

1 Ian Pancer (SBN 246600)
2 PANCER LAW CORPORATION
3 105 West F St. #400
4 San Diego, CA. 92101
Telephone: (619) 955-6644
Facsimile: (619) 374-7410

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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Sophia Felix, Deputy Clerk

5 Attorneys for Plaintiffs

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SAN DIEGO

9)
10) GLORIA GARCIA, individually and as a
Private Attorney General,

11)
12) Plaintiffs,

13) vs.

14) EATON CORPORATION, an Ohio
15) Corporation, and DOES 1-50,

16) Defendants.
17)
18)
19)

Case No.: 37-2024-00012518-CU-OE-CTL

**PRIVATE ATTORNEYS GENERAL
ACT AND INDIVIDUAL COMPLAINT**

1. Individual and PAGA Claim for Failure to pay minimum/ prevailing/ regular wages;
2. Individual and PAGA Claim for Failure to Pay State and Prevailing Wage Overtime;
3. Individual and PAGA Claim for Failure to Comply with Meal Break Laws;
4. Individual and PAGA Claim for Failure to Comply with Rest Break Laws;
5. PAGA Claim for Failure to Reimburse Expenses;
6. Individual and PAGA Claim for Failure to Provide Accurate Wage Statements;
7. Individual and PAGA Claim for Failure to Pay Wages Timely;
8. PAGA claim for Failure to Maintain Records; and
9. Individual Claim for Violation of B.&P. Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff GLORIA GARCIA (hereafter, “Plaintiff” or “Named Plaintiff”), acting as a Private
2 Attorney General under the authority of the Private Attorneys General Act (“PAGA”), §§ 2698,
3 2699 of the California Labor Code, on behalf herself and all Aggrieved Employees (collectively,
4 “Plaintiffs,” or “Aggrieved Employees”), and acting for the State of California as its proxy, seeks an
5 award of civil penalties, attorney fees and costs against Defendants. Additionally, on an individual
6 basis, Plaintiff seeks damages and individualized relief, as demanded herein.

7 **NATURE OF THE ACTION**

8 1. This is a wage and hour representative action brought by Plaintiff on behalf of the
9 State of California and all individuals employed therein during the applicable PAGA period, and on
10 behalf of herself during the applicable limitations periods.

11 2. Plaintiff brings this action against Defendants for wage and hour abuses in violation of
12 the California Labor Code and the Industrial Welfare Commission Wage Orders (the “IWC Wage
13 Orders”), all of which contribute to Defendants’ deliberate unfair competition in California.

14 3. Plaintiff, on behalf of herself, seeks damages, penalties, attorney fees, costs, interest,
15 restitution, injunctive and other equitable relief.

16 4. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only
17 penalties, attorney fees and costs.

18 **JURISDICTION AND VENUE**

19 5. Pursuant to Article VI, § 10 of the California Constitution, subject matter jurisdiction
20 is proper in the Superior Court of California, County of San Diego, State of California because
21 Plaintiff alleges claims arising under California law.

22 6. This Court has jurisdiction over the Defendants because each is an association,
23 corporation, business entity, or individual that conducts substantial business in the State of
24 California, County of San Diego.

25 7. Pursuant to § 395 of the California Code of Civil Procedure, venue is proper in the
26 Superior Court of California for the County of San Diego because Plaintiff seeks civil penalties
27 based, in part, on conduct of Defendants in San Diego County vis-à-vis its employees who worked
28 in the County of San Diego. Additionally, venue is proper in any County in California, including

1 San Diego, because Defendants have failed to identity in their corporate filing records with the
2 Secretary of State where in California they maintain their principal place of business.

3
4 **THE PARTIES**

5 8. Plaintiff is an individual who resides in San Diego County, California.

6 9. Defendant EATON CORPORATION is a Ohio Corporation doing business in
7 California.

8 10. The true names and capacities, whether individual, corporate, associate, or otherwise
9 of the Defendants named herein as DOES 1 through 50, are unknown to Plaintiffs at this time.
10 Plaintiffs therefore sue said Defendants by such fictitious names pursuant to § 474 of the California
11 Code of Civil Procedure. Plaintiffs will seek leave to amend this Complaint to allege the true names
12 and capacities of DOES 1 through 50 when the correct identities are ascertained. Plaintiffs are
13 informed and believe, and based thereon allege, that each of the DOE Defendants is in some manner
14 liable to Plaintiffs for the events and actions alleged herein. All named Defendants and DOES 1
15 through 50 are collectively referred to as "Defendants."

16 11. Plaintiffs are informed and believe, and based thereon allege, that at all times
17 relevant herein each Defendants was acting as an agent, joint venture, or as an integrated enterprise
18 and/or alter ego for each of the other Defendants, and each was a co-conspirator with respect to the
19 acts and the wrongful conduct alleged herein, so that each is responsible for the acts of the other in
20 connection with the conspiracy and in proximate connection with the other Defendants.

21 12. Plaintiffs are informed and believe, and based thereon allege, that each Defendants
22 was acting partly within and partly without the scope and course of their employment, and was
23 acting with the knowledge, permission, consent, and ratification of every other Defendants.

24 13. Plaintiffs are informed and believe, and based thereon allege, that each of the
25 Defendants was an agent, managing general partner, managing member, owner, co-owner, partner,
26 employee, and/or representative of each of the Defendants, and were at all times material hereto,
27 acting within the purpose and scope of such agency, employment, contract and/or representation,
28 and that each of them are jointly and severally liable to Plaintiffs for the acts alleged herein

14. Plaintiffs are informed and believe, and based thereon allege, that each of the

1 Defendants are liable to Plaintiff under legal theories and doctrines including but not limited to (1)
2 joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter ego, based in part, on the facts
3 set forth below.

4 15. Plaintiffs are informed and believe, and based thereon allege, that each of the named
5 Defendants are part of an integrated enterprise and have acted or currently act as the employer
6 and/or joint employer of Plaintiffs.

7 **FACTUAL ALLEGATIONS**

8 *Plaintiff's Job Duties*

9 16. From August 18, 2023 to November 21, 2023, Defendants employed Plaintiff as a
10 nonexempt worker in Fontana, California, County of San Bernadino. Defendants involuntarily
11 terminated Plaintiff without paying her all wages that she had a right to receive on the date of her
12 termination in an amount to be proven at trial.

13 17. Plaintiff was a forklift operator in Defendants' warehouse distribution center. Her job
14 duties included, in part, pulling boxed items off shelves in the distribution center (using a cherry
15 picking forklift), which had arrived in interstate commerce, and placing them on pallets according to
16 customer orders. Forklift operators such as Plaintiff would remove the boxes from the shelves, open
17 them up using a blade (cutter), and place individual items on to pallets for transportation by the
18 semis. As the items were large, heavy, and often high up on shelves, Plaintiff would use a forklift to
19 manipulate the boxes and items.

20 18. In palletizing the items, Plaintiff would shrink wrap them on the pallet in preparation
21 for delivery of the items to customers. Once palletized, the pallets would be transported by forklift
22 to the loading dock and loaded into semi-trucks to be transported to Defendants' customers.

23 19. Plaintiff would carry a scanner gun containing the orders she was assigned to pull.
24 There would be multiple jobs in Plaintiff's job list on the scanner gun at any given time. There could
25 be two jobs at a time, or 30 jobs at a time.

26 20. The scanner gun directed Plaintiff on what items to pull from the shelf and palletize
27 for being loaded into trucks. An order could consist of two items or 20 items.

28 21. Additionally, Plaintiff's job included unloading – removing items from semi-trucks

1 that arrived at the distribution center in interstate commerce, and putting the items on shelves, from
2 which they would later be removed to be placed on outgoing trucks. Plaintiff spent more of her time
3 picking, packing and loading goods for transport away from the distribution center, but she also
4 spent time unloading goods, especially on busy days when pallets would accumulate and congest the
5 work area. At other times, items would be taken off the truck by another forklift driver and staged in
6 the right area for Plaintiff to put them on the shelves using the forklift.

7 22. The cherry picker forklift Plaintiff operated would raise up off the ground to multiple
8 times Plaintiff's height to allow Plaintiff to take items off the shelf, select them for packing, and
9 bring them down on the forks of the cherry picker.

10 23. When removing items from shelves, Plaintiff would stack them sometimes three or
11 four, or even six boxes high for a larger pallet.

12 24. It was once the pallet became full that Plaintiff would pull into a designated area of
13 the warehouse to wrap the items with shrink wrap. She would label and tag the palletized order with
14 an identifying sequence of characters referred to as a "license plate."

15 25. Plaintiff would then scan the "license plate" before taking the items to the loading
16 dock where the trucks were backed in, load the items, scan the load with the scanner again, and then
17 the order would be cleared off the scanner gun, the items would go out for delivery, and Plaintiff
18 would proceed with the next order.

19 Plaintiff's Unpaid Wages

20 26. Defendants underpaid Plaintiff's wages because when Plaintiff would report to work
21 at the appointed time, there were an insufficient number of time clocks for employees to clock in
22 with, and therefore Plaintiff would have to wait considerable time before clocking in. Plaintiff was
23 under the control of Defendants when she reported to work, yet her time was uncompensated
24 between the time she reported to work and the time she was able to clock in.

25 **Minimum Wage/Prevailing Wage/Regular Wage claims.**

26 27. Defendants paid Aggrieved Employees minimum wages, prevailing wages, or both at
27 less than the rate required under state, federal, and local law.

28 28. This claim is premised, in part, on Plaintiffs' right to pursue all Labor Code claims on

1 behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23
2 Cal.App.5th 745.

3 **Failure to Pay State and Prevailing Wage Overtime.**

4 29. Defendants failed to pay Aggrieved Employees state and prevailing wage overtime
5 compensation and/or the correct amount of overtime compensation.

6 30. In particular, Defendants failed to accurately calculate the regular rate of pay and, thus,
7 paid Aggrieved Employees overtime compensation at less than the rate required by law not only
8 because Defendants paid Aggrieved Employees at a wage rate less than what Defendants was
9 required to pay under local law as alleged above but also because Defendants failed to include earned
10 nondiscretionary bonuses into Aggrieved Employees' regular rate of pay for overtime pay purposes in
11 violation of California law. (See § 49.1.1 of the California Division of Labor Standards and
12 Enforcement Policies and Interpretations Manual.)

13 31. Alternatively or in addition thereto, Defendants underpaid overtime compensation to
14 Aggrieved Employees because Defendants failed to apply the weighted average method blended rate
15 of pay for overtime as required by California law.

16 32. Defendants also regularly and systematically, as a policy and practice, miscalculated
17 the overtime and minimum rates of rate of pay it paid to Aggrieved Employees.

18 33. Defendants did not pay Aggrieved Employees, upon information and belief,
19 prevailing wages for their work on public works projects despite Defendants' requirements under
20 California law.

21 34. Plaintiffs are informed and believe and based thereupon allege that at various times
22 Defendants also did not comply with Labor Code § 1776 because Defendants did not maintain or
23 retain records required to be maintained per § 1776.

24 35. California's "prevailing wage is a minimum wage, and therefore the workers may
25 assert their express rights to recover their unpaid prevailing wages under the minimum wage
26 provisions of section 1194." (*Kirby v. Immoos Fire Prot., Inc.* (2012) 53 Cal.4th 1244, 1252; *Road*
27 *Sprinkler Fitters Local Union No. 669 v. G&G Fire Sprinklers, Inc.* (2002) 102 Cal.App.4th 765,
28 770.)

1 36. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor Code
2 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23
3 Cal.App.5th 745.

4 **Meal and Rest Break Claims.**

5 37. Defendants failed to authorize and/or permit Plaintiffs from taking all their compliant
6 off-duty meal and rest breaks during the required timeframe as required by law and failed to pay them
7 premium pay, in an amount to be proven at trial.

8 38. Pursuant to Defendants' policy, Plaintiffs often worked more than five hours without
9 receiving a lawfully required meal break, i.e., Defendants prevented Plaintiffs from taking their meal
10 breaks and/or Defendants failed to provide Plaintiffs compliant meal breaks.

11 39. Other Aggrieved Employees' meal breaks were late, missed, or noncompliant because
12 of work demands imposed on them by management and/or the demands of their customers, among
13 other reasons.

14 40. Defendants failed to pay Aggrieved Employees premium pay for missed and
15 noncompliant meal breaks.

16 41. With respect to rest break violations, Defendants required Plaintiffs to be available by
17 phone for calls or texts or have email access and to keep such devices on--even during rest periods--
18 and to remain vigilant and responsive to calls or emails when needs arose during working hours
19 and/or during off work times, among other instances during which Defendants had an obligation to
20 pay premium pay for Plaintiffs' missed rest breaks.

21 42. Pursuant to this policy, Plaintiffs maintained a cell phone or similar electronic device
22 they kept with them in operating condition at all times making any breaks available to them not a rest
23 break in compliance with California law and Defendants, upon information and belief, failed to pay
24 these employees for rest breaks.

25 43. Because of the foregoing policies, Defendants prevented Plaintiffs from taking all their
26 uninterrupted rest breaks to which they had the right under California law, in an amount to be proven
27 at trial. (See [*Augustus v. ABM Security Services*](#) (2016) 2 Cal.5th 257; *Ferra v. Loews* (2021) 11
28 Cal.5th 858.)

1 44. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor Code
2 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23
3 Cal.App.5th 745.

4 **Failure to Reimburse.**

5 45. During all times relevant, and pursuant to company policy and/or practice and/or
6 direction, Defendants required Plaintiffs and, upon information and belief, Aggrieved Employees to
7 use their cell phones and incur various other expenses associated with their work for Defendants,
8 such as mileage and tool purchases, among other things.

9 46. Defendants also required Plaintiffs to incur unreimbursed necessary business expenses
10 including use of their personal cell phones.

11 47. During all times relevant, and pursuant to company policy and/or practice and/or
12 direction, Defendants required many Aggrieved Employees to travel in their personal vehicles
13 without mileage or parking reimbursement in violation of California law. (Labor Code § 2802.)

14 48. Defendants failed to reimburse Plaintiffs/Aggrieved Employees for such necessary
15 business expenses.

16 49. This claim is premised on Plaintiffs' right to pursue all Labor Code claims on behalf of
17 Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

18 **Erroneous Wage Statements in Violation of Labor Code § 226.**

19 50. During all times relevant, and pursuant to company policy and/or practice and/or
20 direction and continuing to the present, and pursuant to company policy and/or practice and/or
21 direction, Defendants issued confusing and inaccurate wage and earning statements to Plaintiffs,
22 which wage and earning statements failed to comply with Labor Code § 226 in as much as they failed
23 to, among other things, identify their correct rates of pay and/or correct gross and net earnings during
24 the applicable pay period, including, without limitation, premium pay for missed meal and rest
25 periods.

26 51. Similarly, as alleged above, and based on a policy and practice Defendants
27 implemented and enforced, Defendants required Aggrieved Employees to work "off the clock" and
28 omitted time worked from Defendants unlawfully omitted from their paystubs.

1 52. In addition to the foregoing claims under Labor Code § 226, Plaintiffs' paystubs and
2 those of similarly situated employees of Defendants were inaccurate because Defendants failed to pay
3 them all wages, as alleged above, supporting a derivative claim under Labor Code § 226.

4 53. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor Code
5 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23
6 Cal.App.5th 745.

7 **Facts Relating to Derivative Claims, such as Labor Code §§ 203, 204, 204b, etc.**

8 54. Pursuant to the above-mentioned policies, Defendants failed to pay all wages to which
9 Plaintiffs had the right to receive under the law.

10 55. When Plaintiff and Aggrieved Employees' employment ended, Defendants failed to
11 provide Plaintiffs all unpaid wages in their final paycheck or in a timely manner.

12 56. Further, during Plaintiffs' employment, their pay was untimely in violation of the
13 Labor Code.

14 57. Plaintiffs are informed and believe and based thereon allege that, to date, Defendants
15 has not paid Plaintiffs all of Plaintiffs' wages due and payable, in an amount to be proven at trial.

16 58. Derivative claims also premised, in part, on Plaintiffs' right to pursue all Labor Code
17 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23
18 Cal.App.5th 745.

19 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

20 59. This wage and hour representative action filed pursuant to PAGA, §§ 2698, 2699
21 generally consists of the following group:

22 **All persons Defendants employed in the State of California from one**
23 **year prior to the date of PAGA submission through the trial of this**
24 **matter.**

25 60. All members of the Aggrieved groups will be referred to as the "Aggrieved
26 Employees."

27 61. The "PAGA Period" means **one year prior to the date of PAGA submission**
28 **through the trial of this matter.**

1 62. California law provides that an employee may file an action against an employer to
2 recover penalties for violations of the Labor Code and Wage Orders on behalf of him/herself,
3 Aggrieved Employees, and the State of California.

4 63. At all material times, Defendants and DOES 1 through 50 were and/or are Aggrieved
5 Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the
6 meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2,
7 Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any
8 Order of the Industrial Welfare Commission and, as such, are subject to penalties as set for in Labor
9 Code § 558.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 64. As to penalty claims under the Labor Code Private Attorney General Act, on or about
12 **March 18, 2024**, Plaintiffs are exhausting their administrative remedies by sending correspondence
13 by online submission to the LWDA and via certified mail to Defendants indicating Plaintiffs are
14 pursuing the claims alleged in this Complaint.

15 65. Plaintiffs anticipate that the statutory period for the LWDA to assume jurisdiction
16 over the PAGA claims will expire without the LWDA giving notice of intent to assume jurisdiction
17 over the applicable penalty claims.

18 66. Therefore, Plaintiffs will have exhausted all applicable administrative remedies thus
19 permitting Plaintiffs the ability to seek the penalty claims sought in this Complaint.

20 67. The Causes of Action alleged herein are appropriately suited for a Representative
21 Action under PAGA (Labor Code § 2698, *et seq.*) because:

- 22 a. This action involves allegations of violations of provisions of the
23 California Labor Code that provide for a civil penalty to be
24 assessed and collected by the LWDA or any departments,
25 divisions, commissions, boards, agencies or employees;
26 b. Plaintiffs are "Aggrieved Employees" because
27 Plaintiffs were employed by the alleged violator
28 and had one or more of the alleged violations

1 committed against them; and

2 c. Plaintiffs will have satisfied the procedural requirements
3 of Labor Code § 2699.3, as set forth above.

4 **FIRST CAUSE OF ACTION**

5 **Individual, and Representative Claim under the PAGA for**
6 **Failure to Pay State and Local Minimum/Regular Wages in Violation of**
7 **California Labor Code §§ 216, 218, 218.5, 223, 1771, 1774, 1776, 1182.12, 1194,**
8 **1194.2, 1197, 1198, and the applicable Industrial Welfare Commission (“IWC”)**
9 **Wage Order**

10 (Against all Defendants)

11 68. Plaintiffs allege and incorporate by reference the allegations in the preceding and
12 subsequent paragraphs as though fully set forth herein.

13 69. Pursuant to Labor Code §§ 216, 223, 218, 218.5, 1771, 1774, 1776, 1182.12, 1194,
14 1194.2, and 1197 it is unlawful for a California employer to suffer or permit an employee to work
15 without paying wages for all hours worked, as required by the applicable IWC Wage Order.

16 70. During all times relevant, the applicable IWC Wage Order, which, on information and
17 belief and based on the understanding that Defendants are primarily in the business of manufacturing,
18 is Wage Order 1 (one), applied to Aggrieved Employees employment with Defendants.

19 71. Pursuant to the applicable IWC Wage Order, “hours worked” include the time during
20 which an employee is “suffered or permitted to work, whether or not required to do so.”

21 72. Every employer must pay each employee minimum wage as required under state law
22 and, where applicable and if higher, local law and/or prevailing wage law.

23 73. During all times relevant, Plaintiff and Aggrieved Employees are informed and
24 believe, and based thereupon allege, that Aggrieved Employees including Plaintiff, were not paid
25 minimum/regular wages/and/or prevailing wages for all hours suffered or permitted to work in
26 violation of state and, where applicable, local law and/or their agreement with Defendants.

27 74. Labor Code § 1194.2, subdivision (a) provides that, in an action to recover wages
28 because of the payment of a wage less than the minimum wage fixed by IWC Wage Orders, an

1 employee may recover liquidated damages in an amount equal to the wages unlawfully unpaid and
2 interest thereon.

3 75. At all material times, Defendants and DOES 1 through 50 were and/or are Aggrieved
4 Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the
5 meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2,
6 Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any
7 Order of the Industrial Welfare Commission and, as such, are subject to penalties as set for in Labor
8 Code § 558.

9 76. In committing the violations of state law as herein alleged, Plaintiffs are informed and
10 believe based there upon allege that Defendants have knowingly and willfully refused to perform
11 their obligations to compensate Aggrieved Employees for all wages earned and all hours worked.

12 77. As a direct result, Aggrieved Employees have suffered and continue to suffer,
13 substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such
14 monies and expenses and attorneys' fees in seeking to compel Defendants to fully perform their
15 obligations under state law, all to their respective damage in amounts according to proof at trial and
16 within the jurisdictional limitations of this Court.

17 78. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of
18 one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
19 and two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent
20 violation in which Defendants violated the minimum wage and/or regular wage provisions of the
21 Labor Code, including but not limited to §§ 216, 218, 218.5, 223, 1771, 1774, 1776, 1182.12, 1194,
22 1194.2, and 1197, the exact amount of the applicable penalty is all in an amount to be shown
23 according to proof at trial.

24 79. Additionally, pursuant to Labor Code § 2699, Plaintiff and Aggrieved Employees seek
25 to recover from Defendants, and each of them, penalties, attorneys' fees, and costs incurred herein.

26 80. Upon information and belief, Aggrieved Employees including Plaintiff should have
27 received minimum wages in a sum according to proof during all times relevant to this action.

28 81. Upon information and belief, Defendants have intentionally failed and refused, and

1 continue to fail and refuse, to pay Aggrieved Employees minimum wages for all time suffered or
2 permitted to work.

3 82. Plaintiff, individually, seeks the recovery of damages, statutory damages, unpaid
4 wages, waiting time penalties, liquidated damages, interest, attorneys' fees, and costs in an amount
5 to be determined at trial.

6 83. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only
7 civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the
8 PAGA.

9 **SECOND CAUSE OF ACTION**

10 **Individual, and Representative Claim under the PAGA for**
11 **Failure to Pay State and/or Prevailing Wage Overtime and/or Double-Time**
12 **Compensation in Violation of California Labor Code §§ 510, 1194, 1198, 1771, 1774, and the**
13 **Applicable Wage Order**
14 **(Against all Defendants)**

15 84. Plaintiffs allege and incorporate by reference the allegations in the preceding and
16 subsequent paragraphs as though fully set forth herein.

17 85. During all times relevant, the applicable Wage Order, including but not limited to
18 Wage Order 1 (one), applied to Plaintiffs' employment with Defendants.

19 86. Pursuant to the applicable Wage Order, "hours worked" include the time during
20 which an employee is "suffered or permitted to work, whether or not required to do so."

21 87. For each hour (or fraction thereof) an employee works over forty (40) hours in a
22 week or more than eight (8) hours in a workday the employer must pay the rate of one and a half
23 times the employee's regular hourly wage.

24 88. For each hour (or fraction thereof) an employee works more than twelve (12) hours
25 in one day or more than eight (8) hours a day on the seventh consecutive day of work, the employee
26 must be compensated at the rate of no less than twice the regular rate of pay for that employee.

27 89. According to § 49.1.1 of the California Division of Labor Standards and Enforcement
28 Policies and Interpretations Manual, "In California, as with the federal FLSA, overtime is computed

1 based on the regular rate of pay. The regular rate of pay includes many different kinds of
2 remuneration, for example: hourly earnings, salary, piecework earnings, *commissions, certain*
3 *bonuses*, and the value of meals and lodging.” (Emphasis added.)

4 90. As alleged in this Complaint, Defendants failed to pay all overtime compensation to
5 the Plaintiff and Aggrieved Employees because Defendants, among other things, failed to include
6 bonuses and/or fringe benefits earned towards the overtime hourly rate in violation of California law,
7 among other reasons alleged in this Complaint (see § 49.1.1 of the California Division of Labor
8 Standards and Enforcement Policies and Interpretations Manual) and failed to pay prevailing wages,
9 and consider the requirements under the weighted average of pay.

10 91. Additionally, Plaintiffs are informed and believe, and therefore allege, that
11 Defendants failed to pay its employees the correct rate of minimum/regular wages and, as a result, the
12 amount of overtime paid was too low.

13 92. At all material times, Defendants and DOES 1 through 50 were and/or are Aggrieved
14 Employees’ employers or persons acting on behalf of Aggrieved Employees’ employer, within the
15 meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2,
16 Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any
17 Order of the Industrial Welfare Commission and, as such, are subject to penalties as set for in Labor
18 Code § 558.

19 93. In committing the violations of state law as herein alleged, Defendants have
20 knowingly and willfully refused to perform their obligations to compensate Aggrieved Employees for
21 all wages earned and all hours worked.

22 94. As a direct result, Aggrieved Employees have suffered and continue to suffer,
23 substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such
24 monies and expenses and attorney’s fees in seeking to compel Defendants to full perform their
25 obligation under state law, all to their respective damage in amounts according to proof at trial and
26 within the jurisdictional limitations of this Court.

27 95. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of
28 one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation

1 and two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent
2 violation in which Defendants violated the overtime provisions of the Labor Code, including but not
3 limited to §§ 510 at 1194, the exact amount of the penalties sought is in an amount to be shown
4 according to proof at trial.

5 96. Based on the misconduct alleged in this Complaint, Aggrieved Employees have
6 suffered damages in an amount to be proven at trial.

7 97. Plaintiff, individually, seeks the recovery of damages, statutory damages, unpaid
8 wages, waiting time penalties, liquidated damages, interest, attorneys' fees, and costs in an amount
9 to be determined at trial.

10 98. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only
11 civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the
12 PAGA.

13 **THIRD CAUSE OF ACTION**

14 **Individual, and Representative Claim under the PAGA for** 15 **Failure to Comply with the Meal Break Requirements of Labor Code §§ 226.7, 512, 1198, and** 16 **the applicable IWC Wage Order**

17 (Against all Defendants)

18 99. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set
19 forth herein.

20 100. By failing to provide duty-free meal periods of at least thirty (30) minutes for shifts of
21 five hours or more, which began before the end of the fifth hour of work, and failing to pay such
22 employees premium wages of one (1) hour of pay at their regular rate of compensation for each
23 workday the meal period was not provided, Defendants willfully violated the provisions of Labor
24 Code § 226.7, and the applicable IWC Wage Order.

25 101. Based on the misconduct alleged in this Complaint, Defendants failed to pay all
26 premium wages owed or to compensate Aggrieved Employees within the meaning of *Ferra v. Loews*
27 (2021) 11 Cal.5th 858, or both.

28 102. At all material times, Defendants and DOES 1 through 50 were and/or are Aggrieved

1 Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the
2 meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2,
3 Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any
4 Order of the Industrial Welfare Commission and, as such, are subject to penalties as set for in Labor
5 Code § 558.

6 103. In committing the violations of state law as herein alleged, Plaintiffs are informed and
7 believe and based thereon allege that Defendants have knowingly and willfully refused to perform
8 their obligations to compensate Aggrieved Employees for all wages earned and all hours worked.

9 104. As a direct result, Aggrieved Employees have suffered and continue to suffer,
10 substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such
11 monies and expenses and attorneys' fees in seeking to compel Defendants to fully perform their
12 obligations under state law, all to their respective damage in amounts according to proof at trial and
13 within the jurisdictional limitations of this Court.

14 105. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one
15 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation and
16 two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation in
17 which all culpable Defendants violated Cal. Labor Code § 226.7, the exact amount of the applicable
18 penalty is all in an amount to be shown according to proof at trial.

19 106. Plaintiff, individually, seeks the recovery of damages, statutory damages, meal
20 period premium pay, waiting time penalties, liquidated damages, interest, attorneys' fees, and costs
21 in an amount to be determined at trial.

22 107. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only
23 civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the
24 PAGA.

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1 within the jurisdictional limitations of this Court.

2 114. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one
3 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation and
4 two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation in
5 which all culpable Defendants violated Cal. Labor Code § 226.7, the exact amount of the applicable
6 penalty in an amount to be shown according to proof at trial.

7 115. Plaintiff, individually, seeks the recovery of damages, statutory damages, meal
8 period premium pay, waiting time penalties, liquidated damages, interest, attorneys' fees, and costs
9 in an amount to be determined at trial.

10 116. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only
11 civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the
12 PAGA.

13 **FIFTH CAUSE OF ACTION**

14 **Representative Claim under the PAGA for**

15 **Failure to Indemnify/Reimburse Business Expenses in Violation of**
16 **California Labor Code § 1198, 2802, and the applicable Wage Order**

17 (Against all Defendants)

18 117. Aggrieved Employees other than Plaintiff allege and incorporate by reference the
19 allegations in the preceding and subsequent paragraphs as though fully set forth herein.

20 118. California Labor Code § 2802 requires employers to indemnify their employees for
21 expenses and losses incurred while discharging their duties or obedience to the directions of their
22 employer.

23 119. California Labor Code § 2804 mandates that this statutory right cannot be waived.

24 120. Aggrieved Employees other than Plaintiff incurred losses in obedience to the
25 directions of Defendants.

26 121. The costs included cellular phone expenses, mileage reimbursement and other similar
27 expenses, such as parking costs.

28 122. As a direct result of Defendants' violation of California Labor Code § 2802,

1 Aggrieved Employees suffered and continue to suffer substantial losses related to unpaid expenses,
2 the use and enjoyment of monies owed, lost interest on monies owed, and attorneys' fees in an
3 amount to be proven at the time of trial.

4 123. Defendants derive an unjust and inequitable economic benefit in failing to comply
5 with the law regarding indemnification and reimbursement of employees.

6 124. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only
7 civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the
8 PAGA.

9 **SIXTH CAUSE OF ACTION**

10 **Individual, and Representative Claim under the PAGA for**

11 **Violations of California Labor Code §§ 226 and 1198**

12 (Against all Defendants)

13 125. Plaintiffs allege and incorporate by reference the allegations in the preceding and
14 subsequent paragraphs as though fully set forth herein.

15 126. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in pertinent part, that
16 every employer shall, "semimonthly or at the time of each payment of wages, shall furnish to his or
17 her employees, either as a detachable part of the check, draft, or voucher paying the employee's
18 wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in
19 writing showing (1) gross wages earned, (2) total hours worked by the employee. . . (3) the number
20 of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
21 (4) all deductions, provided that all deductions made on written orders of the employee may be
22 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
23 which the employee is paid, (7) the name of the employee and only the last four digits of his or her
24 social security number..., (8) the name and address of the legal entity that is the employer. . . , and
25 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours
26 worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a
27 temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked
28 for each temporary services assignment. . ." (Labor Code § 226 subdivision (a).)

1 127. Likewise, California Labor Code § 226, subdivisions (b) and (c), require employers
2 doing business in the State of California to provide current and former employees access to their
3 payroll records.

4 128. Upon information and belief, during all times relevant to this action, Defendants did
5 not provide accurate wage statements throughout the PAGA Period.

6 129. Plaintiffs allege that on numerous occasions, an exact amount by which will be proven
7 at trial, Defendants violated various provisions of § 226, including but not limited to subdivisions
8 (a)(1), (a)(2), (a)(4), (a)(5), (a)(6), (a)(8), and (a)(9) by failing to provide Plaintiffs accurate itemized
9 statement in writing accurately showing gross wages earned, total hours worked by the employee, net
10 wages earned, among other things.

11 130. At all material times Defendants and DOES 1 through 50 were and/or are Aggrieved
12 Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the
13 meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2,
14 Chapter 1 of the California Labor Code or any provision regulating business hours and days of work
15 in any Order of the Industrial Welfare Commission and, as such, are subject to penalties as set forth
16 in Labor Code § 558.

17 131. In committing the violations of state law as herein alleged, Defendants have
18 knowingly and willfully refused to perform their obligations.

19 132. As a direct result, Aggrieved Employees have suffered and continue to suffer,
20 substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such
21 monies and expenses and attorney's fees in seeking to compel Defendants to fully perform their
22 obligations under state law, all to their respective damage in amounts according to proof at trial and
23 within the jurisdictional limitations of this Court.

24 133. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of
25 one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
26 and two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent
27 violation in which Defendants violated Labor Code § 226, the exact amount of the applicable penalty
28 is all in an amount to be shown according to proof at trial.

134. Plaintiff, individually, seeks the recovery of statutory (non-civil) penalties, interest, attorneys' fees, and costs in an amount to be determined at trial.

135. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the PAGA. Additionally, the civil penalties are sought under, *inter alia*, Labor Code §§ 226, 226.3, and 226.6.

SEVENTH CAUSE OF ACTION

**Individual, and Representative Claim under the PAGA for
Failure to Pay Timely Earned Wages during Employment and
Upon Separation of Employment in Violation of
California Labor Code §§ 201, 202, 203, 204 and/or 204b, 218.5, and 218.6**

(Against all Defendants)

136. Plaintiffs allege and incorporate by reference the allegations in the preceding and subsequent paragraphs as though fully set forth herein.

137. Pursuant to Labor Code § 201, “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

138. Pursuant to Labor Code § 202, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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.”

139. Labor Code § 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ...”

140. Pursuant to Labor Code § 204, “all wages ... earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”

1 141. Alternatively, pursuant to Labor Code § 204b, employers must pay its employees on a
2 weekly basis on a regular day determined by the employer as the regular payday.

3 142. Pursuant to Labor Code §§ 218.5 and 218.6, an action may be brought for the
4 nonpayment of wages and fringe benefits.

5 143. Plaintiffs were not properly paid pursuant to the requirements of Labor Code §§ 201,
6 202, and 204/204b and thereby seek all remedies available to them.

7 144. To date, for example, Defendants have not paid Plaintiffs all earned wages as required
8 by law.

9 145. Plaintiffs are informed and believe and based thereon allege that Defendants willfully
10 failed to pay Plaintiffs' wages pursuant to the requirements of Labor Code §§ 201, 202, and
11 204/204b, nor did Defendants pay the required waiting time penalties.

12 146. Plaintiffs are informed and believe and based thereon allege that Defendants did this
13 with the intent to secure for himself, herself, and itself a discount on its indebtedness and/or with
14 intent to annoy harass, oppress, hinder, delay and/or defraud Plaintiffs.

15 147. At all material times, Defendants and DOES 1 through 50 were and/or are Aggrieved
16 Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the
17 meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2,
18 Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any
19 Order of the Industrial Welfare Commission and, as such, are subject to penalties as set for in Labor
20 Code § 558.

21 148. In committing the violations of state law as herein alleged, Defendants have
22 knowingly and willfully refused to perform their obligations to compensate Aggrieved Employees for
23 all wages earned and all hours worked.

24 149. As a direct result, Aggrieved Employees have suffered and continue to suffer,
25 substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such
26 monies and expenses and attorney's fees in seeking to compel Defendants to full perform their
27 obligation under state law, all to their respective damage in amounts according to proof at trial and
28 within the jurisdictional limitations of this Court.

150. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation and two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation in which Defendants violated Labor Code §§ 201, 202, 203, and 204/204b. The exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

151. Plaintiff, individually, seeks the recovery of damages, statutory damages, waiting time penalties, liquidated damages, interest, attorneys' fees, and costs in an amount to be determined at trial.

152. On behalf of the State of California and Aggrieved Employees, Plaintiff seeks only civil penalties, attorney fees, costs, and such other and further relief as may be recovered under the PAGA. Additionally, the civil penalties are sought under, *inter alia*, Labor Code §§ 226, 226.3, and 226.6.

EIGHTH CAUSE OF ACTION

Representative Claim for PAGA Penalties

For Failure to Maintain and Provide Required Records in Violation of California Labor Code

§§ 226, 432, 1174, 1198.5, 1776,

and the Applicable Wage Order and/or § 1198

(Against Entity Defendants and DOES 1-100)

153. Plaintiffs allege and incorporate by reference the allegations in the preceding and subsequent paragraphs as though fully set forth herein.

154. Section 7 of the typical Wage Order requires every employer to maintain time and payroll records.

155. Plaintiffs are informed and believe and based thereupon allege that at various times Defendants also did not comply with Labor Code § 1776 because Defendants did not maintain or retain records required to be maintained per § 1776.

156. Plaintiffs are informed and believe and based thereon alleges that during all times relevant, Defendants failed to comply with § 7 of the applicable IWC Orders and with Labor Code § 1174 by failing to maintain certain records which employers are required to maintain, including but

1 not limited to, an accurate record indicating the number hours worked by the Plaintiffs.

2 157. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of
3 one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
4 and two hundred (\$200.00) for each Aggrieved Employee per pay period for each subsequent
5 violation in which all culpable Defendants violated the applicable Cal. Labor Code provisions
6 alleged in this Complaint, the exact amount of the applicable penalty is in an amount to be shown
7 according to proof at trial.

8 158. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to the
9 PAGA in an amount to be proven at trial including but not limited to civil penalties, attorneys' fees,
10 costs, and interest pursuant to law.

11 **NINTH CAUSE OF ACTION**

12 **Individual Claim for Remedies for Violations**

13 **of the California Unfair Business**

14 **Practices Code §§ 17200, *et seq.***

15 (Against all Defendants)

16 159. Plaintiff, individually, alleges and incorporates by reference the allegations in the
17 preceding and subsequent paragraphs as though fully set forth herein.

18 160. Defendants, and each of them, are "persons" as defined under Business and
19 Professions Code § 17021.

20 161. Plaintiff is informed and believes and based thereon alleges that Defendants
21 committed unfair business practices, as defined by Cal. Bus. & Prof. Code § 17200, *et seq.*, by
22 violating the laws alleged to have been violated in this Complaint and which allegations are
23 incorporated herein by reference and which allegations include, but are not limited to:

24 a. Failing to provide Plaintiff an accurate itemized wage
25 statement in violation of § 226 of the Labor Code;

26 b. Failing to pay Plaintiff all wages due and owing including
27 minimum/regular wages and overtime compensation, minimum wages and
28 overtime, and meal and rest break premiums;

1 c. Failing to pay Plaintiff wages in a timely manner upon her
2 termination or resignation.

3 162. Defendants' conduct, as alleged above, constitutes unlawful, unfair, and fraudulent
4 activity prohibited by Business and Professions Code §§ 17200, *et seq.*

5 163. Plaintiff has suffered injury in fact and lost money or property because of the
6 aforementioned unfair competition.

7 164. Because of their improper acts, Defendants, and each of them, have reaped unfair
8 benefits and illegal profits at the expense of Plaintiff.

9 165. Defendants, and each of them, should be made to disgorge to Plaintiff the wrongfully
10 withheld wages and/or penalties, pursuant to Business and Professions Code §§ 17202 and/or
11 17203.

12 166. Plaintiff and has also incurred and continues to incur attorneys' fees and legal
13 expenses in an amount according to proof at the time of trial and for which she will seek
14 compensation pursuant to law including but not limited to Code of Civil Procedure § 1021.5.

15 **PRAYER FOR RELIEF**

16 On the FIRST through EIGHTH causes of action Plaintiff, on behalf of all Aggrieved
17 Employees and the State of California, acting under the authority of the Private Attorneys General
18 Act, prays for a judgment against Defendants as follows:

- 19 a. For appointment of the named Plaintiff as the representative of Aggrieved
20 Employees;
- 21 b. For maximum civil penalties available under the PAGA;
- 22 c. That Plaintiff and Aggrieved Employees be awarded interest and reasonable attorney
23 fees and costs where available by law, including but not limited to pursuant to Labor
24 Code §§ 2698, *et seq.*, Code of Civil Procedure § 1021.5, and/or other applicable
25 laws; and
- 26 d. Such other and further relief as may be available under the PAGA.
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1 On the FIRST through FOURTH, SIXTH, SEVENTH, and NINTH causes of action,
2 Plaintiff seeks, on behalf of herself only, a a judgment against Defendants as follows:

- 3 a. That the Court find that Defendants' violations as described above were willful;
 - 4 b. For payment of all unpaid wages, including but not limited to state minimum wages
5 and overtime compensation to Plaintiffs in an amount subject to proof at trial;
 - 6 c. That Defendants, and each of them, be ordered and enjoined to pay restitution to
7 Plaintiff pursuant to Business and Professions Code §§ 17200-05;
 - 8 d. That Defendants, and each of them, be required to issue to Plaintiff accurate wage
9 and earning statements;
 - 10 e. For disgorgement through restitution pursuant to Business and Professions Code §§
11 17200-05;
 - 12 f. For damages in an amount to be proven at trial;
 - 13 g. For all remedies available to Plaintiff under the applicable Industrial Welfare
14 Commission Order and Labor Code, including an award of unpaid wages, attorneys'
15 fees, costs, interest, liquidated damages, damages, penalties and waiting time
16 penalties according to proof to the extent permitted by law;
 - 17 h. For Labor Code § 226(e) penalties;
 - 18 i. For Labor Code § 203 penalties in an amount to be proven at trial;
 - 19 j. For special and general damages;
 - 20 k. That Plaintiff be awarded reasonable attorneys' fees where available by law,
21 including but not limited to pursuant to Labor Code §§ 2698, *et seq.*, Code of Civil
22 Procedure § 1021.5, and/or other applicable laws; and
 - 23 l. For such other and further relief as the Court deems proper.
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DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues that may be tried before a jury.

Dated: March 18, 2024

PANCER LAW CORPORATION

By: Ian Pancer

/s/ Ian Pancer

Attorney for Plaintiffs