condition of employment and/or for threatening, retaliating and/or discriminating against and/or
17 terminating Aggrieved Employees because of their refusal to waive their meal period rights.

18 153. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
19 engaged in these same herein described unlawful practices, which led to violations of the California
20 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
21 unlawful practices to all of its employees that it applied to PLAINTIFF.

22 **FIRST CAUSE OF ACTION**
23 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
24 **2698, ET SEQ.**
25 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
26 **Defendants)**

27 154. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

28 **Failure to Keep Accurate Records**

155. California Labor Code § 1174 requires employers to keep "accurate and complete"
payroll records showing, among other things, the hours worked daily by all non-exempt employees.

1 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
2 times during which all owed meal periods were provided each day.

3 156. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
4 and complete records as required by law, including but not limited to the following records: total
5 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
6 Aggrieved Employees began and ended each work period, time records of meal periods, and
7 accurate itemized wage statements.

8 157. DEFENDANTS' failure to keep "accurate and complete" payroll records for
9 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
10 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
11 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
12 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
13 period during which the referenced statutes and Wage Order provisions were violated.²

14 **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

15 158. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage
16 Orders, section 7 require that employers keep the following information on file for each employee
17 for a minimum of three years: The employee's dates of employment; the employee's hourly rates
18 and the corresponding number of hours worked by the employee at each hourly rate, when the
19 employee begins and ends each work period (including meal periods) and split intervals; total hours
20 worked by the employee; all deductions; gross wages earned; and net wages earned.

21 159. Section (b) of Labor Code section 226 further requires employers to "afford current
22 and former employees the right to inspect or receive a copy of records pertaining to their
23 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
24 provides that, "an employer who receives a written or oral request to inspect or receive a copy of

25 ² Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "in addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid") (emphasis added).

1 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
2 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
3 violation of this subdivision is an infraction.” An employer’s failure to comply within this timeframe
4 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
5 the employer. Lab. Code section 226(f).

6 160. Personnel Records. In addition to their right to time and pay records, employees, and
7 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
8 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
9 section 432 further specifies that employers must furnish copies of all employment records bearing
10 the employee’s signature. Labor Code section 1198.5 also requires that the file be made available
11 for inspection or receipt within a “reasonable” amount of time, but “not later than 30 calendar days
12 from the date the employer receives a written request.” An employer’s failure to comply within this
13 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar
14 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

15 161. Based on information and belief, DEFENDANTS fail to timely produce or make
16 available Aggrieved Employees’ personnel records and/or payroll records when requested pursuant
17 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations subject
18 DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

19 **Meal Period Violations**

20 162. California law requires employers to provide employees a duty-free, uninterrupted
21 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
22 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
23 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
24 *Court* (2012) 53 Cal.4th 1004.

25 163. Employers must also provide employees with a second duty-free, uninterrupted thirty
26 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
27 be provided before the end of the 10th hour of work. *Ibid*.

28 164. Employers covered by any and all applicable IWC Wage Orders have an obligation
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1 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
2 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
3 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
4 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
5 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
6 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
7 provided”).

8 165. Employers must pay employees an additional hour of wages at the employees’
9 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
10 meal period, first meal period provided after five (5) hours, second meal period provided after 10
11 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
12 provide an employee a meal period in accordance with the applicable provision of this Order, the
13 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
14 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

15 166. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
16 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
17 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
18 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
19 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
20 periods completely.

21 167. Based on information and belief, DEFENDANTS had and continue to have a policy
22 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
23 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
24 Aggrieved Employees did not receive compliant meal periods.

25 168. Moreover, based on information and belief, Aggrieved Employees did not receive a
26 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

27 169. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
28 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and

1 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
2 violation of California's meal period laws.

3 170. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
4 periods in violation of California law and/or failed to pay the proper meal period premium for failure
5 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
6 differential pay and/or other non-discretionary compensation into the regular rate or compensation
7 for purposes of calculating the owed meal period premium.

8 171. These unlawful meal period policies and practices result in violations of Labor Code
9 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
10 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
11 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
12 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

13 **Rest Period Violations**

14 172. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
15 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
16 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
17 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
18 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
19 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
20 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
21 1029). The rest period requirement obligates employers to permit and authorize employees to take
22 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
23 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
24 257. If the employer fails to provide any required rest period, the employer must pay the employee
25 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
26 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
27 applicable IWC Wage Order, §12(B).

28 173. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
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1 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
2 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
3 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
4 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
5 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
6 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
7 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
8 “onus is on the employer to clearly communicate the authorization and permission [to take rest
9 periods] to its employees.”).

10 174. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
11 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
12 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
13 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
14 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
15 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

16 175. Based on information and belief, DEFENDANTS implemented policies and/or
17 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
18 employer control during rest periods. Based on further information and belief, Aggrieved
19 Employees were pressured to complete their work duties according to a designated schedule such
20 that rest periods were only taken once tasks were completed, and/or as time permitted.

21 176. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
22 first, second, or third rest periods as required by California law.

23 177. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
24 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
25 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
26 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
27 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
28 the regular rate of compensation for purposes of determining the owed rest period premium.

1 178. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
2 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
3 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

4 **Failure to Provide Suitable Resting Facilities**

5 179. Per section 13 of all applicable IWC Wage Orders, employees shall be provided with
6 suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
7 shall be provided in an area separate from the toilet rooms and shall be available to employees during
8 work hours.”

9 180. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
10 there was, and continues to be, space that allows for a resting facility that employees may use to
11 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
12 Employees with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no
13 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
14 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to
15 resting, including but not limited to leaning up against the wall, or search for facilities outside of
16 DEFENDANTS’ premises which are not designated or reserved for their rest, such as their personal
17 vehicles.

18 181. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
19 during their hours of work, particularly during meal and/or rest periods.

20 182. DEFENDANTS’ failure to provide suitable resting facilities to Aggrieved
21 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
22 California Labor Code, including but not limited to section 1198.

23 **Minimum and Overtime Wage Violations**

24 183. California law provides that employees in California must be paid for all hours
25 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
26 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
27 The minimum wage standard applies to each hour employees worked for which they were not paid.
28 Therefore, an employer’s failure to pay for any particular hour worked by an employee is unlawful

1 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
2 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

3 184. California law also provides that employees in California must be paid overtime,
4 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
5 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
6 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
7 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
8 consecutive day of work in a work week. *Ibid.*

9 185. As explained above, DEFENDANTS violated California's minimum and overtime
10 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
11 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
12 start and end times and meal period start and end times), payment according to scheduled hours
13 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
14 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
15 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

16 186. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
17 Aggrieved Employees for all hours worked.

18 187. Based on information and belief, DEFENDANTS had actual or constructive
19 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
20 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
21 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
22 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
23 Employees.

24 188. Based on information and belief, DEFENDANTS failed and continue to fail to pay
25 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
26 in a week.

27 189. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
28 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for

1 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
2 violation of California's overtime laws.

3 190. Based on information and belief, DEFENDANTS calculated the owed overtime
4 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
5 based on the minimum wage established for the city and/or county in which the Aggrieved
6 Employee worked, resulting in the miscalculation and underpayment of overtime wages owed to
7 those Aggrieved Employees.

8 191. Based on information and belief, DEFENDANTS further violated California's
9 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
10 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
11 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
12 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
13 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
14 other Aggrieved Employees.

15 192. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
16 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
17 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
18 Wage Orders, section 20.

19 **Statutory Wage Violations**

20 193. California Labor Code section 223 makes it unlawful for an employer to secretly pay
21 wages lower than required by statute while purporting to pay legal wages. As described above,
22 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
23 earned minimum and overtime compensation for all hours worked which resulted in the payment of
24 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
25 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
26 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
27 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
28 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved

1 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
2 Labor Code § 2699(f)-(g).

3 **Refusal to Make Payment**

4 194. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
5 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
6 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
7 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
8 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
9 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
10 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
11 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

12 **Standard Conditions of Labor Violations**

13 195. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
14 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
15 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
16 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
17 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
18 minimum/overtime wages and other violations described herein result in separate violations of
19 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
20 1197.1 and 2699.

21 **Business Expense Violations**

22 196. California law requires employers to indemnify their employees for all necessary
23 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
24 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
25 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
26

27 ³ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
2 incurred by the employee enforcing the rights granted by this section."

3 197. Among other things, under California law, when employees must use their personal
4 cellphones for work-related purposes, the employer must reimburse them for a reasonable
5 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
6 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
7 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
8 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
9 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
10 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

11 198. Further, "any contract or agreement, express or implied, made by any employee to
12 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
13 any employee or his personal representative of any right or remedy to which he is entitled to under
14 the laws of this State." *See* Cal. Lab. Code section 2804.

15 199. As described above, PLAINTIFF and the Aggrieved Employees were improperly
16 required to pay for business expenses that are legally the responsibility of the employer.

17 200. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
18 full reimbursement for all reasonable expenses associated with carrying out their duties required
19 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
20 expenses in violation of Labor Code section 2802.

21 201. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
22 Employees have suffered injury in that they were not completely reimbursed as mandated by
23 California law.

24 202. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
25 full reimbursement for all reasonable expenses associated with carrying out their duties required
26 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
27 expenses in violation of Labor Code section 2802.

28 203. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved

1 Employees have suffered injury in that they were not completely reimbursed as mandated by
2 California law.

3 204. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
4 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
5 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
6 Code § 2802 and the applicable Wage Order.

7 **Wage Statement Violations**

8 205. California law requires every employer semi-monthly or at the time of each payment
9 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
10 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
11 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
12 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
13 is paid; (7) the name of the employee and only the last four digits of his or her social security number
14 or an employee identification number other than a social security number; (8) the name and address
15 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
16 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

17 206. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
18 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
19 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
20 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
21 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
22 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
23 effect during the pay period and the corresponding number of hours worked at each hourly rate by
24 the employee, in violation of Labor Code section 226(a)(9).

25 207. Moreover, due to violations detailed above, including but not limited to,
26 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
27 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
28 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish

1 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
2 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
3 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
4 compensation earned during the pay period into the regular rate of pay for purposes of calculating
5 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
6 overtime worked by PLAINTIFF and other Aggrieved Employees.

7 208. As explained above, wage statements issued by DEFENDANTS failed to list the
8 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
9 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
10 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
11 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
12 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
13 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

14 209. Based on information and belief, wage statements issued by DEFENDANTS failed
15 to list all applicable hourly rates in effect during the pay period and the corresponding number of
16 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
17 Code section 226(a)(9).

18 210. Separately, and independent from the above allegations, based on information and
19 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
20 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
21 entity that is the employer.

22 211. Based on information and belief, wage statements issued by DEFENDANTS failed
23 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

24 212. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
25 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
26 Employees over whether they received all wages owed to them.

27 213. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
28 they could not easily determine whether they received all wages owed to them and whether they

1 were paid for all hours worked.

2 214. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
3 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
4 injury as they could not contact their employer regarding any question(s) they had about wages paid.

5 215. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
6 Aggrieved Employees with accurate, itemized wage statements.

7 216. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
8 Employees have suffered injury. The absence of accurate information on their wage statements has
9 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
10 mathematical computations to determine the amount of wages owed, and will cause difficulty and
11 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
12 submission of inaccurate information about wages and amounts deducted from wages to state and
13 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
14 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
15 and pay records than if DEFENDANT had complied with its legal obligations.

16 217. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
17 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
18 during which the statute provisions were violated. ⁴

19 **Unlawful Deductions**

20 218. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
21 an employee any part of wages theretofore paid by said employer to said employee." Based on
22 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
23 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
24 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
25 Section 2699.

26 219. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
27 each pay period during which the statute provisions were violated. See Lab. Code §225.5

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is ~~4~~3 per employee per violation").

1 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
2 provided in this article, every person who unlawfully withholds wages due any employee in
3 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
4 to pay each employee”).

5 **Reporting Time Pay Violations**

6 220. Section 5 of all applicable IWC Wage Orders, provides as follows:

7 221. (A) Each workday an employee is required to report for work and does report, but is
8 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the
9 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two
10 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less
11 than the minimum wage. (B) If an employee is required to report for work a second time in any one
12 workday and is furnished less than two (2) hours of work on the second reporting said employee
13 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
14 minimum wage.

15 222. Aggrieved Employees were not paid reporting time wages in accordance with
16 California law, including but not limited to the applicable IWC Wage Order. For example, based on
17 information and belief, at times, PLAINTIFF and/or other Aggrieved Employees reported to work
18 for a scheduled shift but were sent home and/or were not put to work and were not paid all owed
19 reporting time pay wages in accordance with California law.

20 223. Based on information and belief, DEFENDANTS have a policy and practice of
21 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
22 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to
23 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
24 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

25 **Seating Violations**

26 224. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be
27 provided with suitable seats when the nature of the work reasonably permits the use of seats and
28 when they are not actively engaged in the work duties that would not permit them to be seated.

1 225. All applicable IWC Wage Orders, Section 14(A-B) provides:

2 (A) All working employees shall be provided with suitable seats when the nature of the
3 work reasonably permits the use of seats.

4 (B) When employees are not engaged in the active duties of their employment and the
5 nature of the work requires standing, an adequate number of suitable seats shall be placed in
6 reasonable proximity to the work area and employees shall be permitted to use such seats when it
7 does not interfere with the performance of their duties.

8 226. Suitable seating is one of the worker protections covered by California's Wage
9 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
10 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
11 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

12 227. Based on information and belief, DEFENDANTS failed to provide Aggrieved
13 Employees with suitable seating, and when such employees were not engaged in duties which
14 required them to stand, no seating was placed in reasonable proximity to their workstations.

15 228. Moreover, based on information and belief, the nature of the work reasonably
16 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
17 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
18 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
19 of seats would not interfere with the performance of their duties.

20 229. The Aggrieved Employees worked in various positions. The nature of Aggrieved
21 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
22 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
23 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
24 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
25 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
26 separate civil penalty.

27 **Sick Leave Violations**

28 230. DEFENDANTS violated California's paid sick leave laws including, Labor Code

1 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
2 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
3 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
4 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
5 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
6 compensation into the sick leave pay rate calculation.

7 231. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
8 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
9 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
10 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
11 Aggrieved Employees' intelligent exercise of their paid sick leave.

12 232. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
13 their paid sick leave at least prior to their respective separations, for as on several occasions
14 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
15 compensation.

16 233. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
17 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
18 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
19 were entitled to the maximum number of hours accruable.

20 234. Upon information and belief, DEFENDANTS failed and continue to fail to comply
21 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
22 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
23 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
24 wages.

25 235. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

26 236. On information and belief, PLAINTIFF alleges that all of these practices were
27 experienced and continue to be experienced by other Aggrieved Employees.

28 237. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
46
PLAINTIFF'S REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS
GENERAL ACT

1 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
2 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

3 **Failure to Pay Vested Vacation/Paid Time Off**

4 238. California Labor Code section 227.3 provides that when an employer policy provides
5 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
6 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
7 employee's final rate in accordance with such contract of employment or employer policy respecting
8 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
9 off upon termination.

10 239. Based on information and belief, DEFENDANTS had and continue to have a
11 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
12 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
13 to Aggrieved Employees upon separation of employment, in violation of California law, including
14 but not limited to, Labor Code section 227.3.

15 **Violation of Labor Code Section 208**

16 240. Labor Code Section 208 provides: Every employee who is discharged shall be paid
17 at the place of discharge, and every employee who quits shall be paid at the office or agency of the
18 employer in the county where the employee has been performing labor. All payments shall be made
19 in the manner provided by law.

20 241. Based on information and belief, DEFENDANTS have a policy and practice of
21 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
22 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
23 office or agency of DEFENDANTS in the county where the work was performed, in violation of
24 Labor Code Section 208.

25 **Untimely Payment of Final Wages**

26 242. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
27 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
28 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an

1 employee not having a written contract for a definite period quits his or her employment, his or her
2 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
3 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
4 to his or her wages at the time of quitting.”

5 243. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
6 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
7 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
8 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
9 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
10 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

11 244. Based on information and belief, DEFENDANTS failed and continue to fail to timely
12 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
13 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
14 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
15 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
16 sick leave and/or paid time off wages at the properly accrued rates.

17 245. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
18 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
19 256.

20 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

21 246. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
22 require any employee or applicant for employment to agree, in writing, to any term or condition
23 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
24 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
25 conditions of employment including but not limited to unlawful non-solicitation/non-compete
26 agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or
27 waivers, including but not limited to, unlawful meal period waivers, unlawful forum selection
28 clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial

1 checks in violation of Labor Code section 432.5

2 Unlawful Inquires into Criminal History

3 247. Labor Code section 432.7 prohibits an employer from asking applicants about past
4 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
5 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
6 convictions on its employment application, in violation of California law.

7 248. Upon information and belief, DEFENDANTS, in violation of California law,
8 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
9 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
10 employment and/or otherwise impermissibly inquired into criminal history on its employment
11 application in violation of California law.

12 249. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
13 Code section 432.7. By asking about convictions at the application phase or prior to extending an
14 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
15 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
16 disclose arrests and/or convictions as a condition of employment.

17 Unlawful PAGA Waiver

18 250. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
19 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
20 to, an unlawful waiver of PAGA and/or representative actions as a condition of employment.

21 251. An action pursuant to PAGA “...is a representative action on behalf of the state”
22 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
23 purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and
24 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
25 (“We conclude that where, as here, an employment agreement compels the waiver of representative
26 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

27 252. Moreover, the California Supreme Court has ruled that a court cannot compel
28 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an

1 individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is
2 no individual component to a PAGA action because ‘every PAGA action ... is a representative
3 action on behalf of the state.’”)

4 253. Upon information and belief, DEFENDANTS required Aggrieved Employees to
5 agree in writing to waive their right to a trial of PAGA claims in violation of California law. By
6 requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS
7 required written agreement to an unlawful provision as a condition of employment which is a
8 violation of labor code section 432.5.

9 **Violation of Labor Code Section 432.6**

10 254. Based on information and belief, DEFENDANTS required Aggrieved Employees to
11 sign meal period waivers that were universally signed as a condition of employment, including but
12 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
13 under Labor Code section 432.6.

14 255. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
15 employment, continued employment, or the receipt of any employment-related benefit, require any
16 applicant for employment or any employee to waive any right...”

17 256. Labor Code Section 432.6(b) provides in pertinent part:

18 257. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
19 applicant for employment or any employee because of the refusal to the waiver of any right...”

20 258. Based on information and belief, DEFENDANTS require/required Aggrieved
21 Employees to waive their right to first and/or second meal periods as a condition of working for
22 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not
23 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
24 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
25 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
26 refusal to waive their meal period rights.

27 259. Under the provisions of PAGA and the above mentioned Labor Code sections,
28 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,

1 226.7, 227.3, 245-248.6, 256, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
2 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as
3 well as all interpretations of these laws by California Courts and administrative bodies, as well as
4 any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
5 penalties:

- 6 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
7 relevant California Labor Code provisions listed herein only if permitted by the
8 PAGA statute, pursuant to Labor Code section 2699(a); and
- 9 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
10 violations without a civil penalty recoverable under the PAGA, all in the default
11 amounts provided by Labor Code section 2699(f).
- 12 c. The proper measure of penalties under PAGA is the number of violations,
13 whether those violations were committed as against PLAINTIFF or any
14 Aggrieved Employee, whether a party to this action or not.

15 260. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
16 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of PLAINTIFF, the State of California, and all Aggrieved Employees:

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: June 3, 2024

CROSNER LEGAL, PC

By: 

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