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May 31, 2024

Electronically Filed Via LWDA's AMENDED PAGA Claim Notice Online Form

Copy Sent Via Certified Mail to:

Reflectech, Incorporated
5861 88th Street, #100
Sacramento, CA 95828
erreflectech@gmail.com

Re: Gisela Rodriguez v. Reflectech, Incorporated and Ed Russell: California Labor Code § 2699.3 Notice of Intent to File Suit
LWDA Case No. LWDA-CM-1031398-24

To Whom It May Concern:

Please be advised that our office, along with co-counsel King & Siegel LLP, hereby provides notice to the Labor and Workforce Development Agency ("LWDA") on behalf of our client Gisela Rodriguez of her intent to seek civil penalties against Reflectech, Incorporated and Ed Russell (collectively "Defendants") pursuant to the Private Attorney General Act of 2004 ("PAGA"), California Labor Code § 2698, *et seq.*

Ms. Rodriguez intends to file a civil action including claims for penalties under PAGA in Sacramento County Superior Court on behalf of a group of current and former employees employed within the one-year period preceding the date of this letter (the "Aggrieved Employees") seeking civil penalties arising out of Defendants' violation of the following Labor Code sections¹:

- **California Labor Code §§ 204 and 206 (Unpaid Earned Wages):** Based on information and belief, Reflectech, Incorporated implemented a uniform time clock rounding policy and practice that resulted in Ms. Rodriguez and similarly situated employees being consistently denied minimum wages compensation for all hours worked. Reflectech, Incorporated failed to record and/or compensate Ms. Rodriguez and similarly situated employees for actual daily hours worked and instead utilized a rounding system that systemically and over time resulted in the underpayment of wages for hours worked. Upon information and belief, Reflectech, Incorporated also failed to pay employees for hours worked off the clock at the

¹ Ms. Rodriguez expressly reserves the right to add and/or amend any and all additional labor law violations committed against her or other similarly aggrieved current and former employees.

control or direction of Reflectech, Incorporated, including time spent driving between assigned jobsites, and/or failed to pay for time spent by employees under its control and direction while putatively on their meal periods.

- **California Labor Code §§ 510, 1194, and 1198 (Unpaid Overtime Wages):** Because Ms. Rodriguez and similarly situated employees worked shifts equal to or in excess of 8 hours per day and/or 40 hours per week, some or all of the unpaid time described above was required to be paid at applicable overtime rates. Due to the above-described policies, Reflectech, Incorporated consistently failed to pay all overtime wages compensation earned by Ms. Rodriguez and similarly situated employees. Reflectech, Incorporated failed to record and/or compensate Ms. Rodriguez and similarly situated employees for her actual daily and/or weekly overtime hours worked.
- **California Labor Code § 512 (Meal Period Violations):** As part of a uniform policy or practice, Reflectech, Incorporated required or pressured Ms. Rodriguez and similarly situated employees to work through part of their meal periods, and otherwise interrupted or required Aggrieved Employees to receive and/or respond to management's communications during breaks. On information and belief, Reflectech, Incorporated also deemed the clocked out time spent by Ms. Rodriguez and similarly situated employees driving between jobsites as their authorized meal periods. Additionally, upon information and belief, Reflectech, Incorporated impermissibly applied its rounding policy to employee meal periods. Reflectech, Incorporated further failed to compensate her and Aggrieved Employees for premium wages owed when she was not allowed to take a compliant meal period.
- **California Labor Code § 226.7 (Rest Period Violations):** As part of a uniform policy or practice, Reflectech, Incorporated required Ms. Rodriguez and similarly situated employees to remain on the premises during their rest periods. Reflectech, Incorporated required or pressured Ms. Rodriguez and similarly situated employees to work through all or part of rest periods without relieving them of all duties, and otherwise interrupted or required Aggrieved Employees to complete all assigned task within a four-hour time frame. Reflectech, Incorporated Inc. further failed to compensate her and Aggrieved Employees for premium wages owed when she was not allowed to take a compliant rest period.
- **California Labor Code § 2802(a) (Failure to Reimburse Business Expenses):** Reflectech, Incorporated required Ms. Rodriguez and similarly situated employees to comply with a practice that denied her reimbursements for business expenses. Ms. Rodriguez and similarly situated employees used a personal cellular phone to complete work-related tasks, including but not limited to receiving orders from her supervisor(s) on past, current, and future assignments throughout her shifts. Ms. Rodriguez and similarly situated employees further used a personal vehicle to complete work-related tasks, including driving between jobsites during their eight-

hour shifts. Because Ms. Rodriguez and similarly situated employees used their personal cellular phones and vehicles to discharge their duties, Reflectech, Incorporated should have reimbursed them for these necessary expenditures.

- **California Labor Code § 233(c) (Violation of California’s Kin Care Law):** Reflectech, Incorporated implemented a uniform sick leave policy and practice that resulted in Ms. Rodriguez and similarly situated employees being denied the right to use accrued and available sick leave as required under the Labor Code. On information and belief, Reflectech, Incorporated required proof of illness such as doctor’s note, failed to accurately compensate the use of sick time, and/or operated under a policy that rendered unused sick time hours expired after 12 months. Because Reflectech, Incorporated denied Ms. Rodriguez, and similarly situated employees, the lawful use or attempt to use accrued and available sick leave, Reflectech, Incorporated violated California’s Kin Care Law.
- **California Labor Code §§ 226(a), and 1174(d) (Inaccurate Wage Statements):** Reflectech, Incorporated failed to provide Ms. Rodriguez and similarly situated employees compliant wage statements because they failed to accurately show all gross wages earned, including unpaid premium wages owed, total hours worked by the employee, net regular and overtime wages earned, or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.
- **California Labor Code § 204/210 (Failure To Timely Pay Wages Penalties):** Reflectech, Incorporated failed to pay Ms. Rodriguez and similarly situated employees all wages owed on regularly scheduled paydays, including unpaid regular and overtime wages, and unpaid premium wages because they failed to pay the foregoing wages and penalties as set forth above.
- **California Labor Code § 203 (Waiting Time Penalties):** Reflectech, Incorporated failed to pay Aggrieved Employees all wages owed, including unpaid regular and overtime wages, and unpaid premium wages, at termination of employment because they failed to pay the foregoing wages and penalties as set forth above.

This correspondence serves as notice pursuant to Labor Code § 2699.3 that we intend to prosecute representative claims for civil penalties under the Private Attorney’s General Act (“PAGA”) on behalf the Aggrieved Employees as set forth in greater detail in the Complaint attached as **Exhibit A**.

We intend to fully and vigorously prosecute the representative claims alleged in this Notice, including by obtaining civil penalties under PAGA, upon expiration of the applicable notice requirements under PAGA. *See* Cal. Lab. Code §§ 2699, *et seq.*

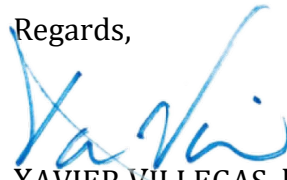
Thank you for your anticipated courtesy and assistance regarding this matter.

* * * * *

To Reflectech, Incorporated and Ed Russell:

The Aggrieved Employees have been seriously harmed by Defendants' actions and we intend to prosecute these claims to the fullest extent of the law. Nonetheless, it is the policy of Class Counsel to attempt to negotiate an early resolution of all matters. If you are interested in seeking an early resolution through mediation on a representative and class-wide basis, including pre-mediation discovery, please contact the undersigned no later than June 17, 2024.

Regards,



XAVIER VILLEGAS, ESQ.

EXHIBIT A

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17 Attorneys for Plaintiff and Putative Class

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF SACRAMENTO**

20 **Gisela Rodriguez**, individually and on
21 behalf of all similarly situated individuals,

22 Plaintiff,

23 vs.

24 **Reflectech, Incorporated**, a California
25 corporation; **Ed Russell**, an individual; and
26 **Does 1-10**, inclusive;

27 Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- 28 **1) Failure to Pay Minimum Wage for All Hours Worked (Lab. Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198);**
- 2) Failure to Pay Overtime Wages (Lab. Code §§ 510 and 1198);**
- 3) Failure to Provide Meal Periods or Premium Pay In Lieu Thereof (Cal. Lab. Code §§ 226.7 and 1198);**
- 4) Failure to Provide Rest Periods or Premium Pay In Lieu Thereof (Cal. Lab. Code §§ 226.7 and 1198);**
- 5) Failure to Provide and Maintain Complete and Accurate Wage Statements (Lab. Code §§ 226 and 1174);**
- 6) Failure to Provide Wages When Due (Lab. Code §§ 201-204);**
- 7) Failure to Reimburse Necessary**

Business Expenses (Lab. Code § 2802);

8) Violation of Sick Leave Laws (Lab. Code §§ 233 and 245, *et seq.*);

9) PAGA Penalties (Lab. Code §§ 2699, *et seq.*); and

10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices).

Jury Trial Requested

1 Plaintiff hereby brings this action on behalf of herself and all other similarly situated current
2 and former employees, by and through her counsel of record, alleges as follows:

3 **PARTIES**

4 1. At all relevant times for this Complaint, Plaintiff **Gisela Rodriguez** ("Plaintiff") is a
5 resident of Sacramento, California. Plaintiff has been an hourly, non-exempt Janitor employee of
6 Defendants from in or about June 2018 to the present. Plaintiff has been subject to the policies and
7 practices described in this complaint at all times during her employment at Defendants.

8 2. Defendant **Reflectech, Incorporated** ("Reflectech") is a California corporation with
9 a principal place of business of 5861 88th Street, Suite 100, Sacramento, CA 95828. Reflectech is a
10 manufacturer of their own line of floor maintenance products. On information and belief, Reflectech
11 employs at least 100 hourly, non-exempt employees.

12 3. Defendant **Ed Russell** ("Russell" or hereinafter "Defendants" with Defendant Re-
13 flectech) is the Chief Executive Officer and the Chief Financial Officer at Reflectech, Incorporated.
14 Upon information and belief, he is a resident of the County of El Dorado in the State of California.
15 Since Mr. Russell is a managing agent, director, and/or officer of Defendants and because he caused
16 or directed the acts described herein, he is personally liable for the Labor Code violations set forth
17 in this Complaint under Labor Code section 558.1.

18 4. Plaintiff is not currently aware of the names and true identities of defendants Does 1-
19 10. Plaintiff reserves the right to amend this complaint to allege their true names and capacities
20 when this information is available. Each Doe defendant is responsible for the damages alleged pur-
21 suant to each of the causes of action asserted, either through its own conduct, or vicariously through
22 the conduct of others. All further references in this complaint to any of the named Defendants in-
23 cludes the fictitiously named defendants.

24 5. At all times alleged herein, each Defendant was an agent, servant, joint employer, em-
25 ployee, partner, and/or joint venture of every other Defendant and was acting within the scope of
26 the Defendants' relationship. Moreover, the conduct of every Defendant was ratified by each other
27 Defendant.
28

1 **VENUE AND JURISDICTION**

2 6. The court has jurisdiction over all causes of action in this complaint pursuant to Arti-
3 cle VI, § 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on
4 California statutes and law, including the Labor Code and the Business & Professions Code. Because
5 putative class members were employed by Defendants, the policies and practices complained of
6 herein were implemented in Sacramento, and Defendants transact business within Sacramento
7 County, Defendant is within the jurisdiction of the court for service of process. Moreover, Business
8 & Professions Code § 17204 provides that any person acting on their own behalf may bring an action
9 in any court of competent jurisdiction.

10 7. Venue as to Defendant is proper in this Superior Court pursuant to California Code of
11 Civil Procedure § 395. Defendants transact business and/or have offices in this county, employ pu-
12 tative class members in this County, and the acts and omissions alleged herein took place in this
13 county. Moreover, this action is brought on behalf of the State of California as a private attorney
14 general and has jurisdiction in this venue.

15 **CLASS ACTION ALLEGATIONS**

16 8. On information and belief, at all times relevant to this Complaint, Defendants have
17 implemented a uniform time clock rounding policy that results in Class Members being consistently
18 denied minimum wages and overtime compensation for all hours worked. On information and be-
19 lief, rather than paying wages based on time actually worked, Defendants round each clock-in and
20 clock-out time , regardless of when an employee clocks in to start and/or end a shift, resulting in
21 the systemic underpayment of employee wages over time and in the aggregate.

22 9. Further, as a matter of uniform and systemic policy, Defendants also failed to author-
23 ize and/or permit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor
24 Code § 226.7 based on several uniform policies and practices.

25 10. *First*, on information and belief, Defendants operated under a uniform and systemic
26 policy or practice that discouraged and/or deterred Plaintiff and Class Members from taking lawful
27 meal periods at all because they were instructed to prioritize completing assigned tasks over taking
28 breaks with strict deadlines that did not allow for them to take breaks without threat of discipline.

11. *Second*, on information and belief, the time that Plaintiff and Class Members recorded as meal period time was actually time spent driving between assigned job sites during their eight-hour shifts rather than for meal periods—which was time that was under Defendants’ control and required to be compensated.

12. *Third*, as a matter of uniform and systemic policy or practice, Defendants failed to relieve employees of all duties during meal and rest periods in that, even when such periods were authorized or permitted, employees were required to remain on-premises for their breaks. These policies prohibited employees from using rest periods in the manner of their choosing, free from their employer’s dominion and control.

13. Accordingly, Defendants failed to authorize and permit compliant rest periods as required by law. In failing to authorize and/or permit meal and rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal and rest periods.

14. Additionally, on information and belief, Defendants further operate under a uniform and systemic policy or practice that denies sick leave rights and fails to reimburse Plaintiff and Class Members for necessary business expenditures, such as using their personal cellular phones and vehicles to discharge their duties.

15. Plaintiff therefore brings this action on behalf of herself and as a class action on behalf of the following defined Class:

Non-Exempt Employee Class:

All persons who worked at least one 3.5-hour shift as a non-exempt direct-hire or agency employee for Defendant in the State of California from the period four years prior to the filing of the Action and the date of trial (“Class”).

16. Common methods of proof exist for determining these issues on a class-wide basis, including but not limited to, Defendants’ employment records, payroll records, timesheets, policies, and disciplinary records.

17. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 50 Class Members have been employed as non-exempt employees by Defendants within the state

of California. The number of Class Members is sufficiently numerous such that joinder of all members is impossible or impracticable.

18. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of Class Members in all relevant respects.

19. **Adequacy.** There are no material conflicts between the claims of the representative Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands her obligation to inform the Court of any relationship, conflicts, or differences with any Class Member. Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement, and will vigorously assert the claims of all Class Members. Plaintiff have incurred, and will continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

20. **Existence and Predominance of Common Issues.** Common questions of law and fact exist as to all Class Members and predominate over issues affecting individual Class Members, including, but not limited to:

- a. Whether Defendants had a common policy and/or practice of rounding non-exempt employees' time records to the detriment of those employees;
- b. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members at a minimum wage for all hours worked as a result of its rounding policies;
- c. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required overtime wages as a result of its rounding policies;
- d. Whether Defendants have a common policy and/or practice of failing to

- accurately record non-exempt employees' time;
- e. Whether Defendants unlawfully required Plaintiff and Class Members to remain under Defendants' control and direction while off-the-clock;
- f. Whether Defendants have a common policy and/or practice by which they implemented an "auto-deduct" of 30 minutes or more for employees for meal periods regardless of whether employees took a meal period or its actual length;
- g. Whether Defendants' auto-deduct policy and practice unlawfully deprives employees of wages earned;
- h. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- i. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- j. Whether Defendants paid Plaintiff and Class Members all required premium wages for non-compliant meal and/or rest periods;
- k. Whether Defendants have a common policy and/or practice of failing to reimburse employees for necessary business expenditures;
- l. Whether Defendants have a common policy and/or practice of discriminating against employees who attempt to exercise their rights to or exercises their rights to use accrued and available sick time;
- m. Whether Defendants have a common policy and/or practice of subjecting employees to discipline for attempting to exercise their rights to or exercising their rights to use accrued and available sick time;
- n. Whether Defendants have a common policy and/or practice of denying employees the right to use accrued and available sick time;
- o. Whether Defendants have a common policy and/or practice of failing to maintain accurate payroll records in the State of California;
- p. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;

- 1 q. Whether Defendants have a common policy and/or practice of failing to pro-
2 vide accurate wage statements reflecting hours worked and wages earned to
3 Plaintiff and Class Members;
- 4 r. Whether Defendants unlawfully and/or willfully failed to provide accurate
5 wage statements reflecting hours worked and wages earned to Plaintiff and
6 Class Members;
- 7 s. Whether Defendants have a common policy and/or practice of failing to reim-
8 burse Plaintiff and Class Members for reasonable business expenses;
- 9 t. Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff
10 and Class Members for reasonable business expenses;
- 11 u. Whether Defendants have a policy and/or practice of failing to timely pay
12 wages during employment in violation of Labor Code §§ 204, 210;
- 13 v. Whether Defendants has a policy and/or practice of failing to pay Plaintiff and
14 Class Members final wages owed upon termination;
- 15 w. Whether Defendants unlawfully and/or willfully failed to promptly pay com-
16 pensation due to Plaintiff and Class Members upon termination of employ-
17 ment in violation of Labor Code §§ 201, 202, and 203;
- 18 x. Whether Plaintiff and Class Members sustained damages as a result of any of
19 the aforementioned violations, and, if so, the proper measure of those dam-
20 ages, including interest, penalties, costs, attorneys' fees, and equitable relief;
21 and
- 22 y. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof.
23 Code § 17200, *et seq.*, by violating the above provisions of law.
- 24 z. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof.
25 Code § 17200, *et seq.*, by treating Plaintiff and Class Members unfairly by de-
26 priving them of meal and/or rest periods, failing to provide them with com-
27 pensation in lieu of meal and/or rest periods, failing to pay all regular and
28 overtime wages earned, failing to pay wages upon termination, failing to

reimburse business expenses, failing to comply with sick leave laws, failing to furnish accurate and timely itemized wage statements upon payment of wages, and failing to timely pay all compensation due during employment and upon discharge.

21. **Superiority.** A class action is superior to other available means for the fair and efficient adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are small compared to the burden and expense of individual prosecution of the complex and expensive litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members sought redress. In addition, individualized litigation increases the delay and expense to all parties and to the court system resulting from the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device presents far fewer management difficulties; it allows the hearing of claims which might otherwise go unaddressed because of the relative expense of bringing individual lawsuits, and it provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court. Plaintiff contemplates providing individual notice to members of the class defined above as identified through Defendants' records.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198

Unpaid Minimum Wages

(Plaintiff and Class Against Defendants)

22. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

23. California law requires employers to compensate employees for all time that an employee is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or restrains' an employee." See, e.g., *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583

(2000), as modified (May 10, 2000); *see also* Code Regs. tit. 8, § 11070 (“‘Hours worked’ means the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”).

24. Under applicable California law, rounding of time is only allowed when the policy is “fair and neutral on its face and it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.” *See’s Candy Shops, Inc. v. Superior Court*, 210 Cal. App. 4th 889, 907 (2012); *see also* 29 C.F.R. § 785.48 (“For enforcement purposes this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.”).

25. Defendants employed a timeclock rounding policy that consistently and as a matter of common policy and practice that resulted, over time, in the failure to compensate Class Members properly for all the time they actually worked.

26. Defendants also failed to compensate Plaintiff and Class Members for time spent driving between assigned job site locations during their shifts. Under information and belief, Defendants implemented policies and practices that resulted in employees being deprived of all earned wages but that are currently unknown to Plaintiff.

27. As a result of Defendants’ failure and refusal to comply with California law, Plaintiff and Class Members are entitled to recover actual and liquidated damages for the unpaid time, plus injunctive relief and reasonable attorney’s fees and costs. Lab. Code §§ 1194, 1197.1.

FIRST CAUSE OF ACTION

California Labor Code §§ 510 and 1198

Unpaid Overtime

(Plaintiff and Class Against Defendants)

28. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

29. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s

1 regular rate of pay, depending on the number of hours worked by the person on a daily or weekly
2 basis.

3 30. Plaintiff and Class Members who work more than eight hours in a day or more than
4 forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked
5 in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular
6 rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, includ-
7 ing commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp. of*
8 *California*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

9 31. Throughout the Class Period, Plaintiff and other Class Members were not paid over-
10 time premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve
11 hours in a day, in excess of eight hours on the seventh consecutive day of work in a workweek, and
12 in excess of forty hours in a week, because all hours worked were not recorded as a direct conse-
13 quence of Defendants' rounding policy and/or failure to compensate employees for all time worked.

14 32. Defendants knew or should have known that its policies and practices resulted in
15 Plaintiff and Class Members working unpaid overtime but failed to pay it at the correct regular rate.

16 33. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover
17 their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

18 **THIRD CAUSE OF ACTION**

19 ***California Labor Code §§ 226.7, 512(a), and 1198***

20 ***Failure to Provide Meal Periods or Premium Pay In Lieu Thereof***

21 **(Plaintiff and Class Against Defendants)**

22 34. Plaintiff incorporates by reference every allegation in this complaint as if fully set
23 forth herein.

24 35. At all times relevant to this complaint, Defendants knew they were obligated to pro-
25 vide legally-compliant meal breaks to its non-exempt employees pursuant to Labor Code §§ 512
26 and 226.7. Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an em-
27 ployee for a work period of more than five hours per day without providing the employee with a
28 meal period of not less than 30 minutes. An employer may not employ an employee for a work

1 period of more than 10 hours per day without providing the employee with a second meal period
2 of not less than 30 minutes.”

3 36. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require
4 an employee to work during any meal period mandated by an applicable order of the IWC. “An off-
5 duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-mi-
6 nute meal period . . . an employer’s obligation is to provide an off-duty meal period: an uninterrupted
7 30-minute period during which the employee is relieved of all duty.” *Brinker Rest. Corp. v. Superior*
8 *Court*, 53 Cal. 4th 1004, 1035 (2012).

9 37. Since at least four years prior to the filing of this action, Defendants consistently de-
10 nied their non-exempt employees the opportunity to take compliant 30-minute meal periods in ac-
11 cordance with these mandates.

12 38. Upon information and belief, Defendants’ rounding policy applied to meal period
13 clock-in and clock-outs and frequently resulted in automatic adjustments to time records for meal
14 periods that were less than 30-minutes but characterized for payroll purposes as having lasted for
15 30-minutes. *See Donohue v. Amn Servs.*, 11 Cal.5th 58, 69 (Cal. 2021) (“By requiring premium pay
16 for any violation, no matter how minor, the structure makes clear that employers must provide
17 compliant meal periods whenever such a period is triggered. This corroborates the conclusion that
18 rounding is improper []. A premium pay scheme that discourages employers from infringing on
19 meal periods by even a few minutes cannot be reconciled with a policy that counts those minutes
20 as negligible rounding errors.”).

21 39. Additionally, Defendants discouraged and/or deterred Plaintiff and Class Members
22 from taking lawful meal periods at all because they were required to prioritize completing assigned
23 tasks and work within a four-hour time frame per assigned jobsite. Defendants also operated under
24 a policy or practice where Plaintiff’s and Class Members’ time allegedly recorded during shifts as
25 clock out and clock in times for meal periods was actually controlled and compensable time spent
26 by employees driving between their assigned job sites throughout their eight-hour shifts.

27 40. Defendants’ policies and practices served to deprive the Class of a full 30-minute
28 break period free of employer control or relieved of all duties. Upon information and belief,

employees were required to skip breaks, take breaks after the fifth hour of work, or work through them due to Defendants' policies and practices.

41. Accordingly, Plaintiff and Class Members were uniformly denied meal periods as a result of Defendants' formal policies and practices. By failing to consistently provide uninterrupted, off-duty 30-minute meal periods, Defendants violated the Labor Code as to Plaintiff and Class Members.

42. Pursuant to Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift in which a required meal period was not provided.

FOURTH CAUSE OF ACTION

Labor Code §§ 226.7 and 1198

Failure to Provide Rest Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

43. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

44. At all times relevant to this complaint, Defendants knew they were obligated to provide compliant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

45. Labor Code § 226.7 provides:

(a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If any employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

46. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC, including the applicable Wage Order. Employers must authorize and permit employees to be relieved of

all duty during their rest and meal periods: “A rest period, in short, must be a period of rest.”¹ *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d 823, 834 (2016).

47. Employees must also be free to leave the employer’s premises during their rest period. *See id.* at 270 (“In the context of a 10-minute break that employers must provide during the work period, a broad and intrusive degree of control exists when an employer requires employees to remain on call and respond during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes back—if at the farthest extent of the walk he or she is not in a position to respond. Employees similarly cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time.”); *see also* Department of Industrial Relations, “Rest Periods,” available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”).

48. Defendants failed to authorize or permit all required compliant paid rest periods for shifts between 3.5 and ten hours. Defendants further failed to authorize or permit a compliant third rest period for shifts in excess of 10 hours. Defendants also failed to implement a lawful rest period policy that relieved Plaintiff and Class Members from all duties and/or allowed them to leave their jobsite during rest periods. Further, on information and belief Defendants’ denied Plaintiff and Class Members the right to leave the premises during rest breaks.

49. As a direct and proximate result of Defendants’ willful and unlawful conduct, Plaintiff and Class Members have sustained damages, including lost compensation resulting from missed or non-compliant rest periods, in an amount to be established at trial.

50. Pursuant to the applicable Wage Order and Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift that a compliant rest period was not provided. Defendants were aware that their

¹ Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of Industrial Relations, “Rest Periods/Lactation Accommodations,” available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”)

actions were a violation of applicable law but consistently refused to pay premium pay as required by law.

FIFTH CAUSE OF ACTION

Labor Code §§ 226 and 1174

Failure to Provide Complete and Accurate Wage Statements

(Plaintiff and Class Against Defendants)

51. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

52. Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of his or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

53. At all times relevant to this complaint, Defendants' rounding policy ensured that Class Members' itemized wage statements did not reflect the true number of hours worked by the employee, and thus inaccurately reflected the amount of gross and net wages earned for both minimum and overtime wages. In addition, Defendants' failure to pay premium wages for missed meal and/or rest periods further ensured that Class Members' wage statements inaccurately reflected gross and net wages earned.

54. Defendants have also failed to keep accurate payroll records for Plaintiff and Class Members in accordance with Labor Code § 1174. Defendants' failure to keep and maintain accurate payroll records reflecting hours worked and wages earned has impeded Plaintiff and Class Members' ability to calculate unpaid wages earned.

55. Injury. Defendants knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly situated were injured by these failures because, among other things, they were confused about

whether they were paid properly and/or they were misinformed about how much compensation was owed. These damages include, but are not limited to, costs incurred calculating the correct net wages for each pay period and the amount of employment taxes that were not paid to state and federal tax authorities.

56. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of not being provided with an accurate itemized wage statement is entitled to recover the greater of all actual damages suffered or fifty (\$50) dollars for the initial violation and one hundred (\$100) dollars for each subsequent violation, up to \$4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all others similarly situated are entitled to injunctive relief to ensure Defendant's compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

SIXTH CAUSE OF ACTION

Labor Code §§ 201, 202, 203, and 204

Failure to Pay Wages When Due

(Plaintiff and Class Against Defendants)

57. Plaintiff incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

58. Labor Code § 201 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages² shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

59. Defendants do not include definite periods of service in their contracts of

² Labor Code § 200 defines "wages" as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation." "Labor" is defined as "labor, work, or service . . . if the labor to be paid for is performed personally by the person demanding payment."

1 employment for Class Members employed at their California facility. Plaintiff's contract of employ-
2 ment did not include a definite term.

3 60. Labor Code § 203 provides:

4
5 If an employer willfully fails to pay, without abatement or reduction, in ac-
6 cordance with § 201, 201.5, 202, and 205.5, any wages of an employee who
7 is discharged or who quits, the wages of the employee shall continue as a
penalty from the due date thereof at the same rate until paid or until an ac-
tion therefor is commenced; but the wages shall not continue for more than
30 days.

8 61. Labor Code § 204 provides that all wages, other than those mentioned in Section 201
9 and 202, are due and payable twice during each calendar month, on days designated in advance by
10 the employer as regular paydays.

11 62. Failure to Timely Pay Wages Due. As set forth above, Defendants failed to timely pay
12 the minimum wages, overtime wages, and meal and rest period premiums resulting from its defi-
13 cient timekeeping and meal and rest period policies.

14 63. Failure to Pay Upon Termination. Plaintiff and many Class Members have left Defend-
15 ants' employ during the Class Period. As discussed above, Defendants knowingly failed to pay Plain-
16 tiff and Class Members all earned wages upon termination. Instead, Defendants willfully and inten-
17 tionally refused to pay the earned rest and/or meal period premiums and earned minimum wages
18 as alleged herein to Plaintiff and Class Members in violation of Labor Code §§ 201 and 202.

19 64. Relief. Defendants' failure to pay Plaintiff and those Class Members who are no longer
20 employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-
21 two (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plain-
22 tiff and formerly employed Class Members are therefore entitled to recover from Defendants the
23 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day
24 maximum penalty under Labor Code § 203.

25 **SEVENTH CAUSE OF ACTION**

26 ***California Labor Code § 2802***

1 ***Failure to Reimburse Necessary Business Expenses***

2 **(Plaintiff and Class Against Defendants)**

3 65. Plaintiff repeats, repleads, and incorporates by reference, as though fully set forth in
4 this paragraph, all the allegations of this Complaint.

5 66. Labor Code section 2802 provides that “[a]n employer shall indemnify his or his em-
6 ployee for all necessary expenditures or losses incurred by the employee in direct consequence of
7 the discharge of his or his duties, or of his or his obedience to the directions of the employer.” Lab.
8 Code § 2802. The purpose of Labor Code section 2802 is to prevent employers from passing off their
9 cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home*
10 *Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

11 67. Defendants required Plaintiff and Class Members to use their personal cellphones and
12 vehicles in the regular course of employment by answering texts and calls from their supervisor(s)
13 while at work or on a break, for purposes of scheduling and re-scheduling future work, being as-
14 signed tasks, and general administrative matters, and required the use of their personal vehicles to
15 drive between assigned job sites during their shifts.

16 68. Defendants failed to reimburse a reasonable portion of the Class Members’ personal
17 cellphone and vehicle related expenses despite requiring the use of the device and/or vehicle. *See*
18 *Cochran v. Schwan’s Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 (“We hold that when employees
19 must use their personal cell phones for work related calls, Labor Code section 2802 requires the
20 employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes
21 or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.”).
22 Defendant further failed to reimburse Plaintiff and the Class Members for the purchase of work-
23 related equipment.

24 69. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for a
25 reasonable portion of the incurred expenses, to be determined upon trial, plus reasonable attor-
26 neys’ fees and costs. Lab. Code § 2802.

27 **EIGHTH CAUSE OF ACTION**

28 ***Labor Code §§ 233, 245, et seq.***

Violation of California's Sick Leave Laws
(Plaintiff and Class Against Defendants)

70. Plaintiff incorporates by reference all the allegations of this Complaint as though fully set forth herein.

71. California Labor Code § 246.5(a)(1) provides in pertinent part, "Upon the oral or written request of an employee, an employer shall provide paid sick days for...[d]iagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employees' family member."³

72. California Labor Code § 246.5(c)(1) further provides that "[a]n employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, [or] attempting to exercise the right to use accrued sick days[.]"

73. California Labor Code § 233(c) provides in pertinent part, "An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventative care of a family member[.]"⁴

74. On information and belief, Defendants operated under a uniform and systemic sick leave policy or practice that resulted in Plaintiff and Class Members being routinely denied their right to use accrued and available sick days to care for themselves and/or a family member, such as a sick child.

75. On information and belief, Defendants' policies or practices also deterred Plaintiff and Class Members from both attempting to exercise and/or exercising their right to sick leave because they required proof of illness such as a doctor's note and/or even if they managed to use sick time

³ There is no absolute requirement that an employee provide advance notice in advance of taking sick leave. Rather, "If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable." Lab. Code § 246(m).

⁴ It is unlawful for an employer to designate an employee's use of their accrued sick leave. Rather, "The designation of sick leave taken for these reasons shall be made at the sole discretion of the employee. Lab. Code § 233(a).

1 and requested compensation thereon, Defendants would not accurately compensate them for sick
2 time hours. Moreover, on information and belief, Defendants also operated under a uniform sick
3 leave policy or practice that deemed any unused sick time expired if Plaintiff and Class Members did
4 not use their accrued and available hours within every one-year period of employment.

5 76. Plaintiff and Class Members are entitled to backpay, front pay (or reinstatement), eq-
6 uitable and injunctive relief, and reasonably attorney's fees and costs, in an amount subject to proof
7 at trial. Lab. Code §§ 233, 234.

8 **NINTH CAUSE OF ACTION**

9 ***Labor Code §§ 558, 2698, et seq.***

10 ***Private Attorneys General Act ("PAGA") Penalties***

11 **(Plaintiff and Class Against Defendants)**

12 77. Plaintiff incorporates by reference all the allegations of this Complaint as though fully
13 set forth herein.

14 78. Entitlement to Penalties. Under the California Private Attorneys General Act
15 ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a
16 private attorney general, on behalf of herself and other current or former employees as well as the
17 general public, to recover penalties for an employer's violations of the Labor Code and IWC Wage
18 Orders. These penalties are in addition to any other relief available under the Labor Code and are
19 allocated seventy-five percent to the Labor and Workforce Development Agency and twenty-five
20 percent to the affected employees.

21 79. These penalties may be "stacked" separately for each of Defendants' violations of the
22 Labor Code. *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17
23 n.77 (C.D. Cal. June 22, 2012) ("[F]ederal courts applying California law have concluded that stack-
24 ing is appropriate."); *see also O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL
25 3548370, at *7 (N.D. Cal. June 30, 2016) ("Finally, Plaintiff ignore the potential for stacking of PAGA
26 penalties related to wage-and-hour claims other than the gratuities and expense reimbursement
27 claim, i.e., meal and rest breaks, minimum wage and overtime, and workers' compensation.").

28 80. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by Defendants

1 during the applicable statutory period and suffered the Labor Code violations alleged herein. Ac-
2 cordingly, he seeks to recover, on behalf of himself and all other current and former aggrieved em-
3 ployees of Defendants, the civil penalties provided by PAGA, including civil penalties for Defendants'
4 violations of Labor Code §§ 201, 202, 203, 204, 233, 245, 226, 226.7, 510, 512, 558, 1182.12, , 1174,
5 1194, 1194.2, 1197, 1197.1, 1198, and 2802, and the applicable Industrial Wage Order, plus reason-
6 able attorneys' fees and costs.

7 81. Representative Action. Plaintiff seeks to recover the PAGA civil penalties through a
8 representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior*
9 *Court*, 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required, but
10 Plaintiff may choose to seek certification of the PAGA claims.

11 82. Labor Code § 2699(a), which is part of PAGA, provides:

12
13 Notwithstanding any other provision of law, any provision of this code that
14 provides for a civil penalty to be assessed and collected by the Labor and
15 Workforce Development Agency or any of its departments, divisions, com-
16 missions, boards, agencies, or employees, for a violation of this code, may, as
17 an alternative, be recovered through a civil action brought by an aggrieved
18 employee on behalf of themselves or themselves and other current or former
19 employees pursuant to the procedures specified in § 2699(a).

20 83. Penalties. Labor Code § 2699(f), which is part of PAGA, provides:

21
22 For all provisions of this code except those for which a civil penalty is specif-
23 ically provided, there is established a civil penalty for a violation of these pro-
24 visions, as follows: . . . (2) If, at the time of the alleged violation, the person
25 employs one or more employees, the civil penalty is one hundred dollars
26 (\$100) for each aggrieved employee per pay period for the initial violation
27 and two hundred dollars (\$200) for each aggrieved employee per pay period
28 for each subsequent violation.

22 84. Based on the foregoing, Plaintiff and aggrieved employees are entitled to civil penal-
23 ties, to be paid by Defendants and allocated as required by PAGA in the following formula: (a) in an
24 amount set forth as a civil penalty in the underlying statute; or (b) \$100 per initial violation per
25 employee per pay period, and \$200 for each subsequent violation per employee per pay period.
26 Plaintiff, the aggrieved employees, and the State of California are entitled to recover the maximum
27 civil penalties allowed by law for the violations of the Labor Code and the applicable IWC Wage
28 Order as alleged in this Complaint.

1 85. Plaintiff is also entitled to recover for herself, other aggrieved employees, and the
2 State of California, civil penalties pursuant to Labor Code § 210 (entirely independent and apart
3 form, any other penalty provided in this article) in the amount of \$100 per employee per initial
4 violation of the timely payment requirements of Labor Code § 240 (semimonthly payments) and
5 \$200 per employee for each subsequent violation, plus 25% of the amount unlawfully withheld, and
6 Labor Code § 558 in the amount \$50 per underpaid employee for each pay period for which the
7 employee was underpaid and for each subsequent violation, one hundred dollars (\$100) for each
8 underpaid employee for each pay period for which the employee was underpaid.

9 86. Procedural Requirements Met. Plaintiff electronically filed a notice of claims with the
10 LWDA contemporaneously with this Complaint and sent a copy to Defendants by certified mail.
11 Plaintiff has not received notice from the LWDA that it was exercising jurisdiction over the allega-
12 tions set forth in the notice. As of 65 days from date of electronic filing, all requirements for admin-
13 istrative exhaustion for bringing these PAGA claims will have been met. Labor Code § 2699.3(a)(2).

14 **NINTH CAUSE OF ACTION**

15 ***California Business & Professions Code §§ 17200, et seq.***

16 ***Unlawful Business Practices***

17 **(Plaintiff and Class Against Defendants)**

18 87. Plaintiff repeats and incorporate by reference every allegation in this complaint as if
19 fully set forth herein.

20 88. Defendants Reflectech and Russell are “persons” as defined by California Business &
21 Professions Code § 17201, as they are a natural person, corporations, firms, partnerships, joint
22 stock companies, and/or associations.

23 89. Unlawful Business Practices. Defendants’ knowing violations of the Labor Code con-
24 stitutes an unlawful business practice as set forth in Business & Professions Code § 17200, et seq.

25 90. Defendants’ failure to abide by the laws discussed herein provided Defendants an un-
26 fair advantage over their competitors at the expense of their workers. Instead, Defendants cuts cor-
27 ners in the name of higher profits and at the expense of employee well-being. Defendants’ actions
28 thereby constitute an unfair, fraudulent, and/or unlawful business practice under Business &

Professions Code § 17200, et seq.

91. Relief. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop Defendant's willful and ongoing misconduct, and to seek restitution of the amounts Defendants acquired through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff seeks an award of costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure § 631, Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

A. For an Order:

a. Certifying the Class;

b. Appointing Plaintiff as representative of the Class;

c. Appointing Plaintiff's counsel as Class Counsel;

B. For actual and liquidated damages according to proof at trial;

C. For statutory and civil penalties and special damages, according to proof at trial;

D. For pre- and post-judgment interest on monetary damages;

E. For preliminary and permanent injunctive relief;

F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law;

and

G. For such other relief as this Court deems just and proper.

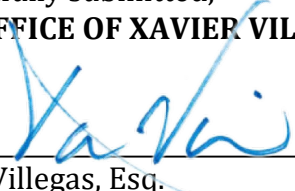
Dated: May 31, 2024

Respectfully submitted,
KING & SIEGEL LLP

By: 
Elliot J. Siegel, Esq.
Attorneys for Plaintiff and the Putative Class

1 Dated: May 31, 2024

Respectfully submitted,
LAW OFFICE OF XAVIER VILLEGAS, APC

2
3 By: 
4 Xavier Villegas, Esq.
5 Attorney for Plaintiff and the Putative Class
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