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on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

LESTER PASCUAL, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

NV5, INC., a California Corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: C24-01131

**FIRST AMENDED CLASS ACTION AND
PAGA REPRESENTATIVE COMPLAINT
FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
FAILURE TO PAY MINIMUM WAGES;
2. FAILURE TO PROVIDE MEAL
PERIODS;
3. FAILURE TO PROVIDE REST PERIODS;
4. WAITING TIME PENALTIES;
WAGE STATEMENT VIOLATIONS;
5. FAILURE TO TIMELY PAY WAGES;
6. FAILURE TO INDEMNIFY;
7. VIOLATION OF LABOR CODE § 227.3;
8. UNFAIR COMPETITION; and
9. CIVIL PENALTIES UNDER THE
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (“PAGA”) FOR
CIVIL PENALTIES UNDER LABOR
CODE SECTIONS 210, 226.3, 558,
1174.5, 1197.1, AND 2699.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiff LESTER PASCUAL, on behalf of Plaintiff and all others similarly situated, alleges
2 as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against NV5,
6 Inc., and any of its respective subsidiaries or affiliated companies within the State of California
7 (“NV5” and collectively with DOES 1 through 100, as further defined below, “Defendants”) on behalf
8 of Plaintiff and all other current and former non-exempt California employees employed by or
9 formerly employed by Defendants (“Class Members”).

10 2. In addition, Plaintiff brings this action in a representative capacity under the Labor
11 Code Private Attorneys’ General Act of 2004, Labor Code section 2698 et seq. (“PAGA”), as a proxy
12 of the Labor and Workforce Development Agency (“LWDA”), on behalf of himself and all other
13 current and former aggrieved employees of Defendants within the State of California (“Aggrieved
14 Employees”). As to the PAGA claims, Plaintiff seeks to recover civil penalties arising from the same
15 underlying Labor Code violations alleged herein, including, without limitation, violations of Labor
16 Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245 et seq., 510, 512, 558,
17 558.1, 1174.5, 1194, 1197, 1197.1, 2802, and 2699, among others.

18 **PARTIES**

19 **A. Plaintiff**

20 3. Plaintiff LESTER PASCUAL is a resident of the State of California. At all relevant
21 times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed
22 Plaintiff as a non-exempt employee, with duties that included, but were not limited to, ensuring GPS
23 instruments were properly working. Plaintiff is informed and believes, and based thereon alleges, that
24 Plaintiff LESTER PASCUAL worked for Defendants from approximately January of 2024 through
25 approximately March of 2024.

26 **B. Defendants**

27 4. Plaintiff is informed and believes and based thereon alleges that defendant NV5, INC.
28 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of

1 the laws of the State of California and doing business in Contra Costa County, California. At all
2 relevant times, NV5, INC. employed Plaintiff and similarly situated non-exempt employees in
3 California, including as a joint employer.

4 5. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who
6 therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
7 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
8 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff
9 will seek leave of court to amend this Complaint to reflect the true names and capacities of the
10 defendants designated hereinafter as DOES when such identities become known. Plaintiff is informed
11 and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this
12 action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all
13 respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.
14 Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall include NV5 and any
15 of their parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1
16 through 100 identified herein.

17 **JOINT LIABILITY ALLEGATIONS**

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

23 7. All of the acts and conduct described herein of each and every corporate defendant was
24 duly authorized, ordered, and directed by the respective and collective defendant corporate employers,
25 and the officers and management-level employees of said corporate employers. In addition thereto,
26 said corporate employers participated in the aforementioned acts and conduct of their said employees,
27 agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct
28 of said corporate employees, agents, and representatives, the defendant corporation respectively and

collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

8. Plaintiff is further informed and believes and based thereon alleges that DOES 51 through 100 violated, or caused to be violated, the above-referenced and below-referenced Labor Code provisions in violation of Labor Code section 558.1.

9. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between Defendants, and each of them, that their individuality and separateness have ceased to exist.

10. Plaintiff is informed and believes, and based thereon alleges that despite the formation of the purported corporate existence of NV5 and DOES 1 through 50, inclusive (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

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

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

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

D. Plaintiff is informed and believes and thereon alleges that the business affairs of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times

1 mentioned herein were, so mixed and intermingled that the same cannot reasonably be
2 segregated, and the same are inextricable confusion. The Alter Ego Defendants are,
3 and at all relevant times mentioned herein were, used by the Individual Defendants as
4 mere shells and conduits for the conduct of certain of their, and each of their
5 affairs. The Alter Ego Defendants are, and at all relevant times mentioned herein were,
6 the alter egos of the Individual Defendants;

7 E. The recognition of the separate existence of the Individual Defendants and the Alter
8 Ego Defendants would promote injustice insofar that it would permit defendants to
9 insulate themselves from liability to Plaintiff for violations of the Civil Code, Labor
10 Code, and other statutory violations. The corporate existence of these defendants
11 should thus be disregarded in equity and for the ends of justice because such disregard
12 is necessary to avoid fraud and injustice to Plaintiff herein;

13 F. Accordingly, the Alter Ego Defendants constitute the alter ego of the Individual
14 Defendants (and vice versa), and the fiction of their separate corporate existence must
15 be disregarded;

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

18 **JURISDICTION**

19 12. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of
20 Civil Procedure section 410.10.

21 13. Venue is proper in Contra Costa County, California pursuant to Code of Civil
22 Procedure sections 392, et seq. because, among other things, Contra Costa County is where the causes
23 of action complained of herein arose; the county in which the employment relationship began; the
24 county in which performance of the employment contract, or part of it, between Plaintiff and
25 Defendants was due to be performed; the county in which the employment contract, or part of it,
26 between Plaintiff and Defendants was actually performed; and the county in which Defendants, or
27 some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and
28

1 Class Members in Contra Costa County, and because Defendants employ numerous Class Members
2 in Contra Costa County.

3 14. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
4 Defendants during the applicable statutory period and suffered one or more of the Labor Code
5 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
6 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
7 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
8 reasonable attorneys’ fees and costs, for all other aggrieved current and former employees of
9 Defendants during the Civil Penalty Period. Plaintiff does not seek to assert his own claim for civil
10 penalties under PAGA as part of this Action.

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

15 During the period beginning one (1) year preceding the provision of notice to the LWDA
16 regarding the herein-described Labor Code violations (the “Civil Penalty Period”), Defendants
17 violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210, 212, 213, 221,
18 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, 246, 404, 432, 432.3, 432.5, 432.7, 432.8, 510, 512,
19 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 1527, 1821.12, 2699, 2802, 2810.5,
20 3366, 3457, and 8397.4, among others, California Code of Regulations, Title 8, Section 3395,
21 Business and Professions Code sections 16600, 16700, and 17200, Government Code section 12952,
22 as well as applicable Wage Orders.

23 16. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees on
24 behalf of all other aggrieved current and former employees within the statutory period, to bring a civil
25 action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3
26 without asserting a claim to bring Plaintiff’s own claim for civil penalties under PAGA. (*See, e.g.,*
27 *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533.) Specifically, Plaintiff does not
28 seek to recover Plaintiff’s 25% share of civil penalties for the particular Labor Code violations

1 Plaintiff experienced. Rather, this is a purely representative PAGA action wherein Plaintiff seeks to
2 recover all civil penalties for the Labor Code violations experienced by third-party aggrieved
3 employees (Aggrieved Employees) and the State of California's 75% of the civil penalties for the
4 Labor Code violations Plaintiff experienced

5 17. On or around April 26, 2024, Plaintiff provided written notice pursuant to Labor Code
6 section 2699.3 online and by certified mail, return receipt requested, of the herein-described Labor
7 Code violations to the Labor and Workforce Development Agency ("LWDA"), and also provided
8 notice to Defendants by certified mail, return receipt requested.

9 18. During the period beginning one (1) year preceding the provision of notice to the
10 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
11 Defendants violated, inter alia, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7,
12 227.3, 245, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 2699, 2802, and 2810.5,
13 and applicable Wage Orders, through the same uniform wage-and-hour policies and practices alleged
14 above.

15 19. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
16 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
17 calendar days of the April 26, 2024 postmarked date of Plaintiff's notice.

18 20. Plaintiff brings this action as a PAGA representative to recover civil penalties for the
19 benefit of the State of California and all other Aggrieved Employees for Defendants' violations of the
20 Labor Code alleged herein, including but not limited to failure to pay overtime wages, failure to pay
21 minimum wages, failure to provide compliant meal and rest periods and premium pay, failure to
22 timely pay wages during employment and upon separation, failure to provide accurate wage
23 statements and maintain required payroll records, and failure to reimburse business expenses.

24 **FACTUAL BACKGROUND**

25 21. For at least four (4) years prior to the filing of this action and continuing to the present,
26 Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, or some of
27 them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff
28 and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven

1 consecutive work days in a work week without being properly compensated for hours worked in
2 excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
3 worked on the seventh consecutive work day in a work week by, among other things, failing to
4 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay;
5 engaging, suffering, or permitting employees to work off the clock, including, without limitation, by
6 requiring Plaintiff and Class Members: to come early to work and leave late work without being able
7 to clock in for all that time, to complete pre-shift tasks before clocking in and post-shift tasks after
8 clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to
9 attend company meetings off the clock, to make phone calls off the clock; failing to include all forms
10 of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask
11 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
12 where overtime was worked and the additional compensation was earned for the purpose of
13 calculating the overtime rate of pay; and detrimental rounding of employee time entries, editing and/or
14 manipulation of time entries; to the detriment of Plaintiff and Class Members.

15 22. For at least four (4) years prior to the filing of this Action and continuing to the present,
16 Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of
17 them, in violation of California state wage and hour laws as a result of, among other things, at times,
18 failing to accurately track and/or pay for all hours actually worked at their regular rate of pay that is
19 above the minimum wage; engaging, suffering, or permitting employees to work off the clock,
20 including, without limitation, by requiring Plaintiff and Class Members: to come early to work and
21 leave late work without being able to clock in for all that time, to complete pre-shift tasks before
22 clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working,
23 to clock out for rest periods, to attend company meetings off the clock, to make phone calls off the
24 clock; detrimental rounding of employee time entries; editing and/or manipulation of time entries to
25 show less hours than actually worked; failing to pay split shift premiums; and failing to pay reporting
26 time pay to the detriment of Plaintiff and Class Members.

27 23. For at least four (4) years prior to the filing of this Action and continuing to the present,
28 Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, full, timely

1 thirty (30) minute uninterrupted meal period for days on which they worked more than five (5) hours
2 in a work day and a second thirty (30) minute uninterrupted meal period for days on which they
3 worked in excess of ten (10) hours in a work day, and failing to provide compensation for such
4 unprovided meal periods as required by California wage and hour laws.

5 24. For at least four (4) years prior to the filing of this action and continuing to the present,
6 Defendants have, at times, failed to authorize and permit Plaintiff and Class Members, or some of
7 them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
8 thereof and failed to provide compensation for such unprovided rest periods as required by California
9 wage and hour laws.

10 25. For at least three (3) years prior to the filing of this action and continuing to the present,
11 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount
12 of their wages owed to them upon termination and/or resignation as required by Labor Code sections
13 201 and 202, including for, without limitation, failing to pay overtime wages, minimum wages,
14 premium wages, and vacation pay pursuant to Labor Code section 227.3.

15 26. For at least one (1) year prior to the filing of this Action and continuing to the present,
16 Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with
17 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
18 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
19 hours worked at each hourly rate; and other such information as required by Labor Code section 226,
20 subdivision (a). As a result thereof, Defendants have further failed to furnish employees with an
21 accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

22 27. For at least one (1) year prior to the filing of this action and continuing to the present,
23 Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount
24 of their wages for labor performed in a timely fashion as required under Labor Code section 204.

25 28. For at least three (3) years prior to the filing of this action and continuing to the present,
26 Defendants have, at times, failed to indemnify Class Members, or some of them, for the costs incurred
27 in using cellular phones for work-related purposes.

28 ///

1 29. For at least four (4) years prior to the filing of this action and continuing to the present,
2 Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated
3 employees or former employees within the State of California with compensation at their final rate of
4 pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

5 30. For at least four (4) years prior to the filing of this action and continuing to the present,
6 Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated
7 employees or former employees within the State of California with the rights provided to them under
8 the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*

9 31. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of failing to pay overtime wages to Aggrieved Employees in the State of California in violation of
11 California state wage and hour laws as a result of, without limitation, Aggrieved Employees working
12 over eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
13 workweek without paying them proper overtime wages, as a result of, without limitation, failing to
14 accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
15 employees to work off the clock, including, without limitation, by requiring employees: to remain on-
16 call, to suffer under Defendants' control to complete pre-shift tasks before clocking in and post-shift
17 tasks after clocking out, to clock out for meal periods and continue working, to attend company
18 meetings off the clock, to make phone calls and respond to messages the clock; failing to include all
19 forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, and
20 other forms of remuneration into the regular rate of pay for the pay periods where overtime was
21 worked and the additional compensation was earned for the purpose of calculating the overtime rate
22 of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to
23 show less hours than actually worked, for paying straight pay instead of overtime pay, to the detriment
24 of Aggrieved Employees.

25 32. At all relevant times mentioned herein, Defendants had and have a practice or policy
26 of failing to compensate Aggrieved Employees with minimum wages for all hours Aggrieved
27 Employees worked or were otherwise under Defendants' control as a result of, without limitation,
28 failing to accurately track and/or pay for all minutes actually worked; by requiring Aggrieved

1 Employees: to remain on-call; to suffer under Defendants' control to complete pre-shift tasks before
2 clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working,
3 to attend company meetings off the clock, and to make phone calls and respond to messages the
4 clock; detrimental rounding of employee time entries, editing and/or manipulation of time entries to
5 show less hours than actually worked; failing to pay reporting time pay; failing to pay paid time off
6 and vacation time owed; and failing to pay split shift premiums, to the detriment of Aggrieved
7 Employees.

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

18 34. At all relevant times mentioned herein, Defendants had and have a policy or practice
19 of failing to provide Aggrieved Employees paid, uninterrupted, timely, and complete rest periods of
20 at least ten (10) minutes per four (4) hours worked or major fractions thereof, or compensation in lieu
21 thereof, including, without limitation, by failing to provide rest periods all together; requiring that
22 they be bundled together and/or with meal periods; interrupting them; requiring that employees carry
23 cellular telephones or communication devices during rest periods; not providing them in a timely
24 fashion; and not permitting employees to leave the premises; and/or otherwise requiring on-duty/on-
25 call rest periods, as required by California wage and hour laws.

26 35. At all times relevant hereto, Defendants had and have a policy or practice of failing to
27 permit Aggrieved Employees from taking cooldown rest periods as required under California Code
28

1 of Regulations, Title 8, Section 3395, and have failed to pay premium pay in lieu thereof under Labor
2 Code section 226.7.

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

7 37. At all times mentioned herein, Defendants had and have a policy or practice of issuing
8 payment of wages due, or to become due, or as an advance on wages to be earned: (1) an order, check,
9 draft, note, memorandum, gift card, or other acknowledgment of indebtedness, which was not
10 negotiable and payable in cash, on demand, without discount, at some established place of business
11 in the state; and/or upon which the name and address did not appear on the instrument; and/or at the
12 time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the maker or
13 drawer did not have sufficient funds in, or credit, arrangement, or understanding with the drawee for
14 its payment and/or (2) any scrip, coupon, or other thing redeemable, in merchandise, or purporting to
15 be payable or redeemable otherwise than in money. Plaintiff is further informed and believes, and
16 based thereon alleges that such wages were not compensated at the “regular rate” of compensation as
17 provided under Labor Code sections 226.7 and 510, subsection (a).

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

26 39. At all relevant times mentioned herein, Defendants had and have a policy or practice
27 of failing to comply with Labor Code section 226, subdivision (a), by intentionally failing to furnish
28 Aggrieved Employees with documents signed to obtain or hold employment under Labor Code section

1 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section
2 1174, making it difficult for Aggrieved Employees to calculate their unpaid wages and/or premium
3 payments, to the detriment of Aggrieved Employees.

4 40. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to timely pay Aggrieved Employees, among other wages, all wages owed as a result of
6 Defendants' practice or policy of failing to pay, among other wages, overtime wages at the regular
7 rate of pay, minimum wages, premium wages at the regular rate of pay, paid time off, paid sick leave,
8 and vacation time owed as required by Labor Code sections 201, 202, and 203.

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

13 42. At all relevant times mentioned herein, Defendants have had a policy or practice of
14 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
15 limitation, Aggrieved Employees, with their costs incurred for driving personal vehicles (*i.e.*, mileage
16 and gas), purchasing uniforms, including, without limitation, for steel-toe boots, non-slip shoes, and
17 other safety and/or personal protective equipment ("PPE"), providing uniform and other deposits,
18 separately laundering mandatory uniforms, for the purchase of tools, and for the purchase and
19 maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge of
20 their duties, or of their obedience to the directions of Defendants, as required by Labor Code 2802.

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

28 44. At all relevant times mentioned herein, Defendants failed to provide Aggrieved

1 Employees with the amount of paid sick leave required to be provided pursuant to California law
2 (including, without limitation Labor Code section 245, *et seq.*), and also did not permit its use upon
3 request as contemplated under California laws, to the detriment of Aggrieved Employees.

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

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

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

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

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

27 50. At all times mentioned herein, Defendants have had, and continue to have, a policy of
28 conducting unlawful background checks on prospective and current employees prior to making a

1 conditional offer. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 violated applicable laws by, without limitation: requiring job applicants and employees to disclose
3 their conviction history before Defendants made a conditional offer of employment; inquiring into or
4 considering the conviction history of applicants before Defendants made any conditional offers of
5 employment; considering, distributing, or disseminating information about arrests not followed by
6 conviction, referrals to or participation in a pretrial or posttrial diversion program, convictions that
7 have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction
8 for which the convicted person has received a full pardon or has been issued a certificate of
9 rehabilitation, while conducting conviction history background checks in connection with any
10 applications for employment; intending to deny an applicant a position of employment solely or in
11 part because of the applicant's conviction history; and asking applicants for employment to disclose,
12 through any written form or verbally, information concerning or related to an arrest, detention,
13 processing, diversion, supervision, adjudication, or court disposition that occurred while the person
14 was subject to the process and jurisdiction of the juvenile court, to the detriment of Aggrieved
15 Employees.

16 51. At all times mentioned herein, Defendants have had, and continue to have, a practice
17 or policy of relying on the salary history information of an applicant for employment as a factor in
18 determining whether to offer employment to an applicant or what salary to offer the applicant in
19 violation of Labor Code section 432.3 by including, on Defendants' application for employment, an
20 inquiry regarding current and/or former salary history information, including, without limitation,
21 compensation and benefits of the applicant for employment.

22 52. At all times mentioned herein, Defendants have had, and continue to have, a practice
23 or policy of requiring Aggrieved Employees to agree in writing to confidentiality policies that
24 unlawfully restrain trade by prohibiting Aggrieved Employees from speaking with prospective
25 employers about their work with Defendants, including, but not limited to, their wages and working
26 conditions. Defendants also required Aggrieved Employees to inform prospective employers of
27 Defendants' restrictions of Aggrieved Employees' freedom to work.

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1 53. At all relevant times mentioned herein, Defendants had and have a policy or practice
2 of preventing Aggrieved Employees from using or disclosing the skills, knowledge and experience
3 they obtained at Defendants' business for purposes of competing with Defendants, including, without
4 limitation, preventing Aggrieved Employees from disclosing their wages in negotiating a new job
5 with a prospective employer and from disclosing who else works at Defendants and under what
6 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
7 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
8 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code
9 sections 232, 232.5, and 1197.5, subdivision (k).

10 54. Defendants had and have a policy or practice of preventing Aggrieved Employees from
11 disclosing violations of state and federal law, either within Defendants to their managers or outside to
12 private attorneys or government officials, among others, in violation of Business and Professions Code
13 section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Plaintiff is informed
14 and believes that Defendants' herein-described policies and/or practices prevent Aggrieved
15 Employees from disclosing information about unsafe or discriminatory working conditions or about
16 wage and hour violations in violation of Labor Code section 232 and 232.5.

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

23 56. Plaintiff, on his own behalf and on behalf of Class Members, brings this action pursuant
24 to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 227.3, 245,
25 *et seq.*, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section
26 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and
27 rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure to
28

1 indemnify work-related expenses, failing to pay vested vacation time at the proper rate of pay, other
2 such provisions of California law, and reasonable attorneys' fees and costs.

3 57. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
4 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
5 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
6 appropriate and effective means to prevent further violations, as well as all monies owed but withheld
7 and retained by Defendants to which Plaintiff and Class Members are entitled, as well as restitution
8 of amounts owed.

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

13 **CLASS ACTION ALLEGATIONS**

14 59. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
15 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and
16 former non-exempt employees of Defendants within the State of California at any time commencing
17 four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class
18 action is provided to the class (collectively referred to as "Class Members").

19 60. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
20 to amend or modify the class description with greater specificity, further divide the defined class into
21 subclasses, and to further specify or limit the issues for which certification is sought.

22 61. This action has been brought and may properly be maintained as a class action under
23 the provisions of Code of Civil Procedure section 382 because there is a well-defined community of
24 interest in the litigation and the proposed Class is easily ascertainable.

25 **A. Numerosity**

26 62. The potential Class Members as defined are so numerous that joinder of all the
27 members of the Class is impracticable. While the precise number of Class Members has not been
28

determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

63. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

64. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

- A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours worked at a proper overtime rate of pay?
- B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee's regular rate of pay and a rate of pay that is greater than the applicable minimum wage?
- C. Did Defendants violate Labor Code section 512 by not authorizing or permitting Class Members to take compliant meal periods?
- D. Did Defendants violate Labor Code section 226.7 by not providing Class Members with additional wages for missed or interrupted meal periods?
- E. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class Members to take compliant rest periods?
- F. Did Defendants violate Labor Code section 226.7 by not providing Class Members with additional wages for missed rest periods?
- G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class Members upon termination or resignation all wages earned?
- H. Are Defendants liable to Class Members for waiting time penalties under Labor Code section 203?
- I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing Class Members with accurate wage statements?

- 1 J. Did Defendants fail to pay Class Members in a timely fashion as required under Labor
2 Code section 204?
- 3 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
4 losses incurred in direct consequence of the discharge of their duties or by obedience
5 to the directions of Defendants as required under Labor Code section 2802?
- 6 L. Did Defendants violate Labor Code section 227.3 by not providing Class Members
7 with compensation at their final rate of pay for vested paid vacation time?
- 8 M. Did Defendants violate the Unfair Competition Law, Business and Professions Code
9 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 10 N. Are Class Members entitled to restitution of wages under Business and Professions
11 Code section 17203?
- 12 O. Are Class Members entitled to costs and attorneys' fees?
- 13 P. Are Class Members entitled to interest?

14 **C. Typicality**

15 65. The claims of Plaintiff herein alleged are typical of those claims which could be alleged
16 by any Class Members, and the relief sought is typical of the relief which would be sought by each
17 Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages
18 arising out of and caused by Defendants' common course of conduct in violation of laws and
19 regulations that have the force and effect of law and statutes as alleged herein.

20 **D. Adequacy of Representation**

21 66. Plaintiff will fairly and adequately represent and protect the interest of Class Members.
22 Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class
23 actions.

24 **E. Superiority of Class Action**

25 67. A class action is superior to other available means for the fair and efficient adjudication
26 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law
27 and fact common to Class Members predominate over any questions affecting only individual Class
28 Members. Class Members, as further described therein, have been damaged and are entitled to

1 recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the
2 Labor Code at times, as set out herein.

3 68. Class action treatment will allow Class Members to litigate their claims in a manner
4 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of
5 any difficulties that are likely to be encountered in the management of this action that would preclude
6 its maintenance as a class action.

7 **FIRST CAUSE OF ACTION**

8 **(Failure to Pay Overtime Wages – Against All Defendants)**

9 69. Plaintiff realleges and incorporates by reference all of the allegations contained in the
10 preceding paragraphs as though fully set forth hereat.

11 70. At all relevant times, Plaintiff and Class Members were employees or former
12 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
13 Wage Orders.

14 71. At all times relevant to this Complaint, Labor Code section 510 was in effect and
15 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
16 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at
17 the rate of no less than one and one-half times the regular rate of pay for an employee."

18 72. At all times relevant to this Complaint, Labor Code section 510 further provided that
19 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
20 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
21 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay."

22 73. Four (4) years prior to the filing of the Complaint in this Action through the present,
23 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
24 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
25 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
26 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
27 actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to
28 work off the clock, including, without limitation, by requiring Plaintiff and Class Members: to come

1 early to work and leave late work without being able to clock in for all that time, to complete pre-shift
2 tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and
3 continue working, to clock out for rest periods, to attend company meetings off the clock, to make
4 phone calls off the clock, to drive off the clock; failing to include all forms of remuneration, including
5 non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and other
6 forms of remuneration into the regular rate of pay for the pay periods where overtime was worked and
7 the additional compensation was earned for the purpose of calculating the overtime rate of pay; and
8 detrimental rounding of employee time entries, editing and/or manipulation of time entries; to the
9 detriment of Plaintiff and Class Members.

10 74. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than
11 eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
12 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
13 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
14 applicable IWC Wage Orders, and California law.

15 75. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
16 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
17 interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and
18 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

19 **SECOND CAUSE OF ACTION**

20 **(Failure to Pay Minimum Wages – Against All Defendants)**

21 76. Plaintiff realleges and incorporates by reference all of the allegations contained in the
22 preceding paragraphs as though fully set forth hereat.

23 77. At all relevant times, Plaintiff and Class Members were employees or former
24 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

25 78. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class
26 Members were entitled to receive minimum wages for all hours worked or otherwise under
27 Defendants' control.

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79. For four (4) years prior to the filing of the Complaint in this Action through the present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular rate of pay that is above the minimum wage; engaged, suffered, or permitted employees to work off the clock, including, without limitation, by requiring Plaintiff and Class Members: to come early to work and leave late work without being able to clock in for all that time, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to attend company meetings off the clock, to make phone calls off the clock; to drive off the clock; detrimental rounding of employee time entries; editing and/or manipulation of time entries to show less hours than actually worked; failing to pay split shift premiums; and failing to pay reporting time pay to the detriment of Plaintiff and Class Members.

80. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

81. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

82. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

83. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

84. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without

1 providing the employee with a second timely meal period of not less than thirty (30) minutes in which
2 the employee is relieved of all of his or her duties.

3 85. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
4 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
5 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of
6 compensation for each workday that the meal period is not provided.

7 86. For four (4) years prior to the filing of the Complaint in this Action through the present,
8 Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free
9 uninterrupted meal periods every five hours of work without waiving the right to take them, as
10 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class
11 Member's regular rate of compensation on the occasions that Class Members were not provided
12 compliant meal periods.

13 87. By their failure to provide Plaintiff and Class Members compliant meal periods as
14 contemplated by Labor Code section 512, among other California authorities, and failing, at times, to
15 provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
16 violated the provisions of Labor Code section 512 and applicable Wage Orders.

17 88. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
19 for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

20 89. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
21 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
22 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
23 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

24 **FOURTH CAUSE OF ACTION**

25 **(Failure to Provide Rest Periods – Against All Defendants)**

26 90. Plaintiff realleges and incorporates by reference all of the allegations contained in the
27 preceding paragraphs as though fully set forth hereat.

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1 91. At all relevant times, Plaintiff and Class Members were employees or former
2 employees of Defendants covered by applicable Wage Orders.

3 92. California law and applicable Wage Orders require that employers “authorize and
4 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work
5 period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3
6 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts
7 of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest
8 period, and employees who work shifts of more than ten (10) hours must be provided thirty (30)
9 minutes of paid rest period.

10 93. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
11 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
12 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s
13 regular rate of compensation for each work day that the rest period is not provided.

14 94. For four (4) years prior to the filing of the Complaint in this Action through the present,
15 Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 10-
16 minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof.
17 Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member’s
18 regular rate of compensation on the occasions that Class Members were not authorized or permitted
19 to take compliant rest periods.

20 95. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
21 rest periods contemplated by California law, and one (1) additional hour of pay at the employee’s
22 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully
23 violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

24 96. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
25 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
26 for rest periods that they were not authorized or permitted to take.

27 97. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
28 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus interest

1 and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of
2 Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

3 **FIFTH CAUSE OF ACTION**

4 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

5 98. Plaintiff realleges and incorporates by reference all of the allegations contained in the
6 preceding paragraphs as though fully set forth hereat.

7 99. At all relevant times, Plaintiff and Class Members were employees or former
8 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
9 Wage Orders.

10 100. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
11 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
12 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge
13 immediately upon termination. Class Members who resigned were entitled to payment of all wages
14 earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they
15 gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the
16 time of resignation.

17 101. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years
18 before the filing of the Complaint in this Action through the present, Defendants, due to the failure,
19 at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all
20 wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

21 102. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
22 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
23 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and
24 Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but
25 intentionally adopted policies or practices incompatible with the requirements of Labor Code sections
26 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or
27 resignation.

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1 103. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
2 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
3 resignation, until paid, up to a maximum of thirty (30) days.

4 104. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
5 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
6 prior to termination or resignation.

7 105. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
8 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
9 waiting time penalties, interest, and their costs of suit, as well.

10 **SIXTH CAUSE OF ACTION**

11 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

12 106. Plaintiff realleges and incorporates by reference all of the allegations contained in the
13 preceding paragraphs as though fully set forth hereat.

14 107. At all relevant times, Plaintiff and Class Members were employees or former
15 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

16 108. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were
17 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
18 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
19 wages earned; all applicable hourly rates in effect during the pay period and the corresponding number
20 of hours worked at each hourly rate; among other things.

21 109. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
22 before the filing of the Complaint in this Action through the present, Defendants failed to comply with
23 Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
24 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
25 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all
26 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
27 at each hourly rate; among other things.

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110. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully provided wage statements that Defendants knew were not accurate.

111. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered injury. The absence of accurate information on Class Members' wage statements at times has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and mathematical computations to determine the amount of wages owed; causes difficulty and expense in attempting to reconstruct time and pay records; and led to submission of inaccurate information about wages and amounts deducted from wages to state and federal governmental agencies, among other things.

112. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay period, not to exceed an aggregate \$4,000.00 per employee.

113. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

(Failure to Timely Pay Wages During Employment – Against All Defendants)

114. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporate each by reference as though fully set forth hereat.

115. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

116. Labor Code section 204 provides that "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during

1 which the labor was performed, and labor performed between the 16th and the last day, inclusive, of
2 any calendar month, shall be paid for between the 1st and 10th day of the following month.”

3 117. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
4 independent and apart from, any other penalty provided in this article, every person who fails to pay
5 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
6 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
7 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
8 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
9 percent of the amount unlawfully withheld.”

10 118. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
11 before the filing of the Complaint in this Action through the present, Defendants employed policies
12 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
13 Labor Code section 204.

14 119. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
15 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one hundred
16 dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each
17 subsequent violation in connection with each payment that was made in violation of Labor Code
18 section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

19 120. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
20 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
21 interest, and their costs of suit, as well.

22 **EIGHTH CAUSE OF ACTION**

23 **(Violation of Labor Code § 2802 – Against All Defendants)**

24 121. Plaintiff realleges and incorporates by reference all of the allegations contained in the
25 preceding paragraphs as though fully set forth hereat.

26 122. At all relevant times, Plaintiff and Class Members were employees or former
27 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

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1 123. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
2 his or her employee for all necessary expenditures or losses incurred by the employee in direct
3 consequence of the discharge of his or her duties . . .”

4 124. For three (3) years prior to the filing of the Complaint in this Action through the
5 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,
6 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
7 obedience to the directions of Defendants that included, without limitation: using cellular phones for
8 work-related purposes.

9 125. During that time period, Plaintiff is informed and believes, and based thereon alleges
10 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and Class
11 Members for those losses and/or expenditures.

12 126. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have
13 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the herein-
14 described losses and/or expenditures.

15 127. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
16 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover reimbursement
17 for their herein-described losses and/or expenditures, reasonable attorneys’ fees and costs of suit.

18 **NINTH CAUSE OF ACTION**

19 **(Violation of Labor Code § 227.3 – Against All Defendants)**

20 128. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the
21 preceding paragraphs of this Complaint as though fully set forth hereon.

22 129. According to Labor Code section 227.3, whenever a contract of employment or
23 employer policy provides for paid vacations, and an employee is terminated without having taken off
24 his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in
25 accordance with such contract of employment or employer policy respecting eligibility or time served.

26 130. Plaintiff is informed and believes, and based thereon alleges that, at all times relevant
27 hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and
28 that Plaintiff’s employment contract with Defendants included paid vacations.

131. For at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated employees or former employees within the State of California with compensation at their final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

132. As a proximate result of Defendants' failure to pay vested vacation at the final rate of Plaintiff and Class Members upon their resignation or termination, Defendants violated Labor Code section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at their final rate of pay, as set out in Defendants' policy or the contract of employment between Plaintiff and Class Members, on the one hand, and Defendants, on the other hand.

133. As a further proximate result of Defendants' above-described acts and/or omissions, Plaintiff and Class Members are entitled to recover reasonable attorneys' fees, costs of suit and prejudgment interest.

TENTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

134. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

135. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, for at least four (4) years prior to the filing of this action and continuing to the present, Defendants have had a consistent policy of failing to provide Plaintiff and similarly situated employees or former employees within the State of California with the rights provided to them under the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to compensate employees in accordance with the Labor Code.

/ / /

136. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class Members have suffered injury in fact and lost money or property.

137. Pursuant to Business and Professions Code section 17203, Plaintiff and Class Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as restitution of all wages and other monies owed to them under the Labor Code, including interest thereon, in which they had a property interest and which Defendants nevertheless failed to pay them and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor Code.

138. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure section 1032 and interest under Civil Code section 3287.

ELEVENTH CAUSE OF ACTION

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

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

140. Plaintiff brings this representative cause of action pursuant to the Private Attorneys' General Act of 2004 ("PAGA"), Labor Code section 2698 et seq., as interpreted by *Arias v. Superior Court* (2009) 46 Cal.4th 969 and *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175, to recover civil penalties on behalf of the State of California and other Aggrieved Employees.

Civil Penalties Under Labor Code § 210

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

142. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this

1 article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204,
2 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial
3 violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each
4 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
5 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

6 143. At all relevant times herein, Defendants have had a consistent policy or practice of
7 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as per
8 Labor Code section 204 including, without limitation, for the reasons and in a manner set forth in the
9 preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved
10 Employees are entitled to recover as civil penalties injunctive relief and monetary civil penalties in
11 the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per
12 employee, and two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of
13 the amount unlawfully withheld for each Aggrieved Employee for each subsequent violation in
14 connection with each payment that was made in violation of Labor Code section 204.

15 Civil Penalties Under Labor Code § 226.3

16 144. Defendants had and have a policy or practice of failing to comply with Labor Code
17 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with
18 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
19 earned; the name and address of each employer with whom they have been placed to work; all
20 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
21 at each hourly rate; the legal name of the employer and/or the name and address of the legal entity
22 securing the employer’s services if the employer is a farm labor contractor; and other such information
23 as required by Labor Code section 226, subdivision (a) and/or Labor Code section 226.2 to the extent
24 it does not include for piece-rate work the information required therein including, without limitation,
25 the quantity, rate and units worked per piece, as well as separately itemized non-productive time and
26 rest and recovery periods

27 145. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a) of
28 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per

1 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
2 violation in a subsequent citation, for which the employer fails to provide the employee a wage
3 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

4 146. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
5 this section are in addition to any other penalty provided by law.”

6 147. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
7 have a policy or practice of failing to furnish Aggrieved Employees with itemized wage statements as
8 set forth in the preceding paragraphs.

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

14 Violation of Labor Code § 558

15 149. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
16 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
17 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty
18 as follows:

19 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
20 pay period for which the employee was underpaid in addition to an amount sufficient to recover
21 underpaid wages;

22 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
23 employee for each pay period for which the employee was underpaid in addition to an amount
24 sufficient to recover underpaid wages;

25 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

26 150. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each
27 of them, violated, or caused to be violated, the Labor Code sections described herein, including
28 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime

1 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
2 regular payday designated by employer, the name of the employer, including any “doing business as”
3 names used, the name, address, and telephone number of the workers’ compensation insurance carrier,
4 information regarding paid sick leave, and other pertinent information.

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

10 Violation of Labor Code § 1174.5

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

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

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

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

6 156. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
7 willfully failed to keep adequate or accurate time records including wage statements and similar
8 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
9 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
10 under Labor Code section 1174.

11 157. As a direct and proximate result of the herein-described Labor Code violations,
12 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
13 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
14 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

15 Violation of Labor Code § 1197.1

16 158. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
17 person acting either individually or as an officer, agent, or employee of another person, who pays or
18 causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local
19 law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
20 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as
21 follows:

22 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for
23 each underpaid employee for each pay period for which the employee is underpaid.

24 This amount shall be in addition to an amount sufficient to recover underpaid wages,
25 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
26 pursuant to Section 203.

27 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
28 (\$250) for each underpaid employee for each pay period for which the employee is

1 underpaid regardless of whether the initial violation is intentionally committed. This
2 amount shall be in addition to an amount sufficient to recover underpaid wages,
3 liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed
4 pursuant to Section 203.

5 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section
6 203, recovered pursuant to this section shall be paid to the affected employee.”

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

15 160. As a direct and proximate result of the herein-described Labor Code violations,
16 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
17 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
18 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and two
19 hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent
20 violation.

21 Civil Penalties Under Labor Code § 2699

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

28 ///

1 162. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each
2 of them, violated the Labor Code sections described in the preceding paragraphs.

3 163. To the extent civil penalties are not otherwise specifically provided for a violation
4 alleged herein, Plaintiff seeks recovery of civil penalties pursuant to Labor Code section 2699,
5 subdivision (f), including one hundred dollars (\$100) for each Aggrieved Employee per pay period
6 for an initial violation and two hundred dollars (\$200) for each Aggrieved Employee per pay period
7 for each subsequent violation, as applicable.

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

11 **DEMAND FOR JURY TRIAL**

12 165. Plaintiff demands a trial by jury on all causes of action contained herein.

13 **PRAYER**

14 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
15 against Defendants as follows:

16 A. An order certifying this case as a Class Action;

17 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
18 counsel as class counsel;

19 C. Damages for all wages earned and owed, including minimum and overtime wages
20 and unpaid wages for vested vacation time, under Labor Code sections 510, 558.1,
21 1194, 1197 and 1199 and 227.3;

22 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;

23 E. Damages for unpaid premium wages from missed meal and rest periods under,
24 among other Labor Code sections, 512, 558.1 and 226.7;

25 F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision
26 (e) and 558.1;

27 G. Waiting time penalties under Labor Code sections 203 and 558.1;

28 H. Penalties to timely pay wages under Labor Code section 210;

- 1 I. Damages under Labor Code sections 2802 and 558.1;
- 2 J. Preliminary and permanent injunctions prohibiting Defendants from further violating
- 3 the California Labor Code and requiring the establishment of appropriate and
- 4 effective means to prevent future violations;
- 5 K. Restitution of wages and benefits due which were acquired by means of any unfair
- 6 business practice, according to proof;
- 7 L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- 8 M. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,
- 9 1197.1, and 2699, and all other applicable sections listed;
- 10 N. For attorneys' fees in prosecuting this action;
- 11 O. For costs of suit incurred herein; and
- 12 P. For such other and further relief as the Court deems just and proper.

13

14 Dated: May 13, 2026

BIBIYAN LAW GROUP, P.C.

15

16 BY: Brandon M. Chang

17 Vedang J. Patel
18 Brandon M. Chang

19 Attorneys for Plaintiff LESTER PASCUAL and
20 on behalf of all others similarly situated

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my mailing address is 1460 Westwood Boulevard, Los Angeles, California 90024.

On June 5, 2026, I caused a true and correct copy of the foregoing document described **FIRST AMENDED CLASS ACTION AND PAGA REPRESENTATIVE COMPLAINT** to be served by electronic transmission to the below-referenced electronic email addresses as follows:

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Attorneys for Defendant NV5, INC.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 5, 2026, at Los Angeles, California.



Lorie Gutierrez