

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Jeffrey M. Schwartz, Esq. (SBN 254916)
Aleksandra Urban, Esq. (SBN 277475)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
jschwartz@lelawfirm.com
aurban@lelawfirm.com

Attorneys for Plaintiff JAVIER CALDERON,
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

JAVIER CALDERON, on behalf of himself and
current and former aggrieved employees

Plaintiff,

vs.

WINN MANAGEMENT GROUP LLC; and
DOES 1 to 100, inclusive,

Defendants.

Case No.: **CVRI 2402673**

PAGA ACTION

**PLAINTIFF JAVIER CALDERON'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff JAVIER CALDERON ("Plaintiff"), who alleges and complains
against Defendants WINN MANAGEMENT GROUP LLC; and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally
2 required and legally compliant meal and rest periods, indemnification for all necessary
3 expenditures or losses incurred by employees in direct consequence of discharging their duties,
4 failure to timely pay earned wages during employment, failure to provide complete and accurate
5 wage statements, failure to timely pay all unpaid wages following separation of employment.
6 Plaintiff seeks on a representative basis, following notice to the Labor and Workforce
7 Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor Code section
8 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

9 **II. JURISDICTION AND VENUE**

10 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
11 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
12 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
13 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
14 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
15 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
16 aggrieved California-based hourly non-exempt employees occurred in locations throughout
17 California, including but not limited to Riverside County, at 15178 Perris Blvd., Moreno Valley,
18 CA 92551.

19 **III. PARTIES**

20 3. Plaintiff brings this action as a representative of the Labor and Workforce
21 Development Agency on behalf of himself and other current and former employees subject to
22 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
23 filed include current, former and/or future employees of Defendants who work, worked, or will
24 work for Defendants as direct employees as well as temporary employees employed through temp
25 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
26 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
27 employed by Defendants in an hourly position at Defendants' location in Moreno Valley from
28 approximately April 12, 2023, until on or about October 20, 2023.

1 4. Plaintiff is informed and believes and thereon alleges that Defendant WINN
2 MANAGEMENT GROUP LLC is authorized to do business within the State of California and is
3 doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times
4 relevant hereto were persons acting on behalf of Defendant WINN MANAGEMENT GROUP
5 LLC in the establishment of, or ratification of, the aforementioned illegal wage and hour practices
6 or policies. Defendant WINN MANAGEMENT GROUP LLC operates in Riverside County and
7 employed Plaintiff and aggrieved employees in Riverside County, including but not limited to, at
8 15178 Perris Blvd., Moreno Valley, CA 92551.

9 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
10 through 50 are corporations, or are other business entities or organizations of a nature unknown to
11 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
12 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
13 working conditions of employment of Plaintiff and aggrieved employees.

14 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
15 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
16 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
17 supervisor, independent contractor and/or employee of each defendant who violated or caused to
18 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
19 the Industrial Welfare Commission's wage orders regulating hours and days of work.

20 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
21 sues said defendants by said fictitious names, and will amend this complaint when the true names
22 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
23 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
24 named defendants is in some manner responsible for the events and allegations set forth in this
25 complaint.

26 8. Plaintiff makes the allegations in this complaint without any admission that, as to
27 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
28 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
3 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

4 **(Against all Defendants by Plaintiff)**

5 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

6 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
7 Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 510, 512, 1194,
8 1197, 2802, and the applicable Wage Orders.

9 11. Specifically, Defendants have committed the following violations of California
10 Labor Code:

11 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services which inure to the benefit of the employer.

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders.

20 14. In this case, Plaintiff and other current and former aggrieved California-based
21 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
22 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
23 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
24 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
25 not limited to,

26 (a) Failure to pay Plaintiff and other current and former aggrieved California-based
27 hourly non-exempt employees to pay for hours that Plaintiff and other current and former
28 aggrieved California-based hourly non-exempt employees work on-call despite the pervasive

1 degree of control it exercises over Plaintiff and other current and former aggrieved California-
2 based hourly non-exempt employees while they are working on call. For example, while working
3 on-call, Plaintiff and other current and former aggrieved California-based hourly non-exempt
4 employees are assigned certain days which they are required to remain on-call during which they
5 are unable to readily exchange their duties with any other employee; they are required to respond
6 to calls while on-call within a certain time limit which restricts their movements and ability to
7 engage in personal pursuits; and if they reject a call while on call they are subject to discipline up
8 to and including termination. Nevertheless, Defendants only pay Plaintiff and other current and
9 former aggrieved California-based hourly non-exempt employees for the hours they work
10 attending to calls while working on call and failed to pay them all the hours they worked on-call
11 not attending to calls; and

12 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
13 non-exempt employees to remain on-duty during their off-the-clock meal breaks because Plaintiff
14 and other current and former aggrieved California-based hourly non-exempt employees were
15 required to monitor their cell phones and take calls from management and tenants during that time,
16 without being paid for that time.

17 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
18 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
19 control without paying wages for that time. This resulted in Plaintiff and other current and former
20 aggrieved California-based hourly non-exempt employees working time for which they were not
21 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
22 Wage Order.

23 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
24 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
25 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
26 which includes all time that an employee is under control of the employer and all time the
27 employee is suffered and permitted to work. This includes the time an employee spends, either
28 directly or indirectly, performing services that inure to the benefit of the employer.'

1 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
2 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
3 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

4 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
5 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
6 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
7 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
8 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
9 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
10 seventh day of a workweek shall be compensated at the rate of no less than twice the
11 regular rate of pay of an employee.

12 Labor Code section 510.

13 18. In this case, Defendants failed to pay Plaintiff and other current and former
14 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
15 worked due to Defendants' policies, practices, and/or procedures including, but not limited to,

16 (a) Failure to pay Plaintiff and other current and former aggrieved California-based
17 hourly non-exempt employees to pay for hours that Plaintiff and other current and former
18 aggrieved California-based hourly non-exempt employees work on-call despite the pervasive
19 degree of control it exercises over Plaintiff and other current and former aggrieved California-
20 based hourly non-exempt employees while they are working on call. For example, while working
21 on-call, Plaintiff and other current and former aggrieved California-based hourly non-exempt
22 employees are assigned certain days which they are required to remain on-call during which they
23 are unable to readily exchange their duties with any other employee; they are required to respond
24 to calls while on-call within a certain time limit which restricts their movements and ability to
25 engage in personal pursuits; and if they reject a call while on call they are subject to discipline up
26 to and including termination. Nevertheless, Defendants only pay Plaintiff and other current and
27 former aggrieved California-based hourly non-exempt employees for the hours they work
28 attending to calls while working on call and failed to pay them all the hours they worked on-call
not attending to calls; and

 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
non-exempt employees to remain on-duty during their off-the-clock meal breaks because Plaintiff

1 and other current and former aggrieved California-based hourly non-exempt employees were
2 required to monitor their cell phones and take calls from management and tenants during that time,
3 without being paid for that time.

4 19. The foregoing policies, practices, and/or procedures resulted in time during each
5 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
6 employees were under the control of Defendants but were not compensated. To the extent that the
7 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
8 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
9 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
10 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
11 sections 510, 1194 and 1198, and the applicable Wage Order.

12 20. **Failure to pay wages to hourly non-exempt employees for workdays that**
13 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
14 current and former aggrieved California-based hourly non-exempt employees regularly worked
15 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

16 21. California law requires an employer to authorize or permit an employee an
17 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
18 all duties and the employer relinquishes control over the employee's activities prior to the
19 employee's sixth hour of work. Labor Code sections 226.7, 512, and 1198; Wage Order 5 at §11;
20 *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not
21 employ an employee for a work period of more than ten (10) hours per day without providing the
22 employee with a second such meal period of not less than thirty (30) minutes prior to the start of
23 the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the
24 meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on
25 duty" meal period is only permitted when: (1) the nature of the work prevents an employee from
26 being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal
27 periods.

28 22. If an employer fails to provide an employee a meal period in accordance with the

1 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
2 for each workday that a legally required and compliant meal period was not provided. Labor Code
3 sections 226.7 and 1198; Wage Order 5 at §11.

4 23. In this case, Defendants failed to authorize or permit legally required and compliant
5 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
6 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
7 limited to,

8 (a) Failing to provide Plaintiff and other current and former aggrieved California-based
9 hourly non-exempt employees timely, uninterrupted, duty-free meal breaks of at least 30 minutes
10 during on-call hours worked; and

11 (b) Failure to provide duty-free meal breaks due to requiring Plaintiff and other current
12 and former aggrieved California-based hourly non-exempt employees to remain on-duty during
13 their off-the-clock meal breaks because Plaintiff and other current and former aggrieved
14 California-based hourly non-exempt employees were required to monitoring their cell phones and
15 taking calls from management and tenants, while on their off-the-clock meal breaks.

16 24. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
17 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
18 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
19 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
20 employees did not receive legally required and compliant meal periods, in violation of Labor Code
21 section 226.7.

22 25. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
23 and other current and former aggrieved California-based hourly non-exempt employees not
24 receiving wages to compensate them for workdays during which Defendants did not provide them
25 with meal periods in compliance with California law.

26 26. **Failure to pay wages to hourly non-exempt employees for workdays that**
27 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
28 current and former aggrieved California-based hourly non-exempt employees regularly worked

1 shifts of more than three-and-a-half (3.5) hours.

2 27. California law requires every employer to authorize and permit an employee a rest
3 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
4 Code section 226.7; Wage Order 5 at §12. Under California law, “[e]mployees are entitled to 10
5 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
6 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
7 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
8 section 226.7; Wage Order 5 at §12. Rest periods, insofar as practicable, shall be in the middle of
9 each work period. Wage Order 5 at §12. Additionally, the rest period requirement “obligates
10 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
11 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
12 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

13 28. If the employer fails to authorize or permit a required rest period, the employer
14 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
15 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
16 Wage Order 5 at § 12.

17 29. In this case, Defendants failed to authorize or permit all legally required and
18 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
19 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
20 limited to,

21 (a) Failing to provide Plaintiffs and other current and former aggrieved California-
22 based hourly non-exempt employees with net ten (10) minute rest breaks for on-call hours worked.

23 (b) Failing to provide due to requiring Plaintiff and other current and former aggrieved
24 California-based hourly non-exempt employees to remain on-duty during their rest breaks because
25 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
26 were required to monitoring their cell phones and taking calls from management and tenants,
27 including during rest breaks.

28 30. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or

1 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
2 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
3 workday they did not receive legally required and compliant rest periods, in violation of Labor
4 Code section 226.7.

5 31. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
6 and other current and former aggrieved California-based hourly non-exempt employees not
7 receiving wages to compensate them for workdays in which Defendants did not provide them with
8 rest periods in compliance with California law.

9 32. **Failure to Indemnify for Losses and Expenditures Incurred as Part of**
10 **Employment:** California law requires that every employer must indemnify its employees for all
11 necessary expenditures or losses incurred by the employee in discharge of his or her duties or at
12 the obedience of the directions of the employer. Moreover, an employer is prohibited from passing
13 the ordinary business expenses and losses of the employer onto the employee. (Lab. Code, §
14 2802.)

15 33. Defendants have violated Labor Code Section 2802 by failing to indemnify
16 Plaintiff and other current and former aggrieved California-based non-exempt hourly employees'
17 necessary expenditures they incurred in the discharge of their duties. Specifically, Defendants
18 employed a policy, practice, and procedure,

19 (a) Failure to reimburse for personal cell phones which Plaintiff and other current and
20 former aggrieved California-based hourly non-exempt employees are required to use to clock in
21 and out for their shifts and to take calls from Employer while working on call.

22 34. Moreover, Defendants employed policies and procedures which ensured Plaintiff
23 and aggrieved employees would not receive indemnification for their employment related
24 expenses. This practice resulted in Plaintiff and aggrieved employees not receiving such
25 indemnification in compliance with California law.

26 35. Therefore, Defendants are liable to Plaintiff and aggrieved employees for their
27 employment related expenses, including but not limited to costs related to use of their personal
28 cell phones and costs associated with their uniforms pursuant to Labor Code section 2802.

1 **36. Failure to timely pay earned wages during employment:** In California, wages
2 must be paid at least twice during each calendar month on days designated in advance by the
3 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
4 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
5 16th and the 26th day of that month and wages earned between the 16th and the last day,
6 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
7 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
8 paid within seven (7) calendar days following the close of the payroll period in which wages were
9 earned. Labor Code section 204(d).

10 **37.** As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
11 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
12 exempt employees' earned wages (including minimum wages, overtime wages, meal period
13 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
14 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
15 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
16 their earned wages within the applicable time frames outlined in Labor Code section 204.

17 **38. Secret payment of lower wages than designated by statute:** Labor Code section
18 223 provides that, where any statute or contract requires an employer to maintain the designated
19 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage
20 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including
21 by failing to: pay overtime wages at the applicable legal overtime rate, meal break premiums and
22 lawful sick pay at the employees' regular rate of pay, as established by Labor Code sections 226.7,
23 246, 510, 1194 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by
24 Labor Code section 1198, the Defendant secretly paid a lower wage than designated by statute
25 while purporting to pay the wages designated by statute, in violation of Labor Code section 223.

26 **39. Failure to provide complete and accurate wage statements:** Labor Code section
27 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
28 employee his or her wages, the employer must "furnish each of his or her employees ... an

1 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
2 employee, except for any employee whose compensation is solely based on a salary and who is
3 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
4 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
5 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
6 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
7 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
8 name of the employee and his or her social security number, (8) the name and address of the legal
9 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
10 the corresponding number of hours worked at each hourly rate by the employee.”

11 40. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
12 and other current and former aggrieved California-based hourly non-exempt employees all wages
13 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
14 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
15 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
16 section 226(a)(1, 2, 5 & 9).

17 41. **Failure to pay employees all wages due at time of termination/resignation:** An
18 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
19 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
20 hours of resignation (Labor Code section 202).

21 42. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
22 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
23 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
24 and/or rest period premium wages), Defendants failed to pay those employees timely after each
25 employee’s termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

26 43. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
27 employee, on behalf of himself or herself and other current or former employees, to bring a civil
28 action to recover civil penalties against all Defendants pursuant to the procedures specified in

1 Labor Code section 2699.3.

2 44. Plaintiff has complied with the procedures for bringing suit specified in Labor
3 Code section 2699.3. On March 7, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA
4 and provided notice to Defendants by certified mail which provided notice of the specific
5 provisions of the Labor Code alleged to have been violated, including the facts and theories to
6 support the violations alleged.

7 45. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
8 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
9 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
10 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
11 to investigate Plaintiff's claims.

12 46. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
13 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a),
14 226.7, 510, 512, and 1194, During Plaintiff's employment and continuing through the present,
15 preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the
16 following amounts:

17 a. For violations of Labor Code sections 201, 202, 203, 226(a), 226.7, and
18 2802; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
19 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
20 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

21 b. For violations of Labor Code section 226(a), alternatively, two hundred
22 fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each
23 subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay
24 period [penalty amounts established by Labor Code section 226.3].

25 c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for
26 each employee for each pay period for the initial violation, and for each subsequent violation, one
27 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
28 established by Labor Code section 558].

d. For violations of Labor Code section 204, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 210].

e. For violations of Labor Code section 223, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 225.5].

47. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with his claims for civil penalties.

PRAAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to sections 210, 225.5, 226.3, 558, 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

///

///

///

///

1 4. For such and other further relief, in law and/or equity, as the Court deems just or
2 appropriate.

3
4 Dated: May 14, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

5
6
7 By:



Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Jeffrey M. Schwartz, Esq.
Aleksandra Urban, Esq.
Attorneys for Plaintiff
JAVIER CALDERON,
on behalf of himself and current and former
aggrieved employees