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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Emily Schilawski, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

VENUS HALL and JENNIFER GARCIA,
as aggrieved employees pursuant to the
Private Attorneys General Act ("PAGA"),
on behalf of the State of California and
other aggrieved employees,

Plaintiffs,

vs.

RETAIL SERVICES WIS
CORPORATION, a Delaware corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 37-2024-00024844 CU-OE-CTL

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

Plaintiffs Venus Hall and Jennifer Garcia, as aggrieved employees and on behalf of the State of California and all other non-party Aggrieved Employees, allege as follows:

JURISDICTION AND VENUE

1. This is an enforcement action under the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”) to recover civil penalties and any other available relief on behalf of Plaintiffs, the State of California, and other current and former employees who worked for Defendants in California as non-exempt, hourly paid employees and against whom one or more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order were committed, as set forth in this complaint, at any time between one year prior to the filing of the pre-filing written notices to the Labor and Workforce Development Agency (“LWDA”) in this case on March 19, 2024, until judgment (“non-party Aggrieved Employees”). Plaintiffs’ share of civil penalties sought in this action does not exceed \$75,000.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10. The statute under which this action is brought does not specify any other basis for jurisdiction.

3. This Court has jurisdiction over all Defendants because, on information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this action given that the State of California, as the real party in interest in this action, is not a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action, and that diversity jurisdiction cannot be established when Plaintiffs’ share of the civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court, because Defendants filed Statement of Information forms with the California Secretary of State designating a principal place of business in San Diego, County of San Diego, in accordance with California Corporations Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court because Defendants employ persons in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Venus Hall (“Plaintiff Hall”) is a resident of Sacramento, in Sacramento County, California. Defendants employed Plaintiff Hall as an hourly paid, non-exempt employee from approximately January 2022 to May 2023. Plaintiff Hall worked as an Inventory Associate/Driver out of Defendants’ office in Sacramento, California. During her employment, Plaintiff Hall typically worked eight (8) hours or more per day and five (5) days or more per week. Plaintiff Hall’s primary job duties included, without limitation, conducting inventory at retail stores, loading equipment into company vehicles, and driving to and from jobsites.

7. Plaintiff Jennifer Garcia (“Plaintiff Garcia”) is a resident of Sacramento, in Sacramento County, California. Defendants employed Plaintiff Garcia as an hourly paid, non-exempt employee from approximately June 2022 to June 2023. Plaintiff Garcia worked as an Inventory Associate/Driver and Team Lead out of Defendants’ Sacramento, California office. Plaintiff Garcia typically worked eight (8) hours or more per day, and five (5) days per week. Plaintiff Garcia’s primary job duties included, without limitation, conducting inventory at retail stores, loading equipment into company vehicles, and driving to and from jobsites.

8. On information and belief, Defendants required some employees, including Plaintiffs, to execute an arbitration agreement at the time of their hire or during their

1 employment. On further information and belief, Defendants' arbitration agreement was and is
2 both procedurally and substantively unconscionable. Specifically, Defendants presented
3 employees with an "Arbitration Agreement" during the onboarding process, which had to be
4 reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was one of
5 several documents presented to new employees for signature during the orientation process,
6 including the Code of Ethics; Internet & E-Mail Policy; and WIS International Confidentiality
7 Agreement, among other documents. Also, employees did not have a meaningful opportunity
8 to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants'
9 employees for them to sign on a take-it or leave-it basis, along with all of the other onboarding
10 documents.

11 9. RETAIL SERVICES WIS CORPORATION was and is, upon information and
12 belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose
13 employees are engaged throughout this county and the State of California.

14 10. Plaintiffs are unaware of the true names or capacities of the Defendants sued
15 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
16 amend the complaint and serve such fictitiously named Defendants once their names and
17 capacities become known.

18 11. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
19 were the partners, agents, owners, or managers of RETAIL SERVICES WIS
20 CORPORATION at all relevant times.

21 12. Plaintiffs are informed and believe, and thereon allege, that each and all of the
22 acts and omissions alleged herein was performed by, or is attributable to, RETAIL
23 SERVICES WIS CORPORATION and/or DOES 1 through 10 (collectively, "Defendants" or
24 "WIS INTERNATIONAL"), each acting as the agent, employee, alter ego, and/or joint
25 venturer of, or working in concert with, each of the other co-Defendants and was acting within
26 the course and scope of such agency, employment, joint venture, or concerted activity with
27 legal authority to act on the others' behalf. The acts of any and all Defendants were in
28 accordance with, and represent, the official policy of Defendants.

1 13. At all relevant times, Defendants, and each of them, ratified each and every act
2 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
3 and abetted the acts and omissions of each and all the other Defendants in proximately causing
4 the damages herein alleged.

5 14. Plaintiffs are informed and believe, and thereon allege, that each of said
6 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
7 omissions, occurrences, and transactions alleged herein.

8 **PAGA REPRESENTATIVE ALLEGATIONS**

9 15. Defendants provide outsourced inventory data collection, verification,
10 merchandising, and analysis services to customers. Upon information and belief, Defendants
11 maintain a single, centralized Human Resources (“HR”) department at their company
12 headquarters in San Diego, California, which is responsible for the recruiting and hiring of
13 new employees, and communicating and implementing Defendants’ company-wide policies,
14 including timekeeping policies and meal and rest period policies, to employees throughout
15 California.

16 16. In particular, Plaintiffs and other non-party Aggrieved Employees, on
17 information and belief, received the same standardized documents and/or written policies.
18 Upon information and belief, the usage of standardized documents and/or written policies,
19 including new-hire documents, indicate that Defendants dictated policies at the corporate level
20 and implemented them company-wide, regardless of their employees’ assigned locations or
21 positions. Upon information and belief, Defendants set forth uniform policies and procedures
22 in several documents provided at an employee’s time of hire.

23 17. Upon information and belief, Defendants maintain a centralized Payroll
24 department at their company headquarters in San Diego, California, which processes payroll
25 for all non-exempt, hourly paid employees working for Defendants at their various locations
26 and jobsites in California, including Plaintiffs and other non-party Aggrieved Employees.
27 Based upon information and belief, Defendants issue the same formatted wage statements to
28 all non-exempt, hourly paid employees in California, irrespective of their work locations.

1 Upon information and belief, Defendants process payroll for departing employees in the same
2 manner throughout the State of California, regardless of the manner in which each employee's
3 employment ends.

4 18. Defendants continue to employ non-exempt or hourly paid employees in
5 California.

6 19. Plaintiffs are informed and believe, and thereon allege, that at all times herein
7 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
8 and advisors knowledgeable about California labor and wage law, employment and personnel
9 practices, and about the requirements of California law.

10 20. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and other
11 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
12 were not recorded.

13 21. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
14 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
15 receive certain wages for overtime compensation and that they were not receiving certain
16 wages for overtime compensation.

17 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that other non-party Aggrieved Employees were entitled to be paid at a
19 regular rate of pay, and corresponding rates of pay for overtime wages and/or meal and rest
20 period premiums, that included as eligible income all remuneration required by law, including
21 but not limited to, all income derived from incentive pay, shift differential pay,
22 nondiscretionary bonuses, and/or other forms of compensation, but failed to include all forms
23 of remuneration in calculating the regular rate of pay for other non-party Aggrieved
24 Employees.

25 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
26 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
27 receive at least minimum wages for compensation and that they were not receiving at least
28 minimum wages for work that was required to be done off-the-clock. In violation of the

1 California Labor Code, Plaintiffs and other non-party Aggrieved Employees were not paid at
2 least minimum wages for work done off-the-clock.

3 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
5 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
6 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
7 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiffs and
8 other non-party Aggrieved Employees were not provided with all meal periods or payment of
9 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
10 uninterrupted, thirty (30) minute meal period.

11 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
13 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
14 payment of one (1) additional hour of pay at their regular rates of pay when they were not
15 authorized and permitted to take a compliant rest period and that Plaintiffs and other non-party
16 Aggrieved Employees were not authorized and permitted to take compliant rest periods or
17 provided with payment of one (1) additional hour of pay at their regular rates of pay when
18 they were not authorized and permitted to take a compliant rest period.

19 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
20 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
21 receive complete and accurate wage statements in accordance with California law. In
22 violation of the California Labor Code, Plaintiffs and other non-party Aggrieved Employees
23 were not provided complete and accurate wage statements.

24 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
25 should have known that they had a duty to maintain accurate and complete payroll records in
26 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
27 knowingly, and intentionally failed to do so.

28 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
2 timely payment of wages during their employment. In violation of the California Labor Code,
3 Plaintiffs and other non-party Aggrieved Employees did not receive payment of all wages,
4 including, but not limited to, overtime wages, minimum wages, meal and rest period
5 premiums, sick leave pay, and/or reporting time pay, within permissible time periods.

6 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
8 timely payment of all wages earned upon termination of employment. In violation of the
9 California Labor Code, Plaintiffs and other non-party Aggrieved Employees did not receive
10 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
11 meal and rest period premiums, sick leave pay, and/or reporting time pay, within permissible
12 time periods.

13 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
14 should have known that Plaintiffs and/or other non-party Aggrieved Employees were entitled
15 to the portion of wages previously paid and subsequently unlawfully deducted by Defendants.

16 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
17 should have known that Plaintiffs and/or other non-party Aggrieved Employees were entitled
18 to payment of wages as designated by statute. In violation of the California Labor Code,
19 Defendants secretly paid Plaintiffs and/or other non-party Aggrieved Employees lower wages
20 than required by statute while purporting to pay them proper wages.

21 32. Plaintiff are informed and believe, and thereon allege, that Defendants knew or
22 should have known that other non-party Aggrieved Employees were entitled to receive sick
23 leave benefits to be paid at a regular rate of pay, that included as eligible income all
24 remuneration required by law, including but not limited to, all income derived from incentive
25 pay, shift differential pay, nondiscretionary bonuses, and/or other forms of compensation and
26 to receive itemized wage statements or separate written statements showing the amount of
27 paid sick leave. In violation of the California Labor Code, Defendants failed to include all
28 forms of remuneration in calculating the regular rate of pay for sick leave pay and failed to

1 provide other non-party Aggrieved Employees with written itemized wage statements showing
2 this information.

3 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that other non-party Aggrieved Employees were entitled to receive all
5 reporting time pay when other non-party Aggrieved Employees were required to report to
6 work but were put to work for less than half of their usual or scheduled shift. In violation of
7 the California Labor Code and applicable IWC Wage Order, other non-party Aggrieved
8 Employees were not paid all reporting time pay.

9 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
10 should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to
11 receive full reimbursement for all business-related expenses and costs they incurred during the
12 course and scope of their employment and that they did not receive full reimbursement of
13 applicable business-related expenses and costs incurred.

14 35. Plaintiff are informed and believe, and thereon allege, that at all times herein
15 mentioned, Defendants knew or should have known that Defendants had a duty to provide
16 other non-party Aggrieved Employees with written notice of the material terms of their
17 employment with Defendants as required by the California Wage Theft Prevention Act, but
18 failed to do so.

19 36. Plaintiffs are informed and believe, and thereon allege, that at all times herein
20 mentioned, Defendants knew or should have known that they had a duty to compensate
21 Plaintiffs and other non-party Aggrieved Employees for all hours worked, and that Defendants
22 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
23 failed to do so, and falsely represented to Plaintiffs and other non-party Aggrieved Employees
24 that they were properly denied wages, all in order to increase Defendants' profits.

25 37. At all times herein set forth, PAGA provides that any provision of law under
26 the California Labor Code and applicable IWC Wage Order that provides for a civil penalty to
27 be assessed and collected by the LWDA for violations of the California Labor Code and
28 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a

1 civil action brought on behalf of themselves and other current or former employees pursuant
2 to procedures outlined in California Labor Code section 2699.3.

3 38. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
4 person who was employed by the alleged violator and against whom one or more of the
5 alleged violations was committed.”

6 39. Plaintiffs and other current and former employees of Defendants are “aggrieved
7 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
8 or former employees and one or more of the alleged violations were committed against them.

9 40. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
10 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
11 following requirements have been met:

- 12 (a) The aggrieved employee shall give written notice by online filing
13 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail
14 to the employer of the specific provisions of the California Labor Code
15 alleged to have been violated, including the facts and theories to support
16 the alleged violations.
- 17 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
18 2699.3(a) and any employer response to that notice shall be
19 accompanied by a filing fee of seventy-five dollars (\$75).
- 20 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
21 employer and the aggrieved employee by certified mail that it does not
22 intend to investigate the alleged violation within sixty (60) calendar
23 days of the postmark date of the Employee’s Notice. Upon receipt of
24 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
25 five (65) calendar days of the postmark date of the Employee’s Notice,
26 the aggrieved employee may commence a civil action pursuant to
27 California Labor Code section 2699 to recover civil penalties in addition
28 to any other penalties to which the employee may be entitled.

1 41. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
2 through Plaintiffs, may pursue a civil action arising under PAGA for violations of any
3 provision other than those listed in Section 2699.5 after the following requirements have been
4 met:

- 5 (a) The aggrieved employee or representative shall give written notice
6 by online filing to the LWDA and by certified mail to the employer
7 of the specific provisions of the California Labor Code alleged to
8 have been violated (other than those listed in Section 2699.5),
9 including the facts and theories to support the alleged violation.
- 10 (b) An aggrieved employee's notice filed with the LWDA pursuant to
11 2699.3(c) and any employer response to that notice shall be
12 accompanied by a filing fee of seventy-five dollars (\$75).
- 13 (c) The employer may cure the alleged violation within thirty-three (33)
14 calendar days of the postmark date of the notice. The employer
15 shall give written notice by certified mail within that period of time
16 to the aggrieved employee or representative and the agency if the
17 alleged violation is cured, including a description of actions taken,
18 and no civil action pursuant to Section 2699 may commence. If the
19 alleged violation is not cured within the 33-day period, the employee
20 may commence a civil action pursuant to Section 2699.

21 42. On March 19, 2024, Plaintiff Hall provided written notice by online filing to
22 the LWDA and by certified mail to Defendants of the specific provisions of the California
23 Labor Code alleged to have been violated, including facts and theories to support the alleged
24 violations, in accordance with California Labor Code section 2699.3. Plaintiff Hall's written
25 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
26 LWDA PAGA Administrator has confirmed receipt of Plaintiff Hall's written notice and
27 assigned Plaintiff Hall PAGA Case Number LWDA-CM-1017492 -24. A true and correct
28 copy of Plaintiff Hall's written notice to the LWDA and Defendants dated March 19, 2024, is

1 attached hereto as “Exhibit 1.”

2 43. On March 22, 2024, Plaintiff Garcia provided written notice by online filing to
3 the LWDA and by certified mail to Defendants of the specific provisions of the California
4 Labor Code alleged to have been violated, including facts and theories to support the alleged
5 violations, in accordance with California Labor Code section 2699.3. Plaintiff Garcia’s
6 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
7 The LWDA PAGA Administrator has confirmed receipt of Plaintiff Garcia’s written notice
8 and assigned Plaintiff Garcia PAGA Case Number LWDA-CM-1018160-24. A true and
9 correct copy of Plaintiff Garcia’s written notice to the LWDA and Defendants dated March
10 22, 2024, is attached hereto as “Exhibit 2.”

11 44. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
12 sent the written notices described above, and the LWDA has not responded that it intends to
13 investigate Plaintiffs’ claims, and Defendants have not cured the violations.

14 45. Thus, Plaintiffs have satisfied the administrative prerequisites under California
15 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
16 violations of California Labor Code sections 201, 202, 204, 221, 223, 224, 226(a), 226.7, 246,
17 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

18 46. Labor Code section 558(a) provides “[a]ny employer or other person acting on
19 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
20 provision regulating hours and days of work in any order of the Industrial Welfare
21 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
22 dollars (\$50) for each underpaid employee for each pay period for which the employee was
23 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
24 underpaid employee for each pay period for which the employee was underpaid” Labor
25 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
26 to any other civil or criminal penalty provided by law.” Plaintiffs, acting in the public interest
27 as private attorneys general, seek assessment and collection of civil penalties under Labor
28 Code section 558 for themselves, all other non-party Aggrieved Employees, and the State of

1 California against Defendants for violations of Labor Code sections 510, 512(a), 516, and
2 1198, and the applicable IWC Wage Order. Plaintiffs, acting in the public interest as private
3 attorneys general, do not seek the recovery of unpaid wages under Labor Code section 558
4 from Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the
5 applicable IWC Wage Order.

6 47. Defendants, at all times relevant to this complaint, were employers or persons
7 acting on behalf of an employer(s) who violated Plaintiffs' and other non-party Aggrieved
8 Employees' rights by violating various sections of the California Labor Code as set forth
9 above.

10 48. As set forth below, Defendants have violated numerous provisions of both the
11 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
12 Order.

13 49. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
14 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiffs, acting in the public interest as
15 private attorneys general, seek assessment and collection of civil penalties for themselves, all
16 other non-party Aggrieved Employees, and the State of California against Defendants for
17 violations of California Labor Code sections 201, 202, 204, 221, 223, 224, 226(a), 226.7, 246,
18 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

19 **FIRST CAUSE OF ACTION**

20 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

21 **(Against all Defendants)**

22 50. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
23 and every allegation set forth above.

24 51. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiffs to recover
25 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
26 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 221, 223, 224,
27 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section
28 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover civil penalties for

violations of those Labor Code sections not found in section 2699.5, including sections 246, 516, 1182.12, and 2810.5.

52. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiffs and other non-party Aggrieved Employees with all required overtime pay, as set forth below;
- (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants' failure to include all forms of remuneration in the regular rate of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to other non-party Aggrieved Employees, as set forth below;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiffs and other non-party Aggrieved Employees with at least minimum wages for all hours worked, as set forth below;
- (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to provide Plaintiffs and other non-party Aggrieved Employees with meal periods, as set forth below;
- (e) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit Plaintiffs and other non-party Aggrieved Employees to take rest periods, as set forth below;
- (f) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiffs and other non-party Aggrieved Employees, as

- 1 set forth below;
- 2 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
- 3 IWC Wage Order for failure to maintain payroll records, as set forth
- 4 below;
- 5 (h) Violation of Labor Code section 204 for failure to pay all earned wages
- 6 during employment, as set forth below;
- 7 (i) Violation of Labor Code sections 201 and 202 for failure to pay all
- 8 earned wages upon termination, as set forth below;
- 9 (j) Violation of Labor Code sections 221 and 224 for unlawfully deducting
- 10 a portion of wages previously paid to Plaintiffs and/or other non-party
- 11 Aggrieved Employees, as set forth below;
- 12 (k) Violation of Labor Code section 223 for secretly paying Plaintiffs
- 13 and/or other non-party Aggrieved Employees lower wages than required
- 14 by statute, while purporting to pay the proper wages, as set forth below;
- 15 (l) Violation of Labor Code sections 246 for failure to properly calculate
- 16 the sick leave paid to other non-party Aggrieved Employees and for
- 17 failure to provide written notice of paid sick leave benefits, as set forth
- 18 below;
- 19 (m) Violation of Labor Code sections section 1198 and the applicable IWC
- 20 Wage Order for failure to pay reporting time pay when other non-party
- 21 Aggrieved Employees were put to work for less than half of their usual
- 22 or scheduled shifts, as set forth below;
- 23 (n) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs
- 24 and other non-party Aggrieved Employees for all business expenses
- 25 necessarily incurred, as set forth below; and
- 26 (o) Violation of Labor Code section 2810.5 for failure to provide notice of
- 27 material terms of employment, as set forth below.

28 //

1 **FAILURE TO PAY OVERTIME**

2 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

3 53. Labor Code section 1198 makes it illegal to employ an employee under
4 conditions of labor that are prohibited by the applicable wage order. California Labor Code
5 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
6 be the . . . standard conditions of labor for employees. The employment of any employee . . .
7 under conditions of labor prohibited by the order is unlawful.”

8 54. California Labor Code section 1198 and the applicable IWC Wage Order
9 provide that it is unlawful to employ persons without compensating them at a rate of pay
10 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
11 number of hours worked by the person on a daily or weekly basis.

12 55. Specifically, the applicable IWC Wage Order provides that Defendants are and
13 were required to pay Plaintiffs and other non-party Aggrieved Employees working more than
14 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
15 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
16 (40) hours in a workweek.

17 56. The applicable IWC Wage Order further provides that Defendants are and were
18 required to pay Plaintiffs and other non-party Aggrieved Employees working more than
19 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate
20 of pay. An employee’s regular rate of pay includes all remuneration for employment paid to,
21 or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

22 57. California Labor Code section 510 codifies the right to overtime compensation
23 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
24 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
25 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate
26 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
27 in a day on the seventh (7th) day of work.

28 58. During the relevant time period, Defendants willfully failed to pay all overtime

1 wages owed to Plaintiffs and other non-party Aggrieved Employees. During the relevant time
2 period, Plaintiffs and other non-party Aggrieved Employees were not paid overtime premiums
3 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
4 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
5 not recorded.

6 59. First, during the relevant time period, Defendants had a company-wide policy
7 and/or practice of failing to accurately record hours worked by their employees and thus
8 restricted overtime accrual. Defendants did not provide employees with any mechanism, such
9 as a handwritten timesheet, time clock, or electronic timekeeping system, to track and record
10 their hours worked. Instead, Defendants had their supervisors input all employee time in
11 Defendants' timekeeping system, and thus maintained exclusive control and discretion over
12 employee punch-in and punch-out times. Moreover, on information and belief, Defendants
13 would not pay employees for travel time when the jobsite was less than 30 miles from the
14 local office. Thus, on information and belief, Defendants' supervisors entered Plaintiffs' and
15 other non-party Aggrieved Employees' shift start-times as the time they arrived at the first
16 jobsite of the day and/or the scheduled shift-start time, and entered Plaintiffs' and other non-
17 party Aggrieved Employees' shift end-times as the time they left the last jobsite of the day
18 and/or their scheduled shift end-time. Therefore, Plaintiffs and other non-party Aggrieved
19 Employees were not fully compensated for time spent traveling to and from jobsites and/or for
20 time spent working before and after their scheduled shifts, despite being under the direction
21 and control of Defendants.

22 60. Alternatively, Defendants had a company-wide policy and/or practice of
23 improperly rounding employees' clock-in and/or clock-out times in their timekeeping system
24 to the start and/or end of their scheduled hours worked, rather than their actual hours worked.
25 Moreover, on information and belief, Defendants' timekeeping system rounded employees'
26 clock-in and clock-out duration times to the nearest tenth (0.1) of an hour in their timekeeping
27 system. Defendants' rounding policy resulted in the failure to compensate Plaintiffs and other
28 non-party Aggrieved Employees fully for all hours worked, causing Plaintiffs and other non-

1 party Aggrieved Employees to not be paid overtime wages for all of the overtime hours they
2 actually worked. Upon information and belief, Defendants' rounding policy has, and
3 continues to be, unfair and has, over time, resulted in the underpayment of wages to Plaintiffs
4 and other non-party Aggrieved Employees. To the extent Defendants' rounding policy took
5 away time worked that was eligible for overtime, Plaintiffs and other non-party Aggrieved
6 Employees were denied overtime pay for all hours worked.

7 61. Because Defendants failed to provide Plaintiffs and other non-party Aggrieved
8 Employees with any mechanism to record their actual hours worked themselves and, instead,
9 granted Defendants' supervisors exclusive control and discretion over employee time records,
10 and further failed to accurately record their actual hours worked, Plaintiffs and other non-party
11 Aggrieved Employees were not paid for all hours worked, including, but not limited to, time
12 spent working before and after their scheduled shifts and on days off. For example, when
13 Plaintiffs worked as drivers, they were required to arrive before their scheduled shift to
14 prepare and load the company van before inventory associates arrived to carpool to their
15 assigned jobsite, but, on information and belief, their supervisors only logged 30 minutes of
16 preparation time regardless of how long preparations actually took and/or did not clock them
17 in until their scheduled shift start-time. Also, upon returning to Defendants' facility and after
18 their supervisors clocked them out for the day, Plaintiffs and other non-party Aggrieved
19 Employees were required to continue working before they could leave for the day, including
20 unloading the company van, noting the gas level, and cleaning the vehicle. Furthermore,
21 approximately once per week and for 10-15 minutes per instance, Defendants' management
22 would call Plaintiff Hall on her personal cellular phone on her days off and while otherwise
23 off-the-clock, to discuss logistics of traveling to different jobsites, picking up equipment, and
24 other work-related matters. Finally, several times during their employment, Plaintiffs were
25 required to complete safety training modules off-the-clock at home, time for which they were
26 not paid. This off-the-clock work could have been recorded by Defendants, but they refused
27 to do so to avoid payment of additional wages to Plaintiffs and other non-party Aggrieved
28 Employees.

62. Second, Defendants' company-wide timekeeping practices and/or policies did not permit employees, including Plaintiffs and other non-party Aggrieved Employees, to accurately track the start and end times of their meal periods or allow them to report a short, missed, or interrupted meal period. As stated, because Defendants' supervisors logged the start and end times of meal periods in Defendants' timekeeping system, which Plaintiffs and other non-party Aggrieved Employees did not have access to, Defendants, upon information and belief, would record that compliant meal periods were taken, even if that was not the case. Alternatively, Defendants implemented a company-wide practice and/or policy of automatically deducting meal periods from Plaintiffs' and other non-party Aggrieved Employees' time records. As a result, because Defendants' supervisors recorded 30-minute meal periods were taken, even when meal periods were short, missed, or interrupted, Plaintiffs and other non-party Aggrieved Employees were not paid for all hours worked.

63. Third, Defendants have systematically, and on a company-wide basis, assigned heavy workloads and deadlines, which prevented Plaintiffs and other non-party Aggrieved Employees from taking all uninterrupted meal periods to which they were entitled. Defendants also had a practice of failing to schedule meal periods and/or adhere to a schedule for meal periods, which, combined with the assignment of heavy workloads, further caused Plaintiffs and other non-party Aggrieved Employees to not be relieved of their duties for compliant meal periods. For example, Plaintiffs and other non-party Aggrieved Employees often worked through their meal periods because they were required to complete an inventory assignment that took longer than anticipated by management. As another example, Defendants' supervisors sometimes interrupted Plaintiffs' unpaid meal periods to discuss issues with equipment and inventory calculations. Thus, Plaintiffs and other non-party Aggrieved Employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. Defendants did not compensate Plaintiffs and other non-party Aggrieved Employees for the time they spent working off the clock during meal periods.

64. Defendants knew or should have known that as a result of these company-wide

1 practices and/or policies, Plaintiffs and other non-party Aggrieved Employees were
2 performing assigned duties off-the-clock before and after their shifts and during meal periods,
3 and were suffered or permitted to perform work for which they were not paid. Because
4 Plaintiffs and other non-party Aggrieved Employees worked shifts of eight (8) hours a day or
5 more, or forty (40) hours a week or more, some of this off-the-clock work qualified for
6 overtime premium pay. Therefore, Plaintiffs and other non-party Aggrieved Employees were
7 not paid overtime wages for all of the overtime hours they actually worked.

8 65. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
9 correct overtime rate for the recorded overtime hours that they generated. In addition to an
10 hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay, shift
11 differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in
12 violation of the California Labor Code, Defendants failed to incorporate all compensation,
13 including incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of
14 remuneration, into the calculation of the regular rate of pay for purposes of calculating the
15 overtime wage rate. Therefore, during times when other non-party Aggrieved Employees
16 worked overtime and received these other forms of pay, Defendants failed to pay all overtime
17 wages by paying a lower overtime rate than required.

18 66. Defendants' failure to pay Plaintiffs and other non-party Aggrieved Employees
19 the balance of overtime compensation as required by California law, violates the provisions of
20 California Labor Code sections 510 and 1198. Plaintiffs and other non-party Aggrieved
21 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
22 558 and/or 2699(a), (f), and (g).

23 **FAILURE TO PAY MINIMUM WAGES**

24 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

25 67. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
26 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
27 to be paid to employees, and the payment of a wage less than the minimum so fixed is
28 unlawful. Compensable work time is defined in IWC Wage Order No. 4-2001 as "the time

1 during which an employee is subject to the control of an employer, and includes all the time
2 the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code
3 Regs. tit. 8, § 11040(2)(K) (defining “Hours Worked”).

4 68. As set forth above, due to Defendants’ company-wide policies and/or practices
5 of not permitting employees to record all their hours worked and limiting overtime accrual,
6 Defendants failed to record all hours worked outside of scheduled shifts or during meal
7 periods, including time spent traveling to and from jobsites, time spent working before and
8 after scheduled shift-times, and communicating with management about work-related matters
9 and completing training modules on days off. Moreover, due to Defendants’ policy of
10 rounding Plaintiffs’ and other non-party Aggrieved Employees’ clock-in and clock-out times
11 in their timekeeping system to the start and/or end of their scheduled shift times and/or to the
12 nearest tenth of an hour, Defendants failed to compensate Plaintiffs and other non-party
13 Aggrieved Employees fully for all hours worked. Thus, Defendants failed to track this time
14 Plaintiffs and other non-party Aggrieved Employees spent working off-the-clock, and
15 Plaintiffs and other non-party Aggrieved Employees received no compensation for this time.

16 69. Moreover, as also stated above, due to Defendants’ policies and/or practices of
17 understaffing their locations while assigning heavy workloads and deadlines and failing to
18 schedule meal periods and/or adhere to a schedule for meal periods, Plaintiffs and other non-
19 party Aggrieved Employees were impeded from taking all uninterrupted meal periods to
20 which they were entitled and were required to work off-the-clock during meal periods, have
21 their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid
22 meal periods. Furthermore, as stated, on information and belief, Defendants had a company-
23 wide practice and/or policy of automatically deducting meal periods from Plaintiffs’ and other
24 non-party Aggrieved Employees’ time records, even when meal periods were missed, short,
25 and/or interrupted. Thus, Defendants systematically failed to pay Plaintiffs and other non-
26 party Aggrieved Employees for actual hours worked during unpaid meal periods because these
27 hours were not always correctly recorded.

28 70. Thus, Defendants did not pay at least minimum wages for all hours worked by

1 Plaintiffs and other non-party Aggrieved Employees. Also, to the extent that these off-the-
2 clock hours did not qualify for overtime premium payment, Defendants did not pay at least
3 minimum wages for those hours worked off-the-clock in violation of California Labor Code
4 sections 1182.12, 1194, 1197, and 1198.

5 71. Defendants' failure to pay Plaintiffs and other non-party Aggrieved Employees
6 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
7 Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil
8 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

9 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
10 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

11 72. At all relevant times herein set forth, the applicable IWC Wage Order and
12 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiffs' and
13 other non-party Aggrieved Employees' employment by Defendants.

14 73. At all relevant times herein set forth, California Labor Code section 512(a)
15 provides that an employer may not require, cause, or permit an employee to work for a period
16 of more than five (5) hours per day without providing the employee with a meal period of not
17 less than thirty (30) minutes, except that if the total work period per day of the employee is
18 not more than six (6) hours, the meal period may be waived by mutual consent of both the
19 employer and the employee. Under California law, first meal periods must start after no more
20 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

21 74. At all relevant times herein set forth, California Labor Code sections 226.7,
22 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
23 meal period mandated by an applicable order of the IWC.

24 75. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
25 the applicable IWC Wage Order also require employers to provide a second meal period of
26 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
27 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
28 hours worked is no more than twelve (12) hours, the second meal period may be waived by

1 mutual consent of the employer and the employee only if the first meal period was not waived.

2 76. First, as described above, Defendants did not have a mechanism in place for
3 employees to track and record the start and end times of their meal periods. Instead,
4 Defendants gave their supervisors exclusive control and discretion over employee punch-in
5 and punch-out times, including meal period start and end times. Because Plaintiffs and other
6 non-party Aggrieved Employees did not have access to the timekeeping system, they were
7 unable to record when their meal periods were missed, late, interrupted, or cut short.
8 Alternatively, Defendants implemented a company-wide policy and practice of automatically
9 deducting meal periods from Plaintiffs' and other non-party Aggrieved Employees' time
10 records regardless of whether they had actually received a compliant meal period.

11 77. Second, as stated, during the relevant time period, Defendants had, and
12 continue to have, company-wide policies and/or practices of understaffing while assigning
13 heavy workloads and deadlines, which resulted in a lack of meal period coverage and
14 prevented Plaintiffs and other non-party Aggrieved Employees from taking all timely,
15 uninterrupted meal periods to which they were entitled. Further, as also stated, Defendants
16 had company-wide practices and/or policies of failing to schedule meal periods and/or adhere
17 to a schedule for meal periods, which further caused Plaintiffs and other non-party Aggrieved
18 Employees to not be relieved of their duties for compliant meal periods.

19 78. As a result, Plaintiffs and other non-party Aggrieved Employees have had to
20 work through all or part of their meal periods, had their meal periods interrupted, and/or had
21 to wait extended periods of time before taking meal periods. For example, as stated, Plaintiffs
22 and other non-party Aggrieved Employees often missed their meal periods because they were
23 required to finish an inventory count by a certain deadline, and Plaintiffs' meal periods were
24 sometimes interrupted by management discussing work-related issues. Moreover, when
25 Plaintiffs worked as drivers, their meal periods were sometimes interrupted because they
26 required to take their meal period near the company van to allow other associates to access
27 their personal belongings. As a further example, Plaintiffs regularly took their meal periods
28 late, after having worked in excess of five (5) hours into her shift, due to long drive times

1 between jobsites or because an inventory count took longer to complete than anticipated.

2 79. Moreover, Defendants did not provide Plaintiffs and other non-party Aggrieved
3 Employees with second 30-minute meal periods on days that they worked in excess of ten (10)
4 hours in one day. During their employment, Plaintiffs worked shifts in excess of ten (10) or
5 more hours per day but were not provided a second 30-minute meal period. Plaintiffs and
6 other non-party Aggrieved Employees did not sign valid meal period waivers on days that
7 they were entitled to meal periods and were not relieved of all duties.

8 80. At all times mentioned herein, Defendants knew or should have known that as a
9 result of their company-wide policies and/or practices, Plaintiffs and other non-party
10 Aggrieved Employees were prevented from being relieved of all duties and were required to
11 perform some of their assigned duties during meal periods. Defendants further knew or
12 should have known that they did not pay Plaintiffs and other non-party Aggrieved Employees
13 all meal period premiums when meal periods were missed, late, interrupted, and/or shortened.
14 Further, to the extent that Defendants' rounding policy reported that Plaintiffs and other non-
15 party Aggrieved Employees were provided with timely, full 30-minute meal periods when, in
16 fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes,
17 Plaintiffs and other non-party Aggrieved Employees did not receive meal period penalties for
18 these improperly rounded meal periods.

19 81. Furthermore, Defendants engaged in a company-wide practice and/or policy of
20 not paying meal period premiums owed when compliant meal periods were not provided.
21 Because of this practice and/or policy, Plaintiffs and other non-party Aggrieved Employees
22 have not received all premium pay for missed, interrupted, late and/or shortened meal periods.
23 Alternatively, to the extent that Defendants did pay other non-party Aggrieved Employees
24 premium pay for missed, late, interrupted, and/or shortened meal periods, Defendants did not
25 pay other non-party Aggrieved Employees at the correct rate of pay for premiums because
26 Defendants systematically failed to include all forms of compensation, such as incentive pay,
27 shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, in the
28 regular rate of pay.

1 82. Thus, Defendants failed to provide Plaintiffs and other non-party Aggrieved
2 Employees compliant meal periods and failed to pay the full meal period premiums due.
3 Defendants’ conduct violates the applicable IWC Wage Order, and California Labor Code
4 sections 226.7, 512(a), 516, and 1198. Plaintiffs and other non-party Aggrieved Employees
5 are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
6 2699(a), (f), and (g).

7 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
8 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

9 83. At all relevant times herein set forth, the applicable IWC Wage Order and
10 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs’ and other
11 non-party Aggrieved Employees’ employment by Defendants.

12 84. At all relevant times, the applicable IWC Wage Order provides that “[e]very
13 employer shall authorize and permit all employees to take rest periods, which insofar as
14 practicable shall be in the middle of each work period” and that the “rest period time shall be
15 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
16 hours or major fraction thereof” unless the total daily work time is less than three and one-half
17 (3 ½) hours.

18 85. At all relevant times, California Labor Code section 226.7 provides that no
19 employer shall require an employee to work during any rest period mandated by an applicable
20 order of the California IWC. To comply with its obligation to authorize and permit rest
21 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
22 employer must “relinquish any control over how employees spend their break time, and
23 relieve their employees of all duties—including the obligation that an employee remain on
24 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
25 *Inc.*, 2 Cal. 5th 257, 273 (2016).

26 86. Pursuant to the applicable IWC Wage Order and California Labor Code section
27 226.7(c), Plaintiffs and other non-party Aggrieved Employees are entitled to recover from
28 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a

1 required rest period was not authorized and permitted.

2 87. During the relevant time period, Defendants regularly failed to authorize and
3 permit Plaintiffs and other non-party Aggrieved Employees to take a ten (10) minute rest
4 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
5 Defendants' company-wide practices, including understaffing and assigning heavy workloads,
6 prevented Plaintiffs and other non-party Aggrieved Employees from being relieved of all duty
7 to take rest periods. Defendants also failed to schedule rest periods and/or adhere to a
8 schedule for rest periods, which, coupled with Defendants' failure to provide adequate rest
9 period coverage, further led to Plaintiffs and other non-party Aggrieved Employees not being
10 authorized and permitted to take compliant rest periods.

11 88. Furthermore, on information and belief, during the relevant time period,
12 Defendants have maintained a company-wide on-premises rest period policy, which
13 effectively requires that Plaintiffs and other non-party Aggrieved Employees remain on
14 Defendants' premises during their rest periods. Because Plaintiffs and other non-party
15 Aggrieved Employees were restricted from leaving the premises during rest periods, they have
16 been denied the ability to use their rest periods freely for their own purposes, such as running
17 personal errands. Thus, Defendants have effectively maintained control over Plaintiffs and
18 other non-party Aggrieved Employees during rest periods.

19 89. As a result of Defendants' practices and policies, Plaintiffs and other non-party
20 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
21 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
22 were entitled. For example, Plaintiffs' rest periods were sometimes interrupted so that they
23 could assist coworkers who wanted to access their personal belongings stored in the company
24 van. Plaintiff Hall also missed her rest periods approximately twice per week because of the
25 lack of coverage available.

26 90. Defendants also have engaged in a company-wide practice and/or policy of not
27 paying all rest period premiums owed when compliant rest periods are not authorized and
28 permitted. Because of this practice and/or policy, Plaintiffs and other non-party Aggrieved

1 Employees have not received premium pay for all missed rest periods. Alternatively, to the
2 extent that Defendants did pay other non-party Aggrieved Employees one (1) additional hour
3 of premium pay for missed rest periods, Defendants did not pay other non-party Aggrieved
4 Employees at the correct rate of pay for premiums because Defendants failed to include all
5 forms of compensation, such as incentive pay, shift differential pay, nondiscretionary bonuses,
6 and/or other forms of remuneration, in the regular rate of pay.

7 91. Accordingly, Defendants failed to authorize and permit all compliant rest
8 periods and failed to pay the full rest period premiums due. Defendants' conduct violates the
9 applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198.
10 Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil
11 penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

12 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
13 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

14 92. At all relevant times herein set forth, California Labor Code section 226(a)
15 provides that every employer shall furnish each of his or her employees an accurate and
16 complete itemized wage statement in writing, including, but not limited to, the name and
17 address of the legal entity that is the employer, the inclusive dates of the pay period, total
18 hours worked, and all applicable rates of pay.

19 93. At all relevant times, Defendants have knowingly and intentionally provided
20 Plaintiffs and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate
21 wage statements. For example, Defendants issued uniform wage statements to Plaintiffs and
22 other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total
23 hours worked; net wages earned; and all applicable hourly rates in effect during the pay
24 period, including rates of pay for overtime wages, meal and rest period premiums, paid sick
25 leave, and/or reporting time pay, and the corresponding number of hours worked at each
26 hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and
27 226(a)(9).

28 94. Because Defendants did not record the time Plaintiffs and other non-party

1 Aggrieved Employees spent working off-the-clock, improperly rounded their total hours
2 worked, and/or deducted time from their records for meal periods that were interrupted and/or
3 missed (and therefore time for which they should have been paid), Defendants did not list the
4 correct amount of gross wages and net wages earned by Plaintiffs and other non-party
5 Aggrieved Employees in compliance with section 226(a)(1) and section 226(a)(5),
6 respectively. For the same reason, Defendants failed to accurately list the total number of
7 hours worked by Plaintiffs and other non-party Aggrieved Employees, in violation of section
8 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period
9 and the corresponding accurate number of hours worked at each hourly rate, in violation of
10 section 226(a)(9).

11 95. In addition, because Defendants did not calculate other non-party Aggrieved
12 Employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest
13 period premiums, paid sick leave, and/or reporting time pay, Defendants did not list the
14 correct amount of gross wages in compliance with section 226(a)(1) and did not list the
15 correct amount of net wages in violation of section 226(a)(5). Defendants also failed to
16 correctly list all applicable hourly rates in effect during the pay period, namely, correct rates
17 of pay for overtime wages, meal and rest period premiums, paid sick leave, and/or reporting
18 time pay, in violation of section 226(a)(9).

19 96. The wage statement deficiencies also include, among other things, failing to list
20 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
21 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
22 for which aggrieved employees were paid; failing to list the name of the employee and only
23 the last four digits of his or her social security number or an employee identification number
24 other than a social security number; failing to list the name and address of the legal entity that
25 is the employer; and/or failing to state all hours worked as a result of not recording or stating
26 hours worked off-the-clock.

27 97. California Labor Code section 1174(d) provides that "[e]very person employing
28 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees

1 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
2 plants or establishments at which employees are employed, payroll records showing the hours
3 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
4 applicable piece rate paid to, employees employed at the respective plants or
5 establishments” Labor Code section 1174.5 provides that employers are subject to a
6 \$500 civil penalty if they fail to maintain accurate and complete records as required by section
7 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
8 Defendants willfully failed to maintain accurate payroll records for Plaintiffs and other non-
9 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto
10 as a result of failing to record the off-the-clock hours that they worked and improperly
11 rounding Plaintiffs’ and other non-party Aggrieved Employees’ total hours worked.

12 98. California Labor Code section 1198 provides that the maximum hours of work
13 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
14 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
15 employment of any employees for longer hours than those fixed by the order or under
16 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
17 Wage Order, employers are required to keep accurate time records showing when the
18 employee begins and ends each work period and meal period. During the relevant time
19 period, Defendants engaged in company-wide practices and/or policies of failing to record
20 actual hours worked (including falsifying time records by recording that compliant meal
21 periods were taken regardless of if or when meal periods were actually taken), and thereby
22 failed to keep accurate records of work period and meal period start and end times for
23 Plaintiffs and other non-party Aggrieved Employees, in violation of section 1198.
24 Furthermore, in light of Defendants’ failure to provide Plaintiffs and other non-party
25 Aggrieved Employees with second 30-minute meal periods to which they were entitled,
26 Defendants kept no records of meal start and end times for second meal periods.

27 99. Defendants’ conduct violates California Labor Code sections 226(a), 1174(d),
28 and 1198. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to

1 recover civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and
2 (g).

3 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

4 **VIOLATION OF LABOR CODE SECTION 204**

5 100. At all relevant times herein set forth, California Labor Code section 204
6 requires that all wages earned by any person in any employment between the 1st and the 15th
7 days, inclusive, of any calendar month, other than those wages due upon termination of an
8 employee, are due and payable between the 16th and the 26th day of the month during which
9 the labor was performed. Labor Code section 204 further provides that all wages earned by
10 any person in any employment between the 16th and the last day, inclusive, of any calendar
11 month, other than those wages due upon termination of an employee, are due and payable
12 between the 1st and the 10th day of the following month.

13 101. At all relevant times herein, California Labor Code section 204 also requires
14 that all wages earned for labor in excess of the normal work period shall be paid no later than
15 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
16 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
17 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
18 more than seven (7) calendar days following the close of the payroll period.

19 102. During the relevant time period, Defendants have willfully failed to pay
20 Plaintiffs and other non-party Aggrieved Employees all wages due including, but not limited
21 to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or
22 reporting time pay, within the time periods specified by California Labor Code section 204.

23 103. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to
24 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

25 **FAILURE TO PAY WAGES UPON TERMINATION**

26 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

27 104. At all times relevant herein set forth, California Labor Code sections 201 and
28 202 provide that if an employer discharges an employee, the wages earned and unpaid at the

1 time of discharge are due and payable immediately, and that if an employee voluntarily leaves
2 his or her employment, his or her wages shall become due and payable not later than seventy-
3 two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous
4 notice of his or her intention to quit, in which case the employee is entitled to his or her wages
5 at the time of quitting.

6 105. Defendants willfully failed to pay Plaintiffs and other non-party Aggrieved
7 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
8 above, including but not limited to, overtime wages, minimum wages, meal and rest period
9 premiums, sick leave pay, and/or reporting time pay, either at the time of discharge, or within
10 seventy-two (72) hours of their leaving Defendants' employ.

11 106. Defendants' failure to pay Plaintiffs and those non-party Aggrieved Employees
12 who are no longer employed by Defendants their wages earned and unpaid at the time of
13 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
14 California Labor Code sections 201 and 202. Plaintiffs and other non-party Aggrieved
15 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
16 256 and/or 2699(a), (f), and (g).

17 **COLLECTING OR RECEIVING WAGES ALREADY PAID**

18 **VIOLATION OF LABOR CODE SECTION 221 AND 224**

19 107. At all times relevant herein, California Labor Code section 221 provides that it
20 shall be unlawful for any employer to collect or receive from an employee any part of wages
21 theretofore paid by said employer to said employee. California Labor Code section 224 also
22 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
23 deduction is expressly authorized in writing by the employee."

24 108. During the relevant time period, Defendants unlawfully deducted a portion of
25 wages previously paid to Plaintiffs and/or other non-party Aggrieved Employees in violation
26 of California Labor Code section 221. During the relevant time period, Defendants
27 maintained a company-wide policy that improperly deducted wages from Plaintiffs' and/or
28 other non-party Aggrieved Employees' pay pursuant to their policies and/or practices of

1 requiring employees to work off-the-clock. On information and belief, such deductions were
2 not expressly authorized in writing by Plaintiffs and/or other non-party Aggrieved Employees.

3 109. Defendants' conduct as alleged herein violates California Labor Code sections
4 221 and 224. Plaintiffs and/or other non-party Aggrieved Employees are therefore entitled to
5 recover civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (g).

6 **SECRET PAYMENT OF A LOWER WAGE**

7 **VIOLATION OF LABOR CODE SECTION 223**

8 110. At all times, California Labor Code section 223 makes it unlawful for an
9 employer to secretly pay wages lower than required by statute while purporting to pay legal
10 wages.

11 111. During the relevant time period, Defendants willfully and systematically
12 deducted money from Plaintiffs' and/or other non-party Aggrieved Employees' wages without
13 their express written authorization pursuant to their policies and/or practices of requiring
14 employees to work off-the-clock. In doing so, Defendants acted with the intent to deprive
15 Plaintiffs and/or other non-party Aggrieved Employees of statutory wages, including, but not
16 limited to, overtime wages and minimum wages, to which they were entitled to under
17 California law. Thus, Defendants paid Plaintiffs and/or other non-party Aggrieved Employees
18 lower wages than those they were entitled to while purporting that Plaintiffs and/or other non-
19 party Aggrieved Employees were properly paid.

20 112. Defendants' failure to pay Plaintiffs and/or other non-party Aggrieved
21 Employees the correct designated wage, while purporting to pay legal wages, is a violation of
22 California Labor Code section 223. Plaintiffs and/or other non-party Aggrieved Employees
23 are therefore entitled to recover civil penalties pursuant to Labor Code sections 225.5 and/or
24 2699(a), (f), and (g).

25 **FAILURE TO PROPERLY CALCULATE SICK LEAVE RATES OF PAY AND**

26 **PROVIDE WRITTEN NOTICE OF PAID SICK LEAVE**

27 **VIOLATION OF LABOR CODE SECTION 246**

28 113. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,

247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. California Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

114. During the relevant time period, Defendants did not pay other non-party Aggrieved Employees the correct sick leave rates of pay. Defendants failed to correctly use either method of calculation under Labor Code section 246(l) to determine other non-party Aggrieved Employees' sick leave rates of pay. As stated, in addition to an hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including incentive pay, shift differential pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when other non-party Aggrieved Employees took sick leave and received these other forms of pay, Defendants failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, Defendants paid other non-party Aggrieved Employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

115. Moreover, during the relevant time period, Defendants failed, on a company-

1 wide basis, to provide other non-party Aggrieved Employees with written notice on wage
2 statements and/or other separate written statements that listed the amount of paid sick leave
3 (or equivalent paid leave or paid time off) available to them.

4 116. Defendants' failure to properly calculate the sick leave rates of pay based on all
5 remuneration paid has resulted in an underpayment of sick leave benefits to other non-party
6 Aggrieved Employees on a company-wide basis in violation of Labor Code section 246(l).
7 Defendants' systematic failure to provide written notice of sick leave benefits to other non-
8 party Aggrieved Employees is in violation of Labor Code section 246(i).

9 117. Other non-party Aggrieved Employees are therefore entitled to recover civil
10 penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

11 **FAILURE TO PAY REPORTING TIME PAY**

12 **VIOLATION OF LABOR CODE SECTION 1198**

13 118. California Labor Code section 1198 makes it illegal to employ an employee
14 under conditions of labor that are prohibited by the applicable wage order. California Labor
15 Code section 1198 requires that "... the standard conditions of labor fixed by the commission
16 shall be the ... standard conditions of labor for employees. The employment of any employee
17 ... under conditions of labor prohibited by the order is unlawful."

18 119. California Code of Regulations, Title 8, section 11040(5)(A) provides that
19 "[e]ach workday an employee is required to report for work and does report, but is not put to
20 work or is furnished less than half said employee's usual or scheduled day's work, the
21 employee shall be paid for half the usual or scheduled day's work, but in no event for less
22 than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which
23 shall not be less than the minimum wage." The "primary purpose of the reporting time
24 regulation" is "to guarantee at least partial compensation for employees who report to work
25 expecting to work a specified number of hours, and who are deprived of that amount because
26 of inadequate scheduling or lack of proper notice by the employer." *Aleman v. AirTouch*
27 *Cellular*, 209 Cal. App. 4th 556 (2012).

28 120. During the relevant time period, Defendants violated California Labor Code

1 section 1198 and California Code of Regulations, Title 8, section 11040(5)(A), because
2 Defendants failed to pay other non-party Aggrieved Employees reporting time pay when they
3 reported to work for their usual or scheduled shift but were put to work for less than half of
4 the usual or scheduled day's work.

5 121. Defendants had a company-wide practice of sending other non-party Aggrieved
6 Employees home early from their shifts, including before they had worked at least half of their
7 usual or scheduled shift, but would not pay other non-party Aggrieved Employees for half of
8 their usual or scheduled shift. Although other non-party Aggrieved Employees would report
9 to work based on the schedule that Defendants provided to them, Defendants would send them
10 home before they had worked at least half of their scheduled shifts without giving them
11 reporting time pay.

12 122. Moreover, Defendants did not pay other non-party Aggrieved Employees the
13 correct reporting time rates of pay. As stated, in addition to an hourly wage, Defendants paid
14 other non-party Aggrieved Employees incentive pay, shift differential pay, nondiscretionary
15 bonuses, and/or other forms of remuneration. However, in violation of the California Labor
16 Code, Defendants failed to incorporate all remunerations, including incentive pay, shift
17 differential pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of
18 pay for purposes of calculating the reporting time pay rate. Therefore, during times when
19 other non-party Aggrieved Employees were paid reporting time and received these other
20 forms of pay, Defendants failed to pay all reporting time pay by paying a lower pay rate than
21 required. Specifically, Defendants paid other non-party Aggrieved Employees reporting time
22 pay based on their hourly rate of pay instead of their regular rate of pay.

23 123. Accordingly, other non-party Aggrieved Employees were not properly
24 compensated with reporting time pay in violation of California Labor Code section 1198 and
25 California Code of Regulations, Title 8, section 11040(5)(A). Other non-party Aggrieved
26 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
27 2699(a), (f), and (g).

28 //

1 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

2 **VIOLATION OF LABOR CODE SECTION 2802**

3 124. At all times herein set forth, California Labor Code section 2802 provides that
4 an employer must reimburse employees for all necessary expenditures and losses incurred by
5 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
6 to prevent employers from passing off their cost of doing business and operating expenses on
7 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
8 (2014). The applicable wage order, IWC Wage Order No. 4-2001, provides that: “[w]hen
9 tools or equipment are required by the employer or are necessary to the performance of a job,
10 such tools and equipment shall be provided and maintained by the employer, except that an
11 employee whose wages are at least two (2) times the minimum wage provided herein may be
12 required to provide and maintain hand tools and equipment customarily required by the trade
13 or craft.”

14 125. During the relevant time period, Defendants, on a company-wide basis,
15 required Plaintiffs and other non-party Aggrieved Employees to use their personal mobile
16 devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job
17 duties but failed to reimburse them for the costs of their work-related mobile device and/or
18 mobile data expenses. For example, Plaintiffs were required to use their personal cellular
19 phones and mobile data to communicate with management about the logistics of traveling to
20 different locations and to navigate to jobsites. Although Defendants required Plaintiffs and
21 other non-party Aggrieved Employees to use their personal mobile devices and mobile data to
22 carry out their work-related duties, Defendants failed to reimburse them for their costs
23 incurred.

24 126. Further, during the relevant time period, Defendants, on a company-wide basis,
25 required that other non-party Aggrieved Employees use their own personal vehicles to remote
26 jobsites, but failed to reimburse them for all costs of travel, including mileage. Although
27 Defendants required other non-party Aggrieved Employees to utilize their personal vehicles to
28 carry out their work-related responsibilities, Defendants failed to fully reimburse them for

1 their mileage or travel expenses.

2 127. Defendants could have provided Plaintiffs and other non-party Aggrieved
3 Employees with the actual equipment for use on the job, such as company mobile devices and
4 company vehicles, or, Defendants could have reimbursed employees for their mobile device
5 usage, travel expenses, and/or mileage. Instead, Defendants passed these operating costs off
6 onto Plaintiffs and other non-party Aggrieved Employees. At all relevant times, Plaintiffs did
7 not earn at least two (2) times the minimum wage.

8 128. Defendants' company-wide policy and/or practice of not reimbursing
9 employees for expenses necessarily incurred and passing on their operating costs to Plaintiffs
10 and other non-party Aggrieved Employees violates California Labor Code section 2802.
11 Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil
12 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

13 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
14 **EMPLOYMENT**

15 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

16 129. California's Wage Theft Prevention Act was enacted to ensure that employers
17 provide employees with basic information material to their employment relationship at the
18 time of hiring, and to ensure that employees are given written and timely notice of any
19 changes to basic information material to their employment. Codified at California Labor
20 Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an
21 employer must provide written notice to employees containing basic and material payroll
22 information, including, among other things, the rate(s) of pay and basis thereof, whether paid
23 by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for
24 overtime, the regular payday designated by the employer, and any allowances claims as part
25 of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-
26 (C).

27 130. During the relevant time period, Defendants failed to provide Plaintiff Hall and
28 other non-party Aggrieved Employees with written notice that lists all the requisite

1 information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, Defendants
2 failed to provide Plaintiff Hall and other non-party Aggrieved Employees with the hourly
3 rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A).
4 Instead, the wage theft form that Defendants provided to Plaintiff Hall is blank where the
5 aforementioned wage information should be filled in.

6 131. Defendants' failure to provide Plaintiff Hall and other non-party Aggrieved
7 Employees with written notice of basic information regarding their employment with
8 Defendants is in violation of California Labor Code section 2810.5. Plaintiff Hall and other
9 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
10 Labor Code sections 2699(a), (f), and (g).

11 **REQUEST FOR JURY TRIAL**

12 Plaintiffs request a trial by jury.

13 **PRAYER FOR RELIEF**

14 Plaintiffs, on behalf of all other non-party Aggrieved Employees, pray for relief and
15 judgment against Defendants, jointly and severally, as follows:

16 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
17 (\$25,000). Plaintiffs reserve the right to amend their prayer for relief to seek a different
18 amount.

19 **As to the First Cause of Action**

20 2. That the Court declare, adjudge and decree that Defendants violated the
21 following California Labor Code provisions as to Plaintiffs and/or other non-party Aggrieved
22 Employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198
23 (by failing to include all forms of remuneration in the regular rate of pay for purposes of
24 paying overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, and
25 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
26 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
27 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
28 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all

1 earned wages upon termination); 204 (by failing to timely pay all earned wages during
2 employment); 221 and 224 (by collecting and/or receiving wages already paid); 223 (by
3 secretly paying wages lower than required by statute); 246 (by failing to properly calculate
4 sick leave pay and provide written notice of paid sick leave); 1198 and the applicable IWC
5 Wage Order (by failing to provide reporting time pay); 2802 (by failing to reimburse business
6 expenses); and 2810.5 (by failing to provide written notice of information material to
7 employment);

8 3. For civil penalties, pursuant to California Labor Code sections 210, 225.5,
9 226.3, 248.5, 256, 558, 1174.5, and 2699(a), (f), and (g), for violations of California Labor
10 Code sections 201, 202, 204, 221, 223, 224, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d),
11 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

12 4. For attorneys' fees and costs pursuant to California Labor Code section
13 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
14 Labor Code sections 201, 202, 204, 221, 223, 224, 226(a), 226.7, 246, 510, 512(a), 516,
15 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

16 5. For pre-judgment and post-judgment interest as provided by law; and

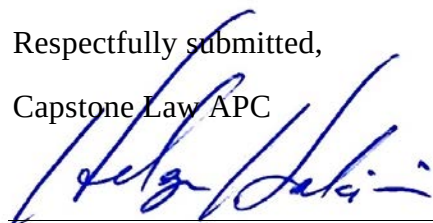
17 6. For such other and further relief as the Court may deem equitable and
18 appropriate.

19
20 Dated: May 28, 2024

Respectfully submitted,

Capstone Law APC

21
22
23 By:


Orlando Villalba
Helga Hakimi
Joseph D. Parsons

24
25 Attorneys for Venus Hall
26 and Jennifer Garcia
27
28

EXHIBIT “1”



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March 19, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Venus Hall v. Retail Services WIS Corporation, et al.*

Dear PAGA Administrator:

This office represents Venus Hall in connection with her claims under the California Labor Code. Ms. Hall was an employee of RETAIL SERVICES WIS CORPORATION and/or RETAIL SERVICES WIS HOLDINGS CORPORATION. For the purpose of this letter, Ms. Hall collectively refers to these entities as "WIS INTERNATIONAL."

The employers may be contacted directly at the addresses below:

RETAIL SERVICES WIS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123

RETAIL SERVICES WIS HOLDINGS
CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375

Ms. Hall intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Hall seeks relief on behalf of herself, the State of California, and other persons who are or were employed by WIS INTERNATIONAL as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

WIS INTERNATIONAL employed Ms. Hall as an hourly paid, non-exempt employee from approximately May 2021 to October 2021 and from January 2022 to May 2023. Ms. Hall worked for WIS INTERNATIONAL as an Inventory Associate/Driver out of its Sacramento, California office. Ms. Hall typically worked eight (8) hours or more per day, and five (5) days per week. At the time Ms. Hall's employment with WIS INTERNATIONAL ended, she was compensated approximately \$17.50 per hour. Ms. Hall's primary job duties included, without limitation, conducting inventory at retail stores, loading equipment into company vehicles, and driving to and from jobsites.

WIS INTERNATIONAL committed one or more of the following Labor Code violations against Ms. Hall, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

WIS INTERNATIONAL’s Company-Wide and Uniform Payroll and HR Practices

RETAIL SERVICES WIS CORPORATION and RETAIL SERVICES WIS HOLDINGS CORPORATION are Delaware corporations. WIS INTERNATIONAL provides outsourced inventory data collection, verification, merchandising, and analysis services to customers. Upon information and belief, WIS INTERNATIONAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in San Diego, California, for all non-exempt, hourly paid employees working for WIS INTERNATIONAL in California, including Ms. Hall and other aggrieved employees. At all relevant times, WIS INTERNATIONAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Hall and other aggrieved employees, regardless of their location or position.

Upon information and belief, WIS INTERNATIONAL maintains a centralized Payroll department at its corporate headquarters in San Diego, California, which processes payroll for all non-exempt, hourly paid employees working for WIS INTERNATIONAL in California, including Ms. Hall and other aggrieved employees. Further, WIS INTERNATIONAL issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Hall and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, WIS INTERNATIONAL utilized the same methods and formulas when calculating wages due to Ms. Hall and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

WIS INTERNATIONAL willfully failed to pay all overtime wages owed to Ms. Hall and other aggrieved employees. During the relevant time period, Ms. Hall and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

¹ These facts, theories, and claims are based on Ms. Hall’s experience and counsel’s review of those records currently available relating to Ms. Hall’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Hall reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

First, during the relevant period, WIS INTERNATIONAL had a company-wide policy and/or practice of failing to accurately record hours worked by its employees and thus restricted overtime accrual. WIS INTERNATIONAL did not provide employees with any mechanism, such as a handwritten timesheet, time clock, or electronic timekeeping system, to track and record their hours worked. Instead, WIS INTERNATIONAL had its supervisors input all employee time in WIS INTERNATIONAL's timekeeping system, and thus maintained exclusive control and discretion over employee punch-in and punch-out times. Moreover, on information and belief, WIS INTERNATIONAL would not pay employees for travel time when the jobsite was less than 30 miles from the local office. Thus, on information and belief, WIS INTERNATIONAL's supervisors entered Ms. Hall's and other aggrieved employees' shift start-times as the time they arrived at the first jobsite of the day and/or the scheduled shift-start time, and entered Ms. Hall's and other aggrieved employees' shift end-times as the time they left the last jobsite of the day and/or their scheduled shift end-time. Therefore, Ms. Hall and other aggrieved employees were not fully compensated for time spent traveling to and from jobsites and/or for time spent working before and after their scheduled shifts, despite being under the direction and control of WIS INTERNATIONAL.

Alternatively, WIS INTERNATIONAL had a company-wide policy and/or practice of improperly rounding employees' clock-in and/or clock-out times in its timekeeping system to the start and/or end of their scheduled hours worked, rather than their actual hours worked. Moreover, on information and belief, WIS INTERNATIONAL's timekeeping system rounded employees' clock-in and clock-out duration times to the nearest tenth (0.1) of an hour in its timekeeping system. WIS INTERNATIONAL's rounding policy resulted in the failure to compensate Ms. Hall and other aggrieved employees fully for all hours worked, causing Ms. Hall and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, WIS INTERNATIONAL's rounding policy has, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Hall and other aggrieved employees. To the extent WIS INTERNATIONAL's rounding policy took away time worked that was eligible for overtime, Ms. Hall and other aggrieved employees were denied overtime pay for all hours worked.

Because WIS INTERNATIONAL failed to provide Ms. Hall and other aggrieved employees with any mechanism to record their actual hours worked themselves and, instead, granted WIS INTERNATIONAL's supervisors exclusive control and discretion over employee time records, and further failed to accurately record their actual hours worked, Ms. Hall and other aggrieved employees were not paid for all hours worked, including, but not limited to, time spent working before and after their scheduled shifts and on days off. For example, when Ms. Hall worked as a driver, she was required to arrive before her scheduled shift to prepare and load the company van before inventory associates arrived to carpool to their assigned jobsite, but, on information and belief, her supervisors only logged 30 minutes of preparation time regardless of how long preparations actually took and/or did not clock her in until her scheduled shift start-time. Also, upon returning to WIS INTERNATIONAL's facility and after their supervisors clocked them out for the day, Ms. Hall and other aggrieved employees were required to continue working before they could leave for the day, including unloading the company van, noting the gas level, and cleaning the vehicle. Furthermore, approximately once per week and for 10-15 minutes per instance, WIS INTERNATIONAL's management would call Ms. Hall on her personal cellular phone on her days off and while otherwise off-the-clock, to discuss logistics of traveling to different jobsites, picking up equipment, and other work-related matters. Finally, several times during her employment, Ms. Hall was required to complete safety training modules off-the-clock at home, time for which she was not paid. This off-the-clock work could have been recorded by WIS INTERNATIONAL, but it refused to do so to avoid payment of additional wages to Ms. Hall and other aggrieved employees.

Second, WIS INTERNATIONAL's company-wide timekeeping practices and/or policies did not permit employees, including Ms. Hall and other aggrieved employees, to accurately track the start and end times

of their meal periods or allow them to report a short, missed, or interrupted meal period. As stated, because WIS INTERNATIONAL's supervisors logged the start and end times of meal periods in WIS INTERNATIONAL's timekeeping system, which Ms. Hall and other aggrieved employees did not have access to, WIS INTERNATIONAL, upon information and belief, would record that compliant meal periods were taken, even if that was not the case. Alternatively, WIS INTERNATIONAL implemented a company-wide practice and/or policy of automatically deducting meal periods from Ms. Hall's and other aggrieved employees' time records. As a result, because WIS INTERNATIONAL's supervisors recorded 30-minute meal periods were taken, even when meal periods were short, missed, or interrupted, Ms. Hall and other aggrieved employees were not paid for all hours worked.

Third, WIS INTERNATIONAL has systematically, and on a company-wide basis, assigned heavy workloads and deadlines, which prevented Ms. Hall and other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. WIS INTERNATIONAL also had a practice of failing to schedule meal periods and/or adhere to a schedule for meal periods which, combined with the assignment of heavy workloads, further caused Ms. Hall and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Hall and other aggrieved employees often worked through their meal periods because they were required to complete an inventory assignment that took longer than anticipated by management. As another example, WIS INTERNATIONAL's supervisors sometimes interrupted Ms. Hall's unpaid meal periods to discuss issues with equipment and inventory calculations. Thus, Ms. Hall and other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. WIS INTERNATIONAL did not compensate Ms. Hall and other aggrieved employees for the time they spent working off the clock during meal periods.

WIS INTERNATIONAL knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Hall and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Hall and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Hall and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Moreover, WIS INTERNATIONAL did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, WIS INTERNATIONAL paid other aggrieved employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, on information and belief, WIS INTERNATIONAL failed to incorporate all compensation, including incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, WIS INTERNATIONAL failed to pay all overtime wages by paying a lower overtime rate than required.

WIS INTERNATIONAL's failure to pay Ms. Hall and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 4-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. Tit. 8, § 11040(2)(K) (defining “Hours Worked”).

As set forth above, due to WIS INTERNATIONAL’s company-wide policies and/or practices of not permitting employees to record all their hours worked and limiting overtime accrual, WIS INTERNATIONAL failed to record all hours worked outside of scheduled shifts or during meal periods, including time spent traveling to and from jobsites, time spent working before and after scheduled shift-times, and communicating with management about work-related matters and completing training modules on days off. Moreover, due to WIS INTERNATIONAL’s policy of rounding Ms. Hall’s and other aggrieved employees’ clock-in and clock-out times in its timekeeping system to the start and/or end of their scheduled shift times and/or to the nearest tenth of an hour, WIS INTERNATIONAL failed to compensate Ms. Hall and other aggrieved employees fully for all hours worked. Thus, WIS INTERNATIONAL failed to track this time Ms. Hall and other aggrieved employees spent working off-the-clock, and Ms. Hall and other aggrieved employees received no compensation for this time.

Moreover, as also stated above, due to WIS INTERNATIONAL’s policies and/or practices of understaffing its locations while assigning heavy workloads and deadlines and failing to schedule meal periods and/or adhere to a schedule for meal periods, Ms. Hall and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Furthermore, as stated, on information and belief, WIS INTERNATIONAL had a company-wide practice and/or policy of automatically deducting meal periods from Ms. Hall’s and other aggrieved employees’ time records, even when meal periods were missed, short, and/or interrupted. Thus, WIS INTERNATIONAL systematically failed to pay Ms. Hall and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, WIS INTERNATIONAL did not pay at least minimum wages for all hours worked by Ms. Hall and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, WIS INTERNATIONAL did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, WIS INTERNATIONAL regularly failed to pay at least minimum wages to Ms. Hall and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause

or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as described above, WIS INTERNATIONAL did not have a mechanism in place for employees to track and record the start and end times of their meal periods. Instead, WIS INTERNATIONAL gave its supervisors exclusive control and discretion over employee punch-in and punch-out times, including meal period start and end times. Because Ms. Hall and other aggrieved employees did not have access to the timekeeping system, they were unable to record when their meal periods were missed, late, interrupted, or cut short. Alternatively, WIS INTERNATIONAL implemented a company-wide policy and practice of automatically deducting meal periods from Ms. Hall's and other aggrieved employees' time records regardless of whether they had actually received a compliant meal period.

Second, as stated, during the relevant time period, WIS INTERNATIONAL had, and continues to have, company-wide policies and/or practices of understaffing while assigning heavy workloads and deadlines, which resulted in a lack of meal period coverage and prevented Ms. Hall and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as also stated, WIS INTERNATIONAL had company-wide practices and/or policies of failing to schedule meal periods and/or adhere to a schedule for meal periods, which further caused Ms. Hall and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Ms. Hall and other aggrieved employees have had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, Ms. Hall and other aggrieved employees often missed their meal periods because they were required to finish an inventory count by a certain deadline, and Ms. Hall's meal periods were sometimes interrupted by management discussing work-related issues. Moreover, when Ms. Hall worked as a driver, her meal periods were sometimes interrupted because she required to take her meal period near the company van to allow other associates to access their personal belongings. As a further example, approximately twice per week, Ms. Hall took her meal periods late, after having worked in excess of five (5) hours into her shift, due to long drive times between jobsites or because an inventory count took longer to complete than anticipated.

Moreover, WIS INTERNATIONAL did not provide Ms. Hall and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During her employment, Ms. Hall worked shifts in excess of ten (10) or more hours per day but was not provided a second 30-minute meal period. Ms. Hall and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, WIS INTERNATIONAL knew or should have known that as a result of its policies, Ms. Hall and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. WIS INTERNATIONAL further knew or should have known that it did not pay Ms. Hall and other aggrieved employees meal period premiums when meal periods were late, missed, shortened, or interrupted. Further, to the extent that WIS INTERNATIONAL's rounding policy reported

that Ms. Hall and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Hall and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Moreover, WIS INTERNATIONAL engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Hall and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that WIS INTERNATIONAL did pay other aggrieved employees for missed, late, interrupted, and shortened meal periods, WIS INTERNATIONAL did not pay other aggrieved employees at the correct rate of pay for premiums because WIS INTERNATIONAL systematically failed to include all forms of compensation, such as incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, WIS INTERNATIONAL failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Hall and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, WIS INTERNATIONAL regularly failed to authorize and permit Ms. Hall and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, WIS INTERNATIONAL's company-wide practices, including understaffing and assigning heavy workloads, prevented Ms. Hall and other aggrieved employees from being relieved of all duty to take rest periods. WIS INTERNATIONAL also failed to schedule rest periods and/or adhere to a schedule for rest periods, which, coupled with WIS INTERNATIONAL's failure to provide adequate rest period coverage, further led to Ms. Hall and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, on information and belief, WIS INTERNATIONAL maintained a company-wide on-premises rest period policy, which effectively required that Ms. Hall and other aggrieved employees remain on or near the premises during their rest periods. Because Ms. Hall and other aggrieved

employees were effectively restricted from leaving the jobsites during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, WIS INTERNATIONAL effectively maintained control over Ms. Hall and other aggrieved employees during rest periods.

As a result of WIS INTERNATIONAL's practices and policies, Ms. Hall and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Hall's rest periods were sometimes interrupted so that she could assist coworkers who wanted to access their personal belongings stored in the company van. Ms. Hall also missed her rest periods approximately twice per week because of the lack of coverage available.

WIS INTERNATIONAL has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Hall and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that WIS INTERNATIONAL did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, WIS INTERNATIONAL did not pay other aggrieved employees at the correct rate of pay for premiums because WIS INTERNATIONAL failed to include all forms of compensation, such as incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, WIS INTERNATIONAL failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Hall and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. WIS INTERNATIONAL has not provided Ms. Hall and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, WIS INTERNATIONAL has knowingly and intentionally provided Ms. Hall and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, WIS INTERNATIONAL issued uniform wage statements to Ms. Hall and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, and the corresponding number of hours worked at each hourly rate. Specifically, WIS INTERNATIONAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because WIS INTERNATIONAL did not record the time Ms. Hall and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), WIS INTERNATIONAL did not list the correct amount of gross wages and net wages earned by Ms. Hall and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, WIS INTERNATIONAL failed to accurately list the total number of hours worked by Ms. Hall and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Moreover, because WIS INTERNATIONAL did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, WIS INTERNATIONAL did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, WIS INTERNATIONAL failed to list the correct amount of net wages in violation of section 226(a)(5). WIS INTERNATIONAL also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest premiums, paid sick leave, and/or reporting time pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), WIS INTERNATIONAL willfully failed to maintain accurate payroll records for Ms. Hall and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Hall's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, WIS INTERNATIONAL engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Hall and other aggrieved employees, in violation of section 1198. Furthermore, in light of WIS INTERNATIONAL's failure to provide Ms. Hall and other

aggrieved employees with second 30-minute meal periods to which they were entitled, WIS INTERNATIONAL kept no records of meal start and end times for second meal periods.

Because WIS INTERNATIONAL failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Hall and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Hall and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, WIS INTERNATIONAL failed to pay Ms. Hall and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, WIS INTERNATIONAL willfully failed to pay Ms. Hall and other aggrieved employees who are no longer employed by WIS INTERNATIONAL all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving WIS INTERNATIONAL's employ.

Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

During the relevant time period, WIS INTERNATIONAL unlawfully deducted a portion of wages previously paid to Ms. Hall and/or other aggrieved employees in violation of California Labor Code section 221. During the relevant time period, WIS INTERNATIONAL maintained a company-wide policy that improperly deducted wages from Ms. Hall's and/or other aggrieved employees' pay pursuant to its policies and/or practices of requiring employees to work off-the-clock. On information and belief, such deductions were not expressly authorized in writing by Ms. Hall and/or other aggrieved employees.

WIS INTERNATIONAL's practice, which resulted in a discount of wages to employees, is tantamount to taking deductions from Ms. Hall's and/or other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of California Labor Code sections 221 and 224. Ms. Hall and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, WIS INTERNATIONAL willfully and systematically deducted money from Ms. Hall's and/or other aggrieved employees' wages without their express written authorization pursuant to their policies and/or practices of requiring employees to work off-the-clock. In doing so, WIS INTERNATIONAL acted with the intent to deprive Ms. Hall and/or other aggrieved employees of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law. Thus, WIS INTERNATIONAL paid Ms. Hall and/or other aggrieved employees lower wages than those they were entitled to while purporting that Ms. Hall and/or other aggrieved employees were properly paid.

WIS INTERNATIONAL's failure to pay Ms. Hall and/or other aggrieved employees the correct designated wage, while purporting to pay legal wages, is a violation of California Labor Code section 223. Ms. Hall and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave and Provide Written Notice of Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for

use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, WIS INTERNATIONAL did not pay other aggrieved employees the correct sick leave rates of pay. WIS INTERNATIONAL failed to correctly use either method of calculation under Labor Code section 246(l) to determine other aggrieved employees' sick leave rates of pay. As stated, in addition to an hourly wage, WIS INTERNATIONAL paid other aggrieved employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, WIS INTERNATIONAL failed to incorporate all remunerations, including incentive pay, shift differential pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, WIS INTERNATIONAL failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, WIS INTERNATIONAL paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

Moreover, during the relevant time period, WIS INTERNATIONAL failed, on a company-wide basis, to provide other aggrieved employees with written notice on wage statements and/or other separate written statements that listed the amount of paid sick leave (or equivalent paid leave or paid time off) available to them.

WIS INTERNATIONAL's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l). WIS INTERNATIONAL's systematic failure to provide written notice of sick leave benefits to other aggrieved employees is in violation of Labor Code section 246(i).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that ". . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11040(5)(A) provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." The "primary purpose of the reporting time regulation" is "to guarantee at least partial compensation for employees who report to work

expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, WIS INTERNATIONAL violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5)(A), because WIS INTERNATIONAL failed to pay other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the usual or scheduled day’s work.

WIS INTERNATIONAL had a company-wide practice of sending other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay other aggrieved employees for half of their usual or scheduled shift. Although other aggrieved employees would report to work based on the schedule that WIS INTERNATIONAL provided to them, WIS INTERNATIONAL would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay.

Moreover, WIS INTERNATIONAL did not pay other aggrieved employees the correct reporting time rates of pay. As stated, in addition to an hourly wage, WIS INTERNATIONAL paid other aggrieved employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, WIS INTERNATIONAL failed to incorporate all remunerations, including incentive pay, shift differential pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the reporting time pay rate. Therefore, during times when other aggrieved employees were paid reporting time and received these other forms of pay, WIS INTERNATIONAL failed to pay all reporting time pay by paying a lower pay rate than required. Specifically, WIS INTERNATIONAL paid other aggrieved employees reporting time pay based on their hourly rate of pay instead of their regular rate of pay.

Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5)(A). Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 4-2001, provides that: “[w]hen the employer requires the use of tools or equipment or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, WIS INTERNATIONAL, on a company-wide basis, required Ms. Hall and other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Ms. Hall was required to use her personal cellular phone and mobile data to communicate with management about the logistics of traveling to different locations and to navigate to jobsites. Although WIS INTERNATIONAL required Ms. Hall

and other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, WIS INTERNATIONAL failed to reimburse them for their costs incurred.

Further, during the relevant time period, WIS INTERNATIONAL, on a company-wide basis, required that other aggrieved employees use their own personal vehicles to remote jobsites, but failed to reimburse them for all costs of travel, including mileage. Although WIS INTERNATIONAL required other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, WIS INTERNATIONAL failed to fully reimburse them for their mileage or travel expenses.

WIS INTERNATIONAL could have provided Ms. Hall and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles, or, WIS INTERNATIONAL could have reimbursed employees for their mobile device usage, travel expenses, and/or mileage. Instead, WIS INTERNATIONAL passed these operating costs off onto Ms. Hall and other aggrieved employees. At all relevant times, Ms. Hall did not earn at least two (2) times the minimum wage.

Thus, WIS INTERNATIONAL had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

During the relevant time period, on information and belief, WIS INTERNATIONAL failed, on a company-wide basis, to provide written notice to Ms. Hall and other aggrieved employees that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, WIS INTERNATIONAL failed to provide Ms. Hall and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that WIS INTERNATIONAL provided to Ms. Hall is blank where the aforementioned wage information should be filled in.

WIS INTERNATIONAL's failure to provide Ms. Hall and other aggrieved employees with written notice of basic information regarding their employment with WIS INTERNATIONAL is in violation of California Labor Code section 2810.5. Ms. Hall and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” WIS INTERNATIONAL, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Hall’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Hall seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, Ms. Hall, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against WIS INTERNATIONAL for violations of California Labor Code sections 201, 202, 204, 221, 223, 224, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Hall seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Hall’s reasonable attempt to her his dispute with WIS INTERNATIONAL prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform WIS INTERNATIONAL of Ms. Hall’s aforementioned grievances and the proposed remedies as detailed below, while affording WIS INTERNATIONAL a reasonable opportunity to satisfy Ms. Hall’s demands.

Demand is hereby made that WIS INTERNATIONAL shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. WIS INTERNATIONAL shall pay Ms. Hall and all other aggrieved employees employed by WIS INTERNATIONAL at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. WIS INTERNATIONAL shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid all reporting time pay.
3. WIS INTERNATIONAL shall conduct a survey or interview all current and former aggrieved employees in California who worked for WIS INTERNATIONAL in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device expenses, travel expenses, mileage, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. WIS INTERNATIONAL shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. WIS INTERNATIONAL also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. WIS INTERNATIONAL shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for WIS INTERNATIONAL's benefit, including, but not limited to, mobile device expenses, travel expenses, and mileage, or other expenditures, as required by Labor Code section 2802.
6. WIS INTERNATIONAL shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. WIS INTERNATIONAL shall provide all aggrieved employees employed by WIS INTERNATIONAL at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. WIS INTERNATIONAL shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
9. WIS INTERNATIONAL shall properly calculate aggrieved employees' rates of pay for overtime, meal and rest period premiums, paid sick leave, and/or reporting time pay based on all remuneration paid, pursuant to the applicable IWC Wage Order and Labor Code sections 226.7, 510, and 246(l). Additionally, WIS INTERNATIONAL shall provide aggrieved employees with written notice on wage statements and/or other separate written statements that list the amount of paid sick leave available to them, as required by Labor Code section 246(i).
10. WIS INTERNATIONAL shall pay each aggrieved employee unpaid wages and compensation for violations arising from its practice of unlawful deductions (Labor Code sections 221 and 224) and secret payment of lower wages (Labor Code section 223).
11. WIS INTERNATIONAL shall provide all aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
12. WIS INTERNATIONAL shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
13. WIS INTERNATIONAL shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 225.5, 226.3, 248.5, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 4-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

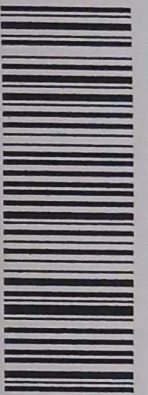
A handwritten signature in black ink, appearing to read "Anthony Castillo", with a stylized flourish at the end.

Anthony Castillo

Copy: RETAIL SERVICES WIS CORPORATION (via U.S. Certified Mail); RETAIL SERVICES WIS HOLDINGS CORPORATION (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park East, 1000
Los Angeles, CA. 90067

7022 2410 0000 2406 1795



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RETAIL SERVICES WIS
CORPORATION

9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123

7022 2410 0000 2406 1795

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

RETAIL SERVICES WIS
CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123



9590 9402 7690 2122 7209 52

2. Article Number (Transfer from service label)

7022 2410 0000 2406 1795

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

I. Received by (Printed Name)

C. Date of Delivery

1. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Mail
- ☐ Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA 90067

7022 2410 0000 2406 1788



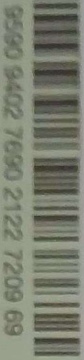
CERTIFIED MAIL

RETAIL SERVICES WIS
HOLDINGS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

RETAIL SERVICES WIS
HOLDINGS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375



9590 9402 7690 2122 7209 69

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

3. Received by (Printed Name)

C. Date of Delivery

2. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collected on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collected on Delivery Restricted Delivery | |
| ☐ Insured Mail | |
| ☐ Restricted Delivery | |

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3. Signature & Title (must be in ink and be legible)

4. Signature & Title (must be in ink and be legible)

5. Signature & Title (must be in ink and be legible)

6. Signature & Title (must be in ink and be legible)

7. Signature & Title (must be in ink and be legible)

8. Signature & Title (must be in ink and be legible)

9. Signature & Title (must be in ink and be legible)

10. Signature & Title (must be in ink and be legible)

RETAIL SERVICES WIS
HOLDINGS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375

SENDER: COMPLETE THIS SECTION

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 ■ Print your name and address on the reverse so that we can return the card to you.

RETAIL SERVICES WIS HOLDINGS CORPORATION
 9265 SKY PARK CT STE 100
 SAN DIEGO, CA 92123-4375

9590 9402 7690 2122 7209 69

2 Article Number (Transfer from service label)
 7022 2410 0000 2406 1788

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]*

3. Received by (Printed Name)
 Russell

C. Date of Delivery
 3-21

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Restricted Delivery

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

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SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.
 ■ Print your name and address on the reverse so that we can return the card to you.

RETAIL SERVICES WIS CORPORATION
 9265 SKY PARK CT STE 100
 SAN DIEGO, CA 92123

9590 9402 7690 2122 7209 52

2. Article Number (Transfer from service label)
 7022 2410 0000 2406 1795

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]*

3. Received by (Printed Name)
 Russell

C. Date of Delivery
 3-21

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Restricted Delivery (over \$500)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT “2”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

ANTHONY CASTILLO
310.812.8169 Direct
Anthony.Castillo@capstonelawyers.com

March 22, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Jennifer Garcia v. Retail Services WIS Corporation, et al.*

Dear PAGA Administrator:

This office represents Jennifer Garcia in connection with her claims under the California Labor Code. Ms. Garcia was an employee of RETAIL SERVICES WIS CORPORATION and/or RETAIL SERVICES WIS HOLDINGS CORPORATION. For the purpose of this letter, Ms. Garcia collectively refers to these entities as "WIS INTERNATIONAL."

The employers may be contacted directly at the addresses below:

RETAIL SERVICES WIS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123

RETAIL SERVICES WIS HOLDINGS
CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375

Ms. Garcia intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Garcia seeks relief on behalf of herself, the State of California, and other persons who are or were employed by WIS INTERNATIONAL as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

WIS INTERNATIONAL employed Ms. Garcia as an hourly paid, non-exempt employee from approximately June 2022 to June 2023. Ms. Garcia worked for WIS INTERNATIONAL as an Inventory Associate/Driver and Team Lead out of its Sacramento, California office. Ms. Garcia typically worked eight (8) hours or more per day, and five (5) days per week. At the time Ms. Garcia's employment with WIS INTERNATIONAL ended, she was compensated approximately \$18.00 per hour. Ms. Garcia's primary job duties included, without limitation, conducting inventory at retail stores, loading equipment into company vehicles, and driving to and from jobsites.

WIS INTERNATIONAL committed one or more of the following Labor Code violations against Ms. Garcia, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

WIS INTERNATIONAL’s Company-Wide and Uniform Payroll and HR Practices

RETAIL SERVICES WIS CORPORATION and RETAIL SERVICES WIS HOLDINGS CORPORATION are Delaware corporations. WIS INTERNATIONAL provides outsourced inventory data collection, verification, merchandising, and analysis services to customers. Upon information and belief, WIS INTERNATIONAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in San Diego, California, for all non-exempt, hourly paid employees working for WIS INTERNATIONAL in California, including Ms. Garcia and other aggrieved employees. At all relevant times, WIS INTERNATIONAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Garcia and other aggrieved employees, regardless of their location or position.

Upon information and belief, WIS INTERNATIONAL maintains a centralized Payroll department at its corporate headquarters in San Diego, California, which processes payroll for all non-exempt, hourly paid employees working for WIS INTERNATIONAL in California, including Ms. Garcia and other aggrieved employees. Further, WIS INTERNATIONAL issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Garcia and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, WIS INTERNATIONAL utilized the same methods and formulas when calculating wages due to Ms. Garcia and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

WIS INTERNATIONAL willfully failed to pay all overtime wages owed to Ms. Garcia and other aggrieved employees. During the relevant time period, Ms. Garcia and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

¹ These facts, theories, and claims are based on Ms. Garcia’s experience and counsel’s review of those records currently available relating to Ms. Garcia’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Garcia reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

First, during the relevant period, WIS INTERNATIONAL had a company-wide policy and/or practice of failing to accurately record hours worked by its employees and thus restricted overtime accrual. WIS INTERNATIONAL did not provide employees with any mechanism, such as a handwritten timesheet, time clock, or electronic timekeeping system, to track and record their hours worked. Instead, WIS INTERNATIONAL had its supervisors input all employee time in WIS INTERNATIONAL's timekeeping system, and thus maintained exclusive control and discretion over employee punch-in and punch-out times. Moreover, on information and belief, WIS INTERNATIONAL would not pay employees for travel time when the jobsite was less than 30 miles from the local office. Thus, on information and belief, WIS INTERNATIONAL's supervisors entered Ms. Garcia's and other aggrieved employees' shift start-times as the time they arrived at the first jobsite of the day and/or the scheduled shift-start time, and entered Ms. Garcia's and other aggrieved employees' shift end-times as the time they left the last jobsite of the day and/or their scheduled shift end-time. Therefore, Ms. Garcia and other aggrieved employees were not fully compensated for time spent traveling to and from jobsites and/or for time spent working before and after their scheduled shifts, despite being under the direction and control of WIS INTERNATIONAL.

Alternatively, WIS INTERNATIONAL had a company-wide policy and/or practice of improperly rounding employees' clock-in and/or clock-out times in its timekeeping system to the start and/or end of their scheduled hours worked, rather than their actual hours worked. Moreover, on information and belief, WIS INTERNATIONAL's timekeeping system rounded employees' clock-in and clock-out duration times to the nearest tenth (0.1) of an hour in its timekeeping system. WIS INTERNATIONAL's rounding policy resulted in the failure to compensate Ms. Garcia and other aggrieved employees fully for all hours worked, causing Ms. Garcia and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, WIS INTERNATIONAL's rounding policy has, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Garcia and other aggrieved employees. To the extent WIS INTERNATIONAL's rounding policy took away time worked that was eligible for overtime, Ms. Garcia and other aggrieved employees were denied overtime pay for all hours worked.

Because WIS INTERNATIONAL failed to provide Ms. Garcia and other aggrieved employees with any mechanism to record their actual hours worked themselves and, instead, granted WIS INTERNATIONAL's supervisors exclusive control and discretion over employee time records, and further failed to accurately record their actual hours worked, Ms. Garcia and other aggrieved employees were not paid for all hours worked, including, but not limited to, time spent working before and after their scheduled shifts and on days off. For example, upon returning to WIS INTERNATIONAL's facility and after their supervisors clocked them out for the day, Ms. Garcia and other aggrieved employees were required to continue working before they could leave for the day, including unloading the company van, noting the gas level, and cleaning the vehicle. Also, when Ms. Garcia worked as a driver, she was required to arrive before her scheduled shift to prepare and load the company van before inventory associates arrived to carpool to their assigned jobsite, but, on information and belief, her supervisors only logged 30 minutes of preparation time regardless of how long preparations actually took and/or did not clock her in until her scheduled shift start-time. Furthermore, WIS INTERNATIONAL's management would call other aggrieved employees on their personal mobile devices on their days off and while otherwise off-the-clock, to discuss logistics of traveling to different jobsites, picking up equipment, and other work-related matters. Finally, several times during her employment, Ms. Garcia was required to complete safety training modules at home, but was not compensated for all of the time she spent completing the modules. This off-the-clock work could have been recorded by WIS INTERNATIONAL, but it refused to do so to avoid payment of additional wages to Ms. Garcia and other aggrieved employees.

Second, WIS INTERNATIONAL's company-wide timekeeping practices and/or policies did not permit employees, including Ms. Garcia and other aggrieved employees, to accurately track the start and end times of their meal periods or allow them to report a short, missed, or interrupted meal period. As stated, because WIS INTERNATIONAL's supervisors logged the start and end times of meal periods in WIS INTERNATIONAL's timekeeping system, which Ms. Garcia and other aggrieved employees did not have access to, WIS INTERNATIONAL, upon information and belief, would record that compliant meal periods were taken, even if that was not the case. Alternatively, WIS INTERNATIONAL implemented a company-wide practice and/or policy of automatically deducting meal periods from Ms. Garcia's and other aggrieved employees' time records. As a result, because WIS INTERNATIONAL's supervisors recorded 30-minute meal periods were taken, even when meal periods were short, missed, or interrupted, Ms. Garcia and other aggrieved employees were not paid for all hours worked.

Third, WIS INTERNATIONAL has systematically, and on a company-wide basis, assigned heavy workloads and deadlines, which prevented Ms. Garcia and other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. WIS INTERNATIONAL also had a practice of failing to schedule meal periods and/or adhere to a schedule for meal periods which, combined with the assignment of heavy workloads, further caused Ms. Garcia and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Garcia and other aggrieved employees often worked through their meal periods because they were required to complete an inventory assignment that took longer than anticipated by management. As another example, WIS INTERNATIONAL's supervisors sometimes interrupted Ms. Garcia's unpaid meal periods to discuss issues with equipment and inventory calculations. Thus, Ms. Garcia and other aggrieved employees worked through meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. WIS INTERNATIONAL did not compensate Ms. Garcia and other aggrieved employees for the time they spent working off the clock during meal periods.

WIS INTERNATIONAL knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Garcia and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Garcia and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Garcia and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Moreover, WIS INTERNATIONAL did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, WIS INTERNATIONAL paid other aggrieved employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, on information and belief, WIS INTERNATIONAL failed to incorporate all compensation, including incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, WIS INTERNATIONAL failed to pay all overtime wages by paying a lower overtime rate than required.

WIS INTERNATIONAL's failure to pay Ms. Garcia and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 4-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. Tit. 8, § 11040(2)(K) (defining “Hours Worked”).

As set forth above, due to WIS INTERNATIONAL’s company-wide policies and/or practices of not permitting employees to record all their hours worked and limiting overtime accrual, WIS INTERNATIONAL failed to record all hours worked outside of scheduled shifts or during meal periods, including time spent traveling to and from jobsites, time spent working before and after scheduled shift-times, communicating with management about work-related matters, and/or completing training modules on days off. Moreover, due to WIS INTERNATIONAL’s policy of rounding Ms. Garcia’s and other aggrieved employees’ clock-in and clock-out times in its timekeeping system to the start and/or end of their scheduled shift times and/or to the nearest tenth of an hour, WIS INTERNATIONAL failed to compensate Ms. Garcia and other aggrieved employees fully for all hours worked. Thus, WIS INTERNATIONAL failed to track this time Ms. Garcia and other aggrieved employees spent working off-the-clock, and Ms. Garcia and other aggrieved employees received no compensation for this time.

Moreover, as also stated above, due to WIS INTERNATIONAL’s policies and/or practices of understaffing its locations while assigning heavy workloads and deadlines and failing to schedule meal periods and/or adhere to a schedule for meal periods, Ms. Garcia and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Furthermore, as stated, on information and belief, WIS INTERNATIONAL had a company-wide practice and/or policy of automatically deducting meal periods from Ms. Garcia’s and other aggrieved employees’ time records, even when meal periods were missed, short, and/or interrupted. Thus, WIS INTERNATIONAL systematically failed to pay Ms. Garcia and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, WIS INTERNATIONAL did not pay at least minimum wages for all hours worked by Ms. Garcia and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, WIS INTERNATIONAL did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, WIS INTERNATIONAL regularly failed to pay at least minimum wages to Ms. Garcia and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor

Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as described above, WIS INTERNATIONAL did not have a mechanism in place for employees to track and record the start and end times of their meal periods. Instead, WIS INTERNATIONAL gave its supervisors exclusive control and discretion over employee punch-in and punch-out times, including meal period start and end times. Because Ms. Garcia and other aggrieved employees did not have access to the timekeeping system, they were unable to record when their meal periods were missed, late, interrupted, or cut short. Alternatively, WIS INTERNATIONAL implemented a company-wide policy and practice of automatically deducting meal periods from Ms. Garcia's and other aggrieved employees' time records regardless of whether they had actually received a compliant meal period.

Second, as stated, during the relevant time period, WIS INTERNATIONAL had, and continues to have, company-wide policies and/or practices of understaffing while assigning heavy workloads and deadlines, which resulted in a lack of meal period coverage and prevented Ms. Garcia and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as also stated, WIS INTERNATIONAL had company-wide practices and/or policies of failing to schedule meal periods and/or adhere to a schedule for meal periods, which further caused Ms. Garcia and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Ms. Garcia and other aggrieved employees have had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, Ms. Garcia and other aggrieved employees sometimes missed their meal periods because they were required to finish an inventory count by a certain deadline, and Ms. Garcia's meal periods were sometimes interrupted by management discussing work-related issues. Moreover, when Ms. Garcia worked as a driver, her meal periods were occasionally interrupted because she required to take her meal period near the company van to allow other associates to access their personal belongings. As a further example, Ms. Garcia regularly took her meal periods late, after having worked in excess of five (5) hours into her shift, due to long drive times between jobsites or because an inventory count took longer to complete than anticipated.

Moreover, WIS INTERNATIONAL did not provide Ms. Garcia and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During her employment, Ms. Garcia worked shifts in excess of ten (10) or more hours per day but was not provided a second 30-minute meal period. Ms. Garcia and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, WIS INTERNATIONAL knew or should have known that as a result of its policies, Ms. Garcia and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. WIS INTERNATIONAL further knew or should have known that it did not pay Ms. Garcia and other aggrieved employees meal period premiums when meal periods were late,

missed, shortened, or interrupted. Further, to the extent that WIS INTERNATIONAL's rounding policy reported that Ms. Garcia and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Garcia and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Moreover, WIS INTERNATIONAL engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Garcia and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that WIS INTERNATIONAL did pay other aggrieved employees for missed, late, interrupted, and shortened meal periods, WIS INTERNATIONAL did not pay other aggrieved employees at the correct rate of pay for premiums because WIS INTERNATIONAL systematically failed to include all forms of compensation, such as incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, WIS INTERNATIONAL failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Garcia and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, WIS INTERNATIONAL regularly failed to authorize and permit Ms. Garcia and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, WIS INTERNATIONAL's company-wide practices, including understaffing and assigning heavy workloads, prevented Ms. Garcia and other aggrieved employees from being relieved of all duty to take rest periods. WIS INTERNATIONAL also failed to schedule rest periods and/or adhere to a schedule for rest periods, which, coupled with WIS INTERNATIONAL's failure to provide adequate rest period coverage, further led to Ms. Garcia and other aggrieved employees not being authorized and permitted to take compliant rest periods. Furthermore, on information and belief, WIS INTERNATIONAL maintained a company-wide on-premises rest period policy, which effectively required that Ms. Garcia and other aggrieved employees remain on or near the premises during their rest periods. Because Ms. Garcia and other aggrieved

employees were effectively restricted from leaving the jobsites during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, WIS INTERNATIONAL effectively maintained control over Ms. Garcia and other aggrieved employees during rest periods.

As a result of WIS INTERNATIONAL's practices and policies, Ms. Garcia and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Garcia's rest periods were sometimes interrupted so that she could assist coworkers who wanted to access their personal belongings stored in the company van.

WIS INTERNATIONAL has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Garcia and/or other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that WIS INTERNATIONAL did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, WIS INTERNATIONAL did not pay other aggrieved employees at the correct rate of pay for premiums because WIS INTERNATIONAL failed to include all forms of compensation, such as incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, WIS INTERNATIONAL failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Garcia and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. WIS INTERNATIONAL has not provided Ms. Garcia and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, WIS INTERNATIONAL has knowingly and intentionally provided Ms. Garcia and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, WIS INTERNATIONAL issued uniform wage statements to Ms. Garcia and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, and the corresponding number of hours worked at each hourly rate. Specifically, WIS INTERNATIONAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because WIS INTERNATIONAL did not record the time Ms. Garcia and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, and deducted time from their

records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), WIS INTERNATIONAL did not list the correct amount of gross wages and net wages earned by Ms. Garcia and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, WIS INTERNATIONAL failed to accurately list the total number of hours worked by Ms. Garcia and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Moreover, because WIS INTERNATIONAL did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, paid sick leave, and/or reporting time pay, WIS INTERNATIONAL did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, WIS INTERNATIONAL failed to list the correct amount of net wages in violation of section 226(a)(5). WIS INTERNATIONAL also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest premiums, paid sick leave, and/or reporting time pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), WIS INTERNATIONAL willfully failed to maintain accurate payroll records for Ms. Garcia and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Garcia's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, WIS INTERNATIONAL engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Garcia and other aggrieved employees, in violation of section 1198. Furthermore, in light of WIS INTERNATIONAL's failure to provide Ms. Garcia and other aggrieved employees with second 30-minute meal periods to which they were entitled, WIS INTERNATIONAL kept no records of meal start and end times for second meal periods.

Because WIS INTERNATIONAL failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Garcia and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Garcia and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, WIS INTERNATIONAL failed to pay Ms. Garcia and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, WIS INTERNATIONAL willfully failed to pay Ms. Garcia and other aggrieved employees who are no longer employed by WIS INTERNATIONAL all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving WIS INTERNATIONAL's employ.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

During the relevant time period, WIS INTERNATIONAL unlawfully deducted a portion of wages previously paid to Ms. Garcia and/or other aggrieved employees in violation of California Labor Code section 221. During the relevant time period, WIS INTERNATIONAL maintained a company-wide policy that improperly deducted wages from Ms. Garcia's and/or other aggrieved employees' pay pursuant to its policies and/or practices of requiring employees to work off-the-clock. On information and belief, such deductions were not expressly authorized in writing by Ms. Garcia and/or other aggrieved employees.

WIS INTERNATIONAL's practice, which resulted in a discount of wages to employees, is tantamount to taking deductions from Ms. Garcia's and/or other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of California Labor Code sections 221 and 224. Ms. Garcia and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, WIS INTERNATIONAL willfully and systematically deducted money from Ms. Garcia's and/or other aggrieved employees' wages without their express written authorization pursuant to their policies and/or practices of requiring employees to work off-the-clock. In doing so, WIS INTERNATIONAL acted with the intent to deprive Ms. Garcia and/or other aggrieved employees of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law. Thus, WIS INTERNATIONAL paid Ms. Garcia and/or other aggrieved employees lower wages than those they were entitled to while purporting that Ms. Garcia and/or other aggrieved employees were properly paid.

WIS INTERNATIONAL's failure to pay Ms. Garcia and/or other aggrieved employees the correct designated wage, while purporting to pay legal wages, is a violation of California Labor Code section 223. Ms. Garcia and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave and Provide Written Notice of Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an

employer shall calculate paid sick leave by using one of two calculations: 1) “[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]” or 2) “[p]aid sick time for nonexempt employees shall be calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

During the relevant time period, WIS INTERNATIONAL did not pay other aggrieved employees the correct sick leave rates of pay. WIS INTERNATIONAL failed to correctly use either method of calculation under Labor Code section 246(l) to determine other aggrieved employees’ sick leave rates of pay. As stated, in addition to an hourly wage, WIS INTERNATIONAL paid other aggrieved employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, WIS INTERNATIONAL failed to incorporate all remunerations, including incentive pay, shift differential pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, WIS INTERNATIONAL failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, WIS INTERNATIONAL paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

Moreover, during the relevant time period, WIS INTERNATIONAL failed, on a company-wide basis, to provide other aggrieved employees with written notice on wage statements and/or other separate written statements that listed the amount of paid sick leave (or equivalent paid leave or paid time off) available to them.

WIS INTERNATIONAL’s failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l). WIS INTERNATIONAL’s systematic failure to provide written notice of sick leave benefits to other aggrieved employees is in violation of Labor Code section 246(i).

Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11040(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of

inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, WIS INTERNATIONAL violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5)(A), because WIS INTERNATIONAL failed to pay other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the usual or scheduled day’s work.

WIS INTERNATIONAL had a company-wide practice of sending other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay other aggrieved employees for half of their usual or scheduled shift. Although other aggrieved employees would report to work based on the schedule that WIS INTERNATIONAL provided to them, WIS INTERNATIONAL would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay.

Moreover, WIS INTERNATIONAL did not pay other aggrieved employees the correct reporting time rates of pay. As stated, in addition to an hourly wage, WIS INTERNATIONAL paid other aggrieved employees incentive pay, shift differential pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, WIS INTERNATIONAL failed to incorporate all remunerations, including incentive pay, shift differential pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the reporting time pay rate. Therefore, during times when other aggrieved employees were paid reporting time and received these other forms of pay, WIS INTERNATIONAL failed to pay all reporting time pay by paying a lower pay rate than required. Specifically, WIS INTERNATIONAL paid other aggrieved employees reporting time pay based on their hourly rate of pay instead of their regular rate of pay.

Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5)(A). Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 4-2001, provides that: “[w]hen the employer requires the use of tools or equipment or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, WIS INTERNATIONAL, on a company-wide basis, required Ms. Garcia and other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Ms. Garcia was required to use her personal cellular phone and mobile data to communicate with management about the logistics of traveling to different locations and to navigate to jobsites. Although WIS INTERNATIONAL required Ms. Garcia and other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, WIS INTERNATIONAL failed to reimburse them for their costs incurred.

Further, during the relevant time period, WIS INTERNATIONAL, on a company-wide basis, required that other aggrieved employees use their own personal vehicles to travel to remote jobsites, but failed to reimburse them for all costs of travel, including mileage. Although WIS INTERNATIONAL required other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, WIS INTERNATIONAL failed to fully reimburse them for their mileage or travel expenses.

WIS INTERNATIONAL could have provided Ms. Garcia and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles, or, WIS INTERNATIONAL could have reimbursed employees for their mobile device usage, travel expenses, and/or mileage. Instead, WIS INTERNATIONAL passed these operating costs off onto Ms. Garcia and other aggrieved employees. At all relevant times, Ms. Garcia did not earn at least two (2) times the minimum wage.

Thus, WIS INTERNATIONAL had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

During the relevant time period, on information and belief, WIS INTERNATIONAL failed, on a company-wide basis, to provide written notice to other aggrieved employees that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).

WIS INTERNATIONAL's failure to provide other aggrieved employees with written notice of basic information regarding their employment with WIS INTERNATIONAL is in violation of California Labor Code section 2810.5. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred

dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” WIS INTERNATIONAL, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Garcia’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Garcia seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, Ms. Garcia, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against WIS INTERNATIONAL for violations of California Labor Code sections 201, 202, 204, 221, 223, 224, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Garcia seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Garcia’s reasonable attempt to settle her dispute with WIS INTERNATIONAL prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform WIS INTERNATIONAL of Ms. Garcia’s aforementioned grievances and the proposed remedies as detailed below, while affording WIS INTERNATIONAL a reasonable opportunity to satisfy Ms. Garcia’s demands.

Demand is hereby made that WIS INTERNATIONAL shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. WIS INTERNATIONAL shall pay Ms. Garcia and all other aggrieved employees employed by WIS INTERNATIONAL at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. WIS INTERNATIONAL shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid all reporting time pay.
3. WIS INTERNATIONAL shall conduct a survey or interview all current and former aggrieved employees in California who worked for WIS INTERNATIONAL in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device expenses, travel expenses, mileage, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. WIS INTERNATIONAL shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. WIS INTERNATIONAL also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. WIS INTERNATIONAL shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for WIS INTERNATIONAL's benefit, including, but not limited to, mobile device expenses, travel expenses and mileage, or other expenditures, as required by Labor Code section 2802.
6. WIS INTERNATIONAL shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. WIS INTERNATIONAL shall provide all aggrieved employees employed by WIS INTERNATIONAL at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. WIS INTERNATIONAL shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
9. WIS INTERNATIONAL shall properly calculate aggrieved employees' rates of pay for overtime, meal and rest period premiums, paid sick leave, and/or reporting time pay based on all remuneration paid, pursuant to the applicable IWC Wage Order and Labor Code sections 226.7, 510, and 246(l). Additionally, WIS INTERNATIONAL shall provide aggrieved employees with written notice on wage statements and/or other separate written statements that list the amount of paid sick leave available to them, as required by Labor Code section 246(i).
10. WIS INTERNATIONAL shall pay each aggrieved employee unpaid wages and compensation for violations arising from its practice of unlawful deductions (Labor Code sections 221 and 224) and secret payment of lower wages (Labor Code section 223).
11. WIS INTERNATIONAL shall provide all aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
12. WIS INTERNATIONAL shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
13. WIS INTERNATIONAL shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 225.5, 226.3, 248.5, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 4-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,


Anthony Castillo

Copy: RETAIL SERVICES WIS CORPORATION (via U.S. Certified Mail); RETAIL SERVICES WIS HOLDINGS CORPORATION (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2406 1863

RETAIL SERVICES WIS
CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

RETAIL SERVICES WIS
CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123



9590 9402 7690 2122 7180 27

2. Article Number (Transfer from service label)

7022 2410 0000 2406 1863

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery

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CERTIFIED MAIL® RECEIPT
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Certified Mail Fee

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Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy)

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☐ Return Receipt (electronic)

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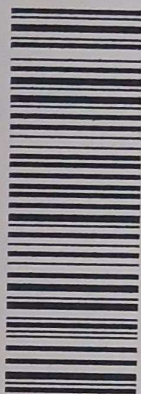
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Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

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Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

Garcia v.
RE SMV SV.

Postmark

☐ CA

☐ AD

☐ AD

Posta

\$

Total

\$

Sent

Street

City, 1

RETAIL SERVICES WIS
HOLDINGS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

RETAIL SERVICES WIS
HOLDINGS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

1. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No



9590 9402 7690 2122 7180 10

Article Number (Transfer from service label)

7022 2410 0000 2406 1856

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

RETAIL SERVICES WIS
HOLDINGS CORPORATION
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123-4375



9590 9402 7690 2122 7180 10

? Article Number (Transfer from service label)

7022 2410 0000 2406 1856

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

[Handwritten Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

[Handwritten: Russell]

C. Date of Delivery

[Handwritten: 3-26]

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Mail Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse

**RETAIL SERVICES WIS
CORPORATION**
9265 SKY PARK CT STE 100
SAN DIEGO, CA 92123



9590 9402 7690 2122 7180 27

2. Article Number (Transfer from service label)

7022 2410 0000 2406 1863

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

J. Russell

C. Date of Delivery

3-26

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail

Mail Restricted Delivery

00)

Domestic Return Receipt