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as an aggrieved employee, and on behalf of all other
aggrieved employees

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DENISE LOPEZ, as an aggrieved employee,
and on behalf of all other aggrieved employees
under the Labor Code Private Attorneys'
General Act of 2004,

Plaintiff,

v.

RPSS, INC., a California corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **24STCV16170**

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
AND 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff DENISE LOPEZ, as an aggrieved employee, brings this Action under the Labor
2 Code Private Attorneys' General Act of 2004 ("PAGA") to collect civil penalties under PAGA for
3 all other aggrieved employees, and, in doing so, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against RPSS, INC., a
7 California corporation, and any of its respective subsidiaries or affiliated companies within the State
8 of California ("RPSS"), (collectively, and with DOES 1 through 100, as further defined below,
9 "Defendants"), as a proxy of the Labor and Workforce Development Agency of the State of
10 California ("LWDA"), on behalf of all other current and former non-exempt employees of
11 Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to
12 the alleged claims for failure to comply with Labor Code sections 96, 98.6, 200, 201, 202, 203, 204,
13 210, 226, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8, 1102.5, 1197.5,
14 1198.5, 1527, 3366, 3457, and 8397.4, on behalf of all employees of Defendants working within the
15 Civil Penalty Period (collectively, "Aggrieved Employees").

16 2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
17 of Civil Procedure section 410.10.

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

27 4. Plaintiff is an "aggrieved employee" under PAGA, as Plaintiff was employed by
28 Defendants during the applicable statutory period and suffered one or more of the Labor Code

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

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

11 6. During the period beginning one (1) year preceding the provision of notice to the
12 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
13 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210,
14 212, 213, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245, 246, 404, 432, 432.3, 432.5, 432.7,
15 432.8, 510, 512, 558, 1102.5, 1174, 1174.5, 11821.12, 1194, 1197, 1197.1, 1197.5, 1198.5, 1527,
16 2699, 2802, 2810.5, 3366, 3457, and 8397.4, among others, California Code of Regulations, Title
17 8, Section 3395, Business and Professions Code sections 16600, 16700, and 17200, Government
18 Code section 12952, as well as applicable Wage Orders.

19 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
20 on behalf of all other aggrieved current and former employees within the statutory period, to bring
21 a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section
22 2699.3 without asserting a claim to bring Plaintiff’s own claim for civil penalties under PAGA.
23 (*See, e.g., Balderas v. Fresh Start Harvesting, Inc.*)

24 8. On or around April 24, 2024, Plaintiff provided written notice pursuant to Labor
25 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
26 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
27 as well as by certified mail, with return receipt requested to Defendants, and each of them.

28 9. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not

1 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
2 calendar days of the April 24, 2024 postmarked date of the herein-described notice sent by Plaintiff
3 to the LWDA and Defendants.

4 **PAGA REPRESENTATIVE ALLEGATIONS**

5 10. At all relevant times mentioned herein, Defendants had and have a policy or practice
6 of failing to pay overtime wages to Aggrieved Employees in the State of California in violation of
7 California state wage and hour laws as a result of, without limitation, Aggrieved Employees working
8 over eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
9 workweek without paying them proper overtime wages, as a result of, without limitation, failing to
10 accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting
11 employees to work off the clock, including, without limitation, by requiring employees: to come
12 early to work and leave late work without being able to clock in for all that time, to suffer under
13 Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in
14 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
15 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend
16 company meetings off the clock, to make phone calls or drive off the clock, and/or go through
17 security screenings and/or temperature checks off the clock; failing to include all forms of
18 remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask
19 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
20 where overtime was worked and the additional compensation was earned for the purpose of
21 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
22 manipulation of time entries to show less hours than actually worked, for paying straight pay instead
23 of overtime pay, and by attempting but failing to properly implement an alternative workweek
24 schedule ("AWS") (including, without limitation, by failing to implement a written agreement
25 designating the regularly scheduled alternative workweek in which the specified number of work
26 days and work hours are regularly recurring; failing to adopt the AWS in a secret ballot election,
27 before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the
28 work unit; failing to follow the notice/disclosures procedures prior to any AWS election; and/or

1 failing to register an AWS election with the State of California, as required by Labor Code section
2 511 and applicable Wage Orders), to the detriment of Aggrieved Employees.

3 11. At all relevant times mentioned herein, Defendants had and have a practice or policy
4 of failing to compensate Aggrieved Employees with minimum wages for all hours worked or
5 otherwise under Defendants' control as a result of, without limitation, failing to accurately track
6 and/or pay for all minutes actually worked; by requiring Aggrieved Employees: to come early to
7 work and leave late work without being able to clock in for all that time, to suffer under Employer's
8 control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift
9 tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest
10 periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings
11 off the clock, to make phone calls or drive off the clock; detrimental rounding of employee time
12 entries; editing and/or manipulation of time entries to show less hours than actually worked; and
13 failing to pay split shift premiums, to the detriment of Aggrieved Employees.

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

24 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
25 of failing to provide Aggrieved Employees paid, uninterrupted, timely, and complete rest periods of
26 at least ten (10) minutes per four (4) hours worked or major fractions thereof, or compensation in
27 lieu thereof, including, without limitation, by failing to provide rest periods all together; requiring
28 that they be bundled together and/or with meal periods; interrupting them; requiring that employees

1 carry cellular telephones or walkie-talkies during rest periods not providing them in a timely fashion;
2 and not permitting employees to leave the premises; and/or otherwise requiring on-duty/on-call rest
3 periods, as required by California wage and hour laws.

4 14. At all times relevant hereto, Defendants had and have a policy or practice of failing
5 to permit Aggrieved Employees from taking cooldown rest periods as required under California
6 Code of Regulations, Title 8, Section 3395, and have failed to pay premium pay in lieu thereof under
7 Labor Code section 226.7.

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

13 16. At all times mentioned herein, Defendants had and have a policy or practice of
14 unlawfully deducting wages due, or to become due, or as an advance on wages to be earned; an
15 order, check, draft, note, memorandum, gift card, or other acknowledgment of indebtedness, (unless
16 it was negotiable and payable in cash, on demand, without discount, at some established place of
17 business in the state), the name and address of which must but did not appear on the instrument, and
18 at the time of its issuance and for a reasonable time thereafter, which must be but was not at least
19 30 days, the maker or drawer did not have sufficient funds in, or credit arrangement, or
20 understanding with the drawee for its payment of any scrip, coupon, or other thing redeemable, in
21 merchandise, or purporting to be payable or redeemable otherwise than in money. Plaintiff is further
22 informed and believes, and based thereon alleges that such wages were not compensated at the
23 "regular rate" of compensation as provided under Labor Code sections 226.7 and 510, subsection
24 (a).

25 17. At all relevant times mentioned herein, Defendants had and have a policy or practice
26 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
27 Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned;
28 total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in

1 effect during the pay period and the corresponding number of hours worked at each hourly rate by
2 the employee; the legal name of the employer and/or the name and address of the legal entity
3 securing the employer's services if the employer is a farm labor contractor; and other such
4 information as required by Labor Code section 226, subdivision (a).

5 18. At all relevant times mentioned herein, Defendants had and have a policy or practice
6 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
7 Aggrieved Employees with documents signed to obtain or hold employment under Labor Code
8 section 432, personnel records under Labor Code section 1198.5, and time records under Labor
9 Code section 1174, making it difficult for Aggrieved Employees to calculate their unpaid wages
10 and/or premium payments, to the detriment of Aggrieved Employees.

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

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

20 21. At all relevant times mentioned herein, Defendants have had a policy or practice of
21 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
22 limitation, Aggrieved Employees, with their costs incurred for driving personal vehicles (*i.e.*,
23 mileage and gas), purchasing uniforms, including, without limitation, for steel-toe boots, non-slip
24 shoes, and other safety and/or personal protective equipment ("PPE"), providing uniform and other
25 deposits, separately laundering mandatory uniforms, for the purchase of tools, and for the purchase
26 and maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge
27 of their duties, or of their obedience to the directions of Defendants, as required by Labor Code
28 2802.

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

9 23. At all relevant times mentioned herein, Defendants failed to provide Aggrieved
10 Employees with the amount of paid sick leave required to be provided pursuant to California law
11 (including, without limitation Labor Code section 245, *et seq.*), and also did not permit its use upon
12 request as contemplated under California laws, to the detriment of Aggrieved Employees.

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

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

22 26. At all times mentioned herein, Defendants have had, and continue to have, a policy
23 of failing to provide all working employees with suitable seats when the nature of the work
24 reasonably permits the use of seats. Defendants have also failed to place an adequate number of
25 seats in reasonable proximity to the work area and/or permitted employees to use such seats when
26 it does not interfere with the performance of their duties and employees are not engaged in the active
27 duties of their employment, and the nature of their work requires standing.
28

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

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

9 29. At all times mentioned herein, Defendants have had, and continue to have, a policy
10 of failing to conducting unlawful background checks on prospective and current employees prior to
11 making a conditional offer. Plaintiff is informed and believes, and based thereon alleges, that
12 Defendants violated applicable laws by, without limitation: requiring job applicants and employees
13 to disclose their conviction history before Defendants made a conditional offer of employment;
14 inquiring into or considering the conviction history of applicants before Defendants made any
15 conditional offers of employment; considering, distributing, or disseminating information about
16 arrests not followed by conviction, referrals to or participation in a pretrial or posttrial diversion
17 program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant
18 to law, or any conviction for which the convicted person has received a full pardon or has been
19 issued a certificate of rehabilitation, while conducting conviction history background checks in
20 connection with any applications for employment; intending to deny an applicant a position of
21 employment solely or in part because of the applicant's conviction history; and asking applicants
22 for employment to disclose, through any written form or verbally, information concerning or related
23 to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that
24 occurred while the person was subject to the process and jurisdiction of the juvenile court, to the
25 detriment of Aggrieved Employees

26 30. At all times mentioned herein, Defendants have had, and continue to have, a practice
27 or policy of relying on the salary history information of an applicant for employment as a factor in
28 determining whether to offer employment to an applicant or what salary to offer the applicant in

1 violation of Labor Code section 432.3 by including, on Defendants' application for employment, an
2 inquiry regarding current and/or former salary history information, including, without limitation,
3 compensation and benefits of the applicant for employment.

4 31. At all times mentioned herein, Defendants have had, and continue to have, a practice
5 or policy of requiring Aggrieved Employees to agree in writing to confidentiality policies that
6 unlawfully restrain trade by prohibiting Aggrieved Employees from speaking with prospective
7 employers about their work with Defendants, including but not limited to their wages and working
8 conditions. Defendants also required Aggrieved Employees to inform prospective employers of
9 Defendants' restrictions of Aggrieved Employees' freedom to work.

10 32. At all relevant times mentioned herein, Defendants had and have a policy or practice
11 of preventing Aggrieved Employees from using or disclosing the skills, knowledge and experience
12 they obtained at Defendants for purposes of competing with Defendants, including, without
13 limitation, preventing Aggrieved Employees from disclosing their wages in negotiating a new job
14 with a prospective employer, and from disclosing who else works at Defendants and under what
15 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
16 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
17 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
18 Code sections 232, 232.5, and 1197.5, subdivision (k).

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

26 34. Defendants had and have a policy or practice of preventing Aggrieved Employees
27 from engaging in lawful conduct during non-work hours, thus violating state statutes entitling
28 employees to disclose wages, working conditions, and illegal conduct, including, without limitation,

1 Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Plaintiff is
2 informed and believes that this lawful conduct includes the exercise of Aggrieved Employee's
3 constitutional rights of freedom of speech and economic liberty.

4 35. Plaintiff, in Plaintiff's representative capacity *only*, seeks civil penalties under Labor
5 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts on behalf of
6 only and all other Aggrieved Employees, which violate the California Labor Code as described
7 above.

8 **PARTIES**

9 **A. Plaintiff**

10 36. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
11 is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-
12 exempt employee, with duties that included, but were not limited to, unloading trucks, deliveries,
13 and picking up packages. Plaintiff is informed and believes that Plaintiff worked for Defendants
14 from approximately December of 2022 through approximately April of 2023.

15 **B. Defendants**

16 37. Plaintiff is informed and believes and based thereon alleges that defendant RPSS is,
17 and at all times relevant hereto was, a corporation organized and existing under and by virtue of the
18 laws of the State of California and doing business in the County of Los Angeles, State of California.

19 38. The true names and capacities, whether individual, corporate, associate, or otherwise,
20 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
21 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
22 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
23 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
24 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
25 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
26 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
27 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
28 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the

1 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
2 include RPSS, and any of their parent, subsidiary, or affiliated companies within the State of
3 California, as well as DOES 1 through 100 identified herein.

4 **JOINT LIABILITY ALLEGATIONS**

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

10 40. All of the acts and conduct described herein of each and every corporate defendant
11 was duly authorized, ordered, and directed by the respective and collective defendant corporate
12 employers, and the officers and management-level employees of said corporate employers. In
13 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
14 their said employees, agents, and representatives, and each of them; and upon completion of the
15 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
16 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
17 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
18 aforementioned corporate employees, agents and representatives.

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

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

28 b. The Individual Defendants derive actual and significant monetary benefits by

1 and through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego Defendants as
2 the funding source for the Individual Defendants' own personal expenditures;

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

7 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs
8 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
9 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
10 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
11 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
12 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
13 herein were, the alter egos of the Individual Defendants;

14 e. The recognition of the separate existence of the Individual Defendants from
15 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
16 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
17 and other statutory violations. The corporate existence of these defendants should thus be
18 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
19 and injustice to Plaintiff herein;

20 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
21 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
22 disregarded.

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

25 **FIRST CAUSE OF ACTION**

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

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

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1 information as required by Labor Code section 226, subdivision (a).

2 48. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
3 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
4 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
5 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
6 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

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

9 50. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
10 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
11 statements that accurately reflect gross wages earned; total hours worked; net wages earned; all
12 deductions; all applicable hourly rates in effect and the corresponding number of hours worked at
13 each hourly rate in effect during the pay period; the legal name of the employer and/or the name and
14 address of the legal entity securing the employer’s services if the employer is a farm labor contractor;
15 and other such information as required by Labor Code section 226, subdivision (a).

16 51. Pursuant to Labor Code section 226.3, Aggrieved Employees are entitled to recover
17 civil penalties for Defendants’ violation of Labor Code section 226, subdivision (a) in the amount
18 of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial
19 violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period for each
20 subsequent violation.

21 Violation of Labor Code § 558

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

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

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

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

5 53. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
6 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
7 causing Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay
8 applicable to their employment, allowances claimed as part of the minimum wage, the regular
9 payday designated by employer, the name of the employer, including any “doing business as” names
10 used, the name, address, and telephone number of the workers’ compensation insurance carrier,
11 information regarding paid sick leave, and other pertinent information.

12 54. As a direct and proximate result of the herein-described Labor Code violations,
13 pursuant to Labor Code section 558, Aggrieved Employees are entitled to recover civil penalties for
14 Defendants’ herein-described Labor Code violations in the amount fifty dollars (\$50) for each
15 Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for
16 each Aggrieved Employee per pay period for each subsequent violation.

17 Violation of Labor Code § 1174.5

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

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

28 57. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required

1 every person employing labor in California to “[k]eep, at a central location in the state or at the
2 plants or establishments at which employees are employed, payroll records showing the hours
3 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
4 piece rate paid to, employees employed at the respective plants or establishments. These records
5 shall be kept in accordance with rules established for this purpose by the commission, but in any
6 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
7 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
8 earned.”

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

14 59. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
15 willfully failed to keep adequate or accurate time records including wage statements and similar
16 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
17 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
18 under Labor Code section 1174.

19 60. As a direct and proximate result of the herein-described Labor Code violations,
20 pursuant to Labor Code section 1174.5, Aggrieved Employees are entitled to recover civil penalties
21 for Defendants’ herein-described Labor Code violations in the amount of five hundred dollars
22 (\$500) per violation per Aggrieved Employee.

23 Violation of Labor Code § 1197.1

24 61. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
25 person acting either individually or as an officer, agent, or employee of another person, who pays
26 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
27 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
28 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to

Section 203 as follows:

- (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
- (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
- (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

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

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

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1 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
2 judgment against Defendants as follows:

- 3 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
4 1174.5, 1197.1, and 2699;
- 5 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
6 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 7 C. Pre-judgment and post-judgment interest;
- 8 D. For costs of suit incurred herein; and
- 9 E. Such other and further relief as the Court deems just and proper.

10 Dated: June 28, 2024

BIBIYAN LAW GROUP, P.C.

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12 BY: */s/ Rafael Yedoyan*

13 DAVID D. BIBIYAN

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15 SARAH H. COHEN

16 RAFAEL YEDOYAN

17 Attorneys for Plaintiff DENISE LOPEZ, as an
18 aggrieved employee on behalf of all other
19 aggrieved employees under the Labor Code
20 Private Attorneys' General Act of 2004
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