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By M. Aguirre, Deputy Clerk

Attorneys for Plaintiff and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Joshua Covarrubias, individually and on
behalf of all similarly situated individuals,

Plaintiff,

vs.

Medtrans, Inc., a California corporation;
Ruzanna Avetisyan, an individual; and **Does**
1-100;

Defendants.

CASE NO. **24STCV13023**

CLASS ACTION COMPLAINT FOR:

- 1) Failure to Pay Minimum Wages;
- 2) Failure to Pay Overtime Wages;
- 3) Failure to Provide Meal Periods or Premium Pay in Lieu Thereof;
- 4) Failure to Provide Rest Periods or Premium Pay in Lieu Thereof;
- 5) Failure to Reimburse Necessary Business Expenses;
- 6) Failure to Provide and Maintain Accurate Records;
- 7) Failure to Pay Wages When Due During Employment and at Separation;
- 8) PAGA Penalties; and
- 9) Violation of California's Unfair Competition Law

Jury Trial Requested

1 Plaintiff Joshua Covarrubias, on behalf of himself and all other similarly situated current and former
2 employees (“Class Members”), by and through his counsel of record, alleges as follows against Medtrans,
3 Inc. (“Medtrans” or collectively, “Defendants”):

4 **PARTIES**

5 1. Plaintiff **Joshua Covarrubias** (“Plaintiff”) is a resident of Los Angeles, Los Angeles County,
6 California. Plaintiff was as an hourly, non-exempt employee of Medtrans, Inc. working as a non-emergency
7 medical transportation driver from approximately September 2023 to March 27, 2024. Plaintiff was subject
8 to the policies and practices described in this Complaint at all times during his employment at Medtrans.

9 2. Defendant **Medtrans, Inc.** (“Medtrans” or collectively, “Defendants”) is a California
10 corporation and medical transportation company that provides non-emergency medical transportation
11 services. On information and belief, Medtrans has employed at least 500 hourly, non-exempt employees in
12 a variety of capacities through the four years leading to this Complaint within the state of California.
13 Medtrans is a California stock corporation with its principal place of business at 345 South Woods Ave., Los
14 Angeles, California, 90022.

15 3. Defendant **Ruzanna Avetisyan** (“Ms. Avetisyan”) is the Chief Executive Officer of
16 Medtrans, and on information and belief is a resident of the County of Los Angeles. Upon information and
17 belief, she violated or caused to be violated the regulations and statutes described in greater detail below.
18 Since Ms. Avetisyan is a managing agent, director, and/or officer of Medtrans and because she violated or
19 caused to be violated the statutes at issue in this action, she is personally liable for the Labor Code violations
20 and PAGA penalties complained of herein per Labor Code § 558.1.

21 4. Plaintiff is not currently aware of the names and true identities of defendants Does 1-100.
22 Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this
23 information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the
24 causes of action asserted, either through its own conduct, or vicariously through the conduct of others.
25 Further references in this complaint to any named Defendants includes the fictitiously named defendants.

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

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7. Venue as to Defendants is proper in this Superior Court pursuant to California Code of Civil Procedure § 395. Defendant Medtrans, Inc.'s principal place of business is located in Los Angeles, California in the County of Los Angeles. A substantial amount of the unlawful acts alleged have directly affected Plaintiff, and similarly situated employees, in Los Angeles County, where Plaintiff was employed by Defendants and earned wages at issue in this action. Accordingly, this Court maintains appropriate jurisdiction over this dispute.

8. As a matter of uniform and systemic policy, Medtrans failed to authorize and/or permit non-exempt employees the right to take timely, compliant, uninterrupted, and/or duty-free meal and rest breaks pursuant to Labor Code § 226.7 based on, at least, the following uniform policies and practices.

10. *Second*, Defendants, in fact, interrupted Plaintiff and Class Members during their meal and rest periods to discuss work-related matters and/or instruct them on pending tasks—illegally depriving employees of compliant meal and rest periods or premium pay in lieu thereof.

11. *Third*, Defendants also implemented policy and practice whereby their timekeeping systems prevented employees from clocking back in from lunch prior to 30 minutes from the start of their meal

1 period, which illegally resulted in short, truncated, and/or interrupted meal periods being considered a full
2 30-minute meal period for payroll and premium pay purposes. Employees were required to return to work
3 early from their meal periods or interrupt them, but were unable to record that time as time worked and were
4 not paid for it.

5 12. By requiring employees to work during their meal periods but preventing them from
6 recording that time, Plaintiff and Class Members were forced to work off the clock and deprived of owed
7 straight time wages. Additionally, as Class Members worked shifts of at least 8 hours, or weeks of at least 40
8 hours, some of this time was required to be paid at overtime rates, but was not done so.

9 13. In failing to authorize and/or permit timely and/or uninterrupted meal and rest periods,
10 Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods
11 to its non-exempt employees. Defendants denied compensation in lieu of meal and rest periods, including
12 premium wages owed, notwithstanding their actual knowledge that such employees were uniformly denied
13 compliant meal and rest periods.

14 14. Finally, Plaintiff and Class Members were not reimbursed for necessary business
15 expenditures, such as using their cellular phones to discharge their duties.

16 15. Accordingly, Plaintiff brings this action on behalf of himself and as a class action on behalf of
17 the following defined Class:

18 16. **Non-Exempt Employee Class:**

19 *All non-exempt, non-emergency ambulance employees who worked at least one 3.5-hour shift for*
20 *Defendants in the State of California from the period four years prior to the filing of the Action*
21 *and the date of trial ("Class").*

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

25 18. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 150 Class
26 Members have been employed as non-exempt employees by Defendants within the state of California. The
27 number of Class Members is sufficiently numerous such that joinder of all members is impossible or
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1 impracticable.

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

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

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

- 18 a. Whether Defendants have a common policy and/or practice of failing to accurately
19 record non-exempt employees' time;
- 20 b. Whether Defendants have a common policy and/or practice of failing to accurately
21 compensate non-exempt employees for all time worked;
- 22 c. Whether Defendants unlawfully required Plaintiff and Class Members to remain under
23 Defendants' control and direction while off-the-clock;
- 24 d. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class
25 Members at a minimum wage for all hours worked;
- 26 e. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class
27 Members required overtime wages;

- 1 f. Whether Defendants have a common policy and/or practice by which they implemented
2 an “auto-deduct” of 30 minutes or more for employees for meal periods regardless of
3 whether employees took a meal period or its actual length;
- 4 g. Whether Defendants’ auto-deduct policy and practice unlawfully deprives employees of
5 wages earned;
- 6 h. Whether Defendants have a common policy and/or practice of depriving Plaintiff and
7 Class Members of compliant, off-duty meal and/or rest periods;
- 8 i. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members
9 of compliant, off-duty meal and/or rest periods;
- 10 j. Whether Defendants paid Plaintiff and Class Members all required premium wages for
11 non-compliant meal and/or rest periods;
- 12 k. Whether Defendants have a common policy and/or practice of failing to reimburse
13 employees for necessary business expenditures;
- 14 l. Whether Defendants have a common policy and/or practice of failing to maintain
15 accurate payroll records in the State of California;
- 16 m. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll
17 records in the State of California;
- 18 n. Whether Defendants have a policy and/or practice of failing to provide accurate wage
19 statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- 20 o. Whether Defendants unlawfully and/or willfully failed to provide accurate wage
21 statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- 22 p. Whether Defendants have a policy and/or practice of failing to timely pay wages during
23 employment in violation of Labor Code §§ 204, 210.
- 24 q. Whether Defendants have a policy and/or practice of failing to pay Plaintiff and Class
25 Members final wages owed upon termination;
- 26 r. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation
27 due to Plaintiff and Class Members upon termination of employment in violation of Labor
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Code §§ 201, 202, and 203;

- s. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief;
- t. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, by violating the above provisions of law; and
- u. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, by treating Plaintiff and Class Members unfairly by depriving them of meal and/or rest periods, failing to provide them with compensation in lieu of meal and/or rest periods, failing to pay all regular and overtime wages earned, failing to pay wages upon termination, failing to furnish accurate and timely itemized wage statements upon payment of wages, and failing to pay all compensation due upon discharge.

22. **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 through Defendants' records.

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 ***California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198***

4 ***Failure to Pay Minimum Wages for All Hours Worked***

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

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

8 24. California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that payment of
9 a wage less than the minimum wage as set by statute, commission, or by the general prevailing rate is
10 unlawful. Compensable work time is defined in Wage Order No. 9 as “the time during which an employee
11 is subject to the control of an employer, and includes all the time the employee is suffered or permitted to
12 work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

13 25. Defendants failed to compensate Plaintiff and the Class for all hours worked because
14 Defendants had a policy and/or practice whereby they required Class Members to be on-call during their
15 putative meal periods, but were not paid for this time based on such time either not being recorded as time
16 worked despite being compensable. Additionally, Defendants’ timekeeping systems prevented employees
17 from clocking back in from lunch prior to 30 minutes from the start of their meal period even when they
18 were required to return to work early from their meal periods or interrupt them, and so were unable to record
19 that time as time worked and were not paid for it.

20 26. Defendants’ failure to pay Plaintiff and Class Members minimum wages for all hours worked
21 violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

22 27. Pursuant to California Labor Code section 1194.2, Plaintiff and Class Members are entitled
23 to recover the amount of underpaid wages, plus liquidated damages in an amount equal to the wages
24 unlawfully unpaid and interest thereon, applicable civil penalties, and reasonable attorney’s fees and costs.

1 **SECOND CAUSE OF ACTION**

2 ***California Labor Code §§ 510 and 1198***

3 ***Failure to Pay Overtime Wages***

4 **(Class Against Defendants)**

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

7 29. California Labor Code sections 510, 1198, and Industrial Wage Order No. 9 provide that it is
8 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-
9 times that person's regular rate of pay, depending on the number of hours worked by the person on a daily
10 or weekly basis. Specifically, Industrial Wage Order No. 9 provides that Defendants were required to pay
11 Plaintiff and Class Members working more than eight hours in a day or more than forty hours in a workweek,
12 at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty
13 hours in a workweek.

14 30. Throughout the Class Period, Class Members were not paid overtime premiums for all of the
15 hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of eight
16 hours on the seventh consecutive day of work in a workweek, and/or in excess of 40 hours in a week because
17 all hours worked were not recorded as compensable time as a direct consequence of Defendants' policies
18 and practices, including without limitation its meal and rest period, on-call requirement during meal periods,
19 and off the clock work policies and/or practices.

20 31. Defendants knew or should have known that their policies and practices forced Class
21 Members to work in excess of eight hours per workday and/or 40 hours per workweek without being
22 compensated for all hours worked. Because Class Members worked shifts of more than eight hours a day or
23 forty hours a week on the clock, some of this work qualified for overtime premium pay. Therefore, Class
24 Members were not paid overtime wages at the correct rate of pay for all of the overtime hours worked.

25 32. Pursuant to Labor Code section 1194, Class Members are entitled to recover their unpaid
26 overtime compensation, as well as interest, costs, and attorneys' fees, and applicable civil penalties.
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1 **THIRD CAUSE OF ACTION**

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

3 ***Failure to Provide Meal Periods or Premium Pay in Lieu Thereof***

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

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

7 34. Labor Code section 512(a) provides that an employer may not require, cause, or permit an
8 employee to work for a period of more than five hours per day without providing the employee with a meal
9 period of not less than thirty minutes, except that if the total work period per day of the employee is not
10 more than six hours, the meal period may be waived by mutual consent of both the employer and the
11 employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest.*
12 *Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-104 (2012). An employee is also entitled to a second meal
13 period for shifts in which the employee works in excess of ten hours.

14 35. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an
15 employee to work during any meal period mandated by an applicable order of the IWC, including Industrial
16 Wage Order No. 16. “An off-duty meal period, therefore, is one in which the employee is relieved of all duty
17 during the 30-minute meal period . . . an employer’s obligation is to provide an off-duty meal period: an
18 uninterrupted 30-minute period during which the employee is relieved of all duty.” *Brinker Rest. Corp. v.*
19 *Superior Court*, 53 Cal. 4th 1004, 1035 (2012). The employee must also be “free to leave the premises.” *Id.*
20 at 1036.

21 36. Defendants also failed to relieve Plaintiff and Class Members from all duty when on their
22 meal period by requiring Plaintiff and Class Members to comply with an unlawful and systematic policy and
23 practice whereby Defendants required Plaintiff and Class Members to remain on-call during all meal periods.
24 Additionally, Defendants pressured Plaintiff and Class Members to prioritize completing assigned work by
25 working through their meal periods, skipping them, or by interrupting their meal periods, or by taking them
26 late. Numerous Class Members, including Plaintiff, were required take late meal periods, skip them,
27 interrupt them, or remain on duty due to the combination of Defendants’ scheduling practices and policies.

28 37. Defendants did not pay Plaintiff and Class Members all meal period premium wages when

1 meal periods were missed, interrupted by work, and taken late, in violation of Wage Order No. 9 and Labor
2 Code sections 226.7 and 512(a).

3 38. Defendants' conduct violates Wage Order No. 9 and Labor Code sections 512(a), 226.7, and
4 1198. Plaintiff and Class Members are entitled to one additional hour of pay at their regular rate of
5 compensation for each workday that a compliant meal period was not provided, and interest thereon, along
6 with applicable civil penalties.

7 **FOURTH CAUSE OF ACTION**

8 ***California Labor Code §§ 226.7 and 1198***

9 ***Failure to Provide Rest Periods or Premium Pay in Lieu Thereof***

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

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

13 40. At all times relevant to this complaint, Defendants knew it was obligated to provide compliant
14 rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

15 41. Labor Code § 226.7 provides:

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

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

22 42. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to
23 work during any rest or meal period mandated by an applicable order of the IWC, including Wage Order No.
24 9. Employers must authorize and permit employees to be relieved of all duty during their rest and meal
25 periods: "A rest period, in short, must be a period of rest."¹ *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d 823,
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27 ¹ Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of
28 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

834 (2016).

43. 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.”).

44. Defendants failed to relieve Plaintiff and Class Members from all duty when on their rest period by requiring Plaintiff and Class Members to comply with an unlawful and systematic policy and practice that interfered with their ability to take compliant rest periods whereby they required Plaintiff and Class Members to remain on-call throughout rest periods. Additionally, Defendants pressured Plaintiff and Class Members to prioritize completing assigned work by working through their rest periods, skipping them, or by interrupting their rest periods, or by taking them late.

45. 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.

46. Pursuant to Wage Order No. 9 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. Defendant was aware that its actions were a violation of applicable law but consistently refused to pay premium pay as required by law.

FIFTH CAUSE OF ACTION

California Labor Code § 2802

Failure to Reimburse Necessary Business Expenses

premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”).

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

2 47. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully
3 set forth herein.

4 48. Labor Code section 2802 provides that “[a]n employer shall indemnify his or his employee
5 for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
6 his or his duties, or of his or his obedience to the directions of the employer.” Lab. Code § 2802.

7 49. Defendants failed to reimburse Plaintiff and Class Members for all business-related expenses
8 that were necessary to perform their job, including requiring Plaintiff and the Class to use of their personal
9 cell phones for Defendants’ business. *See Cochran v. Schwan’s Home Services, Inc.*, 228 Cal. App. 4th 1137
10 (2014).

11 50. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for the costs
12 Plaintiff and Class Members incurred plus attorneys’ fees and costs. Lab. Code § 2802.

13 **SIXTH CAUSE OF ACTION**

14 ***California Labor Code §§ 226(a)/(f)/(h), 226.3, and 1174(d)***

15 ***Failure to Provide and Maintain Accurate Records***

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

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

19 52. Labor Code § 226 requires employers to furnish employees with an accurate, itemized
20 statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the
21 employee (for hourly-paid, non-exempt employees); (3) net wages earned; and (4) all applicable hourly rates
22 in effect during the pay period and the corresponding number of hours worked at each hourly rate by the
23 employee.

24 53. At all times relevant to this complaint, Defendants’ failure to pay premium wages for missed
25 meal and rest periods and minimum and/or overtime wages for work-off-the-clock rendered Class
26 Members’ wage statements inaccurate by failing to accurately reflect Class Member’s time worked, as well
27 as gross and net wages earned.
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54. 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.

55. 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 Defendants' compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

56. Additionally, Defendants' actions in regard to Labor Code § 248.2(d)(2)(A) constitute violations of Labor Code sections 233 and 245, *et seq.* As a result, Plaintiff and the Class are accordingly entitled to all applicable civil penalties, and reasonable attorney's fees and costs in an amount subject to proof at trial. Lab. Code §§ 233 and 245, *et seq.*

SEVENTH CAUSE OF ACTION

California Labor Code §§ 201, 202, 203, 204, 210

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

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." Additionally, in *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal. 5th 93 (2022), the California Supreme Court recently held that failure to pay

1 employee has given 72 hours previous notice of his or her intention to quit, in which case the
2 employee is entitled to his or her wages at the time of quitting. Notwithstanding any other
3 provision of law, an employee who quits without providing a 72-hour notice shall be entitled
4 to receive payment by mail if he or she so requests and designates a mailing address. The date
5 of the mailing shall constitute the date of payment for purposes of the requirement to provide
6 payment within 72 hours of quitting.

7 59. Defendants do not include definite periods of service in their contracts of employment for
8 Class Members employed at their California plant(s). Plaintiff's contract of employment did not include a
9 definite term.

10 60. Labor Code § 203 provides:

11 If an employer willfully fails to pay, without abatement or reduction, in accordance with §
12 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the
13 wages of the employee shall continue as a penalty from the due date thereof at the same rate
14 until paid or until an action therefor is commenced; but the wages shall not continue for more
15 than 30 days.

16 61. Labor Code § 204 provides that all wages, other than those mentioned in Section 201 and
17 202, are due and payable twice during each calendar month, on days designated in advance by the employer
18 as regular paydays.

19 62. Failure to Timely Pay Wages Due. As set forth above, Defendants failed to timely pay the
20 minimum wages, overtime wages, and meal and rest period premiums resulting from its deficient
21 timekeeping and meal and rest period policies upon its regularly scheduled paydays.

22 63. Relief. Defendants' failure to pay Plaintiff and those Class Members wages on their regularly
23 scheduled pay dates subjects Defends to civil penalties in the amount of \$100 per employee per initial
24 violation and \$200 per employee for every subsequent violation of Labor Code § 204 pursuant to Labor
25 Code § 210.

26 64. Failure to Pay Upon Termination. Plaintiff and many Class Members have left Defendants'
27 _____
28 premiums for violating the California Labor Code's meal and rest break provisions constitutes "wages"
for purposes of waiting time penalties.

1 employ during the Class Period. As discussed above, Defendants knowingly failed to pay Plaintiff and Class
2 Members all earned wages upon termination. Instead, Defendants willfully and intentionally refused to pay
3 the earned rest and/or meal period premiums and earned minimum wages as alleged herein to Plaintiff and
4 Class Members in violation of Labor Code §§ 201 and 202.

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

10 **EIGHTH CAUSE OF ACTION**

11 ***California Labor Code §§ 558, 2698, et seq.***

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

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

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

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

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

2 69. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by Defendants during
3 the applicable statutory period and suffered the Labor Code violations alleged herein. Accordingly, he seeks
4 to recover, on behalf of himself and all other current and former aggrieved employees of Defendants, the
5 civil penalties provided by PAGA, including civil penalties for Defendants' violations of Labor Code §§ 201,
6 202, 203, 204, 210, 226, 226.3, 226.7, 233, 246, 248, 248.2, 248.5, 510, 512, 558, 1182.12, 1174, 1194, 1194.2,
7 1197, 1197.1, 1198, 1401, 2802, 2698 *et seq.*, and Industrial Wage Order No. 9, plus reasonable attorneys' fees
8 and costs.

9 70. Representative Action. Plaintiff seeks to recover the PAGA civil penalties through a
10 representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*,
11 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required, but Plaintiff may
12 choose to seek certification of the PAGA claims.

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

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

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

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

27 73. Based on the foregoing, Plaintiff and aggrieved employees are entitled to civil penalties, to be
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1 paid by Defendants and allocated as required by PAGA in the following formula: (a) in an amount set forth
2 as a civil penalty in the underlying statute; or (b) \$100 per initial violation per employee per pay period, and
3 \$200 for each subsequent violation per employee per pay period.

4 74. Labor Code sections 1194.2 and 1197.1 authorizes employees to recover liquidated damages
5 in an amount equal to the wages unlawfully withheld and interest thereon. Labor Code 1197.1 also authorized
6 civil penalties as follows: \$100 for any initial violation intentional committed per employee per pay period
7 in which a violation occurs, and \$250 per subsequent violation per employee per pay period in which a
8 violation occurs, regardless of whether the first violation was intentional.

9 75. Plaintiff is also entitled to recover for himself, other aggrieved employees, and the State of
10 California, civil penalties pursuant to Labor Code § 210 (entirely independent and apart from, any other
11 penalty provided in this article) in the amount of \$100 per employee per initial violation of the timely
12 payment requirements of Labor Code § 240 (semimonthly payments) and \$200 per employee for each
13 subsequent violation, plus 25% of the amount unlawfully withheld.

14 76. Labor Code § 558 provides:

15 (a) Any employer or other person acting on behalf of an employer who violates, or causes to
16 be violated, a section of this chapter or any provision regulating hours and days of work in
17 any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

18 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
19 pay period for which the employee was underpaid

20 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
21 employee for each pay period for which the employee was underpaid.

22 77. Plaintiff, the aggrieved employees, and the State of California are entitled to recover the
23 maximum civil penalties allowed by law for the violations of the Labor Code and IWC Wage Order No. 9 as
24 alleged in this Complaint.

25 78. Procedural Requirements Met. On May 23, 2024, Plaintiff electronically filed a notice of
26 claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff has not received notice
27 from the LWDA that it was exercising jurisdiction over the allegations set forth in the notice. As of 65 days
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1 from date of electronic filing, *i.e.*, July 28, 2024, all requirements for administrative exhaustion for bringing
2 these PAGA claims will have been met.³ Labor Code § 2699.3(a)(2). A true and correct copy of Plaintiff's
3 PAGA Notice is attached herein as **Exhibit 1**.

4 **NINTH CAUSE OF ACTION**

5 ***California Business and Professions Code §§ 17200, et seq.***

6 ***Violation of California's Unfair Competition Law***

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

8 79. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully set
9 forth herein.

10 80. Defendants are each a "person" as defined by California Business & Professions Code
11 § 17201, as it is a natural person, corporation, firm, partnership, joint stock company, and/or association.

12 81. Unlawful Business Practices. Defendants' knowing violations of the Labor Code and IWC
13 Wage Order No. 9 constitute an unlawful business practice as set forth in Business & Professions Code
14 § 17200, *et seq.*

15 82. Defendants' failure to abide by the laws discussed herein provide Defendants an unfair
16 advantage over their competitors at the expense of their workers. Instead, Defendants cut corners in the
17 name of higher profits and at the expense of employee well-being. Defendants' action thereby constitutes
18 an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200, *et seq.*

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

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25
26 ³ See, e.g., *Magadia v. Wal-Mart Assocs., Inc.*, 319 F. Supp. 3d 1180, 1188–89 (N.D. Cal. 2018); *Donnelly v.*
27 *Sky Chefs, Inc.*, 2016 WL 9083158, at *2 (N.D. Cal. 2016); *Bradescu v. Hillstone Rest. Grp., Inc.*, No. SACV
28 13-1289-GW RZX, 2014 WL 5312546, at *10 (C.D. Cal. Sept. 18, 2014), *order confirmed*, No. SACV 13-
1289-GW RZX, 2014 WL 5312574 (C.D. Cal. Oct. 10, 2014).

1 **DEMAND FOR JURY TRIAL**

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

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully prays judgment as follows:

- 6 A. For an Order:
- 7 a. Certifying the Class;
- 8 b. Appointing Plaintiff as representative of the Class;
- 9 c. Appointing Plaintiff's counsel as Class Counsel;
- 10 B. For actual and liquidated damages according to proof at trial;
- 11 C. For statutory and civil penalties and special damages, according to proof at trial;
- 12 D. For pre- and post-judgment interest on monetary damages;
- 13 E. For preliminary and permanent injunctive relief;
- 14 F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and
- 15 G. For such other relief as this Court deems just and proper.
- 16

17 Dated: May 23, 2024

Respectfully submitted,

18 **KING & SIEGEL LLP**

19
20 By: Elliot J. Siegel
21 Elliot J. Siegel, Esq.
22 Lawrence W. Beall, Esq.
23 Attorneys for Plaintiff and the Putative Class
24
25
26
27
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Exhibit 1

Josue Avila

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Thursday, May 23, 2024 12:17 PM
To: Josue Avila
Subject: Thank you for submission of your PAGA Case.

5/23/2024

LWDA Case No. LWDA-CM-1030150-24
Law Firm : King & Siegel LLP
Plaintiff Name : Joshua Covarrubia
Employer: Medtrans, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

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May 23, 2024

Original filed online via the LWDA's PAGA Claim Notice Portal

Labor & Workforce Development Agency

1515 Clay Street, Ste. 801
Oakland, CA 94612

Copy Sent via certified mail to:

MEDTRANS, INC.
c/o Ruzanna Avetisyan
345 South Woods Ave
Los Angeles, CA 90022

RUZANNA AVETISYAN
345 South Woods Ave
Los Angeles, CA 90022

Re: Joshua Covarrubias v. Medtrans, Inc., et al.

To Whom it May Concern:

We represent Joshua Covarrubias ("Plaintiff") against defendants Medtrans, Inc. and Ruzanna Avetisyan (collectively, "Defendants") in a Class Action and representative PAGA lawsuit filed against Defendants in Los Angeles County Superior Court (the "Action"). A copy of the Complaint to be filed in the Action is enclosed as **Exhibit A**.

As set forth in greater detail in the Complaint, Defendants violated their obligations under the California Labor Code by (1-2) failing to provide minimum and overtime compensation pursuant to Lab. Code §§ 510, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198; (3-4) failing to provide rest and meal breaks pursuant to Lab. Code §§ 226.7(b), 512(a), and 1198; (5) failing to reimburse necessary business expenses; (6) failing to provide and maintain complete and accurate wage statements pursuant to Lab. Code §§ 226, 226.3, and 1174; (7) failing to provide wages when due pursuant to Lab. Code §§ 201-204; and (8) failing to reimburse employees for business expenditures pursuant to Lab. Code § 2802.

Together with this correspondence, the enclosed Complaint serves as notice pursuant to Labor Code § 2699.3, *et seq.* that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf of those of Defendants' employees employed from one year prior to filing of this Notice through trial (the "Aggrieved Employees") for the Labor Code violations asserted in the Complaint. *See* Cal. Lab. Code §§ 2699, *et seq.*

Please feel free to contact us with any questions.

Sincerely,



Elliot J. Siegel
KING & SIEGEL LLP

Exhibit A

Julian Burns King (Bar No. 298617)
Julian@KingSiegel.com
Elliot J. Siegel (Bar No. 286798)
Elliot@KingSiegel.com
Lawrence W. Beall (Bar No. 343117)
Lawrence@KingSiegel.com
KING & SIEGEL LLP
724 South Spring Street, Suite 201
Los Angeles, California 90014
tel: (213) 465-4802
fax: (213) 465-4803

Attorneys for Plaintiff and the Putative Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

Joshua Covarrubias, individually and on
behalf of all similarly situated individuals,

Plaintiff,

vs.

Medtrans, Inc., a California corporation;
Ruzanna Avetisyan, an individual; and **Does**
1-100;

Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- 1) Failure to Pay Minimum Wages;
- 2) Failure to Pay Overtime Wages;
- 3) Failure to Provide Meal Periods or Premium Pay in Lieu Thereof;
- 4) Failure to Provide Rest Periods or Premium Pay in Lieu Thereof;
- 5) Failure to Reimburse Necessary Business Expenses;
- 6) Failure to Provide and Maintain Accurate Records;
- 7) Failure to Pay Wages When Due During Employment and at Separation;
- 8) PAGA Penalties; and
- 9) Violation of California's Unfair Competition Law

Jury Trial Requested

1 Plaintiff Joshua Covarrubias, on behalf of himself and all other similarly situated current and former
2 employees (“Class Members”), by and through his counsel of record, alleges as follows against Medtrans,
3 Inc. (“Medtrans” or collectively, “Defendants”):

4 **PARTIES**

5 1. Plaintiff **Joshua Covarrubias** (“Plaintiff”) is a resident of Los Angeles, Los Angeles County,
6 California. Plaintiff was as an hourly, non-exempt employee of Medtrans, Inc. working as a non-emergency
7 medical transportation driver from approximately September 2023 to March 27, 2024. Plaintiff was subject
8 to the policies and practices described in this Complaint at all times during his employment at Medtrans.

9 2. Defendant **Medtrans, Inc.** (“Medtrans” or collectively, “Defendants”) is a California
10 corporation and medical transportation company that provides non-emergency medical transportation
11 services. On information and belief, Medtrans has employed at least 500 hourly, non-exempt employees in
12 a variety of capacities through the four years leading to this Complaint within the state of California.
13 Medtrans is a California stock corporation with its principal place of business at 345 South Woods Ave., Los
14 Angeles, California, 90022.

15 3. Defendant **Ruzanna Avetisyan** (“Ms. Avetisyan”) is the Chief Executive Officer of
16 Medtrans, and on information and belief is a resident of the County of Los Angeles. Upon information and
17 belief, she violated or caused to be violated the regulations and statutes described in greater detail below.
18 Since Ms. Avetisyan is a managing agent, director, and/or officer of Medtrans and because she violated or
19 caused to be violated the statutes at issue in this action, she is personally liable for the Labor Code violations
20 and PAGA penalties complained of herein per Labor Code § 558.1.

21 4. Plaintiff is not currently aware of the names and true identities of defendants Does 1-100.
22 Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this
23 information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the
24 causes of action asserted, either through its own conduct, or vicariously through the conduct of others.
25 Further references in this complaint to any named Defendants includes the fictitiously named defendants.

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

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7. Venue as to Defendants is proper in this Superior Court pursuant to California Code of Civil Procedure § 395. Defendant Medtrans, Inc.'s principal place of business is located in Los Angeles, California in the County of Los Angeles. A substantial amount of the unlawful acts alleged have directly affected Plaintiff, and similarly situated employees, in Los Angeles County, where Plaintiff was employed by Defendants and earned wages at issue in this action. Accordingly, this Court maintains appropriate jurisdiction over this dispute.

8. As a matter of uniform and systemic policy, Medtrans failed to authorize and/or permit non-exempt employees the right to take timely, compliant, uninterrupted, and/or duty-free meal and rest breaks pursuant to Labor Code § 226.7 based on, at least, the following uniform policies and practices.

10. *Second*, Defendants, in fact, interrupted Plaintiff and Class Members during their meal and rest periods to discuss work-related matters and/or instruct them on pending tasks—illegally depriving employees of compliant meal and rest periods or premium pay in lieu thereof.

11. *Third*, Defendants also implemented policy and practice whereby their timekeeping systems prevented employees from clocking back in from lunch prior to 30 minutes from the start of their meal

1 period, which illegally resulted in short, truncated, and/or interrupted meal periods being considered a full
2 30-minute meal period for payroll and premium pay purposes. Employees were required to return to work
3 early from their meal periods or interrupt them, but were unable to record that time as time worked and were
4 not paid for it.

5 12. By requiring employees to work during their meal periods but preventing them from
6 recording that time, Plaintiff and Class Members were forced to work off the clock and deprived of owed
7 straight time wages. Additionally, as Class Members worked shifts of at least 8 hours, or weeks of at least 40
8 hours, some of this time was required to be paid at overtime rates, but was not done so.

9 13. In failing to authorize and/or permit timely and/or uninterrupted meal and rest periods,
10 Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods
11 to its non-exempt employees. Defendants denied compensation in lieu of meal and rest periods, including
12 premium wages owed, notwithstanding their actual knowledge that such employees were uniformly denied
13 compliant meal and rest periods.

14 14. Finally, Plaintiff and Class Members were not reimbursed for necessary business
15 expenditures, such as using their cellular phones to discharge their duties.

16 15. Accordingly, Plaintiff brings this action on behalf of himself and as a class action on behalf of
17 the following defined Class:

18 16. **Non-Exempt Employee Class:**

19 *All non-exempt, non-emergency ambulance employees who worked at least one 3.5-hour shift for*
20 *Defendants in the State of California from the period four years prior to the filing of the Action*
21 *and the date of trial ("Class").*

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

25 18. **Numerosity.** Plaintiff is informed and believes that, during the class period, at least 150 Class
26 Members have been employed as non-exempt employees by Defendants within the state of California. The
27 number of Class Members is sufficiently numerous such that joinder of all members is impossible or
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1 impracticable.

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

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

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

- 18 a. Whether Defendants have a common policy and/or practice of failing to accurately
19 record non-exempt employees' time;
- 20 b. Whether Defendants have a common policy and/or practice of failing to accurately
21 compensate non-exempt employees for all time worked;
- 22 c. Whether Defendants unlawfully required Plaintiff and Class Members to remain under
23 Defendants' control and direction while off-the-clock;
- 24 d. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class
25 Members at a minimum wage for all hours worked;
- 26 e. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class
27 Members required overtime wages;

- 1 f. Whether Defendants have a common policy and/or practice by which they implemented
2 an “auto-deduct” of 30 minutes or more for employees for meal periods regardless of
3 whether employees took a meal period or its actual length;
- 4 g. Whether Defendants’ auto-deduct policy and practice unlawfully deprives employees of
5 wages earned;
- 6 h. Whether Defendants have a common policy and/or practice of depriving Plaintiff and
7 Class Members of compliant, off-duty meal and/or rest periods;
- 8 i. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members
9 of compliant, off-duty meal and/or rest periods;
- 10 j. Whether Defendants paid Plaintiff and Class Members all required premium wages for
11 non-compliant meal and/or rest periods;
- 12 k. Whether Defendants have a common policy and/or practice of failing to reimburse
13 employees for necessary business expenditures;
- 14 l. Whether Defendants have a common policy and/or practice of failing to maintain
15 accurate payroll records in the State of California;
- 16 m. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll
17 records in the State of California;
- 18 n. Whether Defendants have a policy and/or practice of failing to provide accurate wage
19 statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- 20 o. Whether Defendants unlawfully and/or willfully failed to provide accurate wage
21 statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- 22 p. Whether Defendants have a policy and/or practice of failing to timely pay wages during
23 employment in violation of Labor Code §§ 204, 210.
- 24 q. Whether Defendants have a policy and/or practice of failing to pay Plaintiff and Class
25 Members final wages owed upon termination;
- 26 r. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation
27 due to Plaintiff and Class Members upon termination of employment in violation of Labor
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Code §§ 201, 202, and 203;

- s. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief;
- t. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, by violating the above provisions of law; and
- u. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, by treating Plaintiff and Class Members unfairly by depriving them of meal and/or rest periods, failing to provide them with compensation in lieu of meal and/or rest periods, failing to pay all regular and overtime wages earned, failing to pay wages upon termination, failing to furnish accurate and timely itemized wage statements upon payment of wages, and failing to pay all compensation due upon discharge.

22. **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 through Defendants' records.

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 ***California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198***

4 ***Failure to Pay Minimum Wages for All Hours Worked***

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

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

8 24. California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that payment of
9 a wage less than the minimum wage as set by statute, commission, or by the general prevailing rate is
10 unlawful. Compensable work time is defined in Wage Order No. 9 as “the time during which an employee
11 is subject to the control of an employer, and includes all the time the employee is suffered or permitted to
12 work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

13 25. Defendants failed to compensate Plaintiff and the Class for all hours worked because
14 Defendants had a policy and/or practice whereby they required Class Members to be on-call during their
15 putative meal periods, but were not paid for this time based on such time either not being recorded as time
16 worked despite being compensable. Additionally, Defendants’ timekeeping systems prevented employees
17 from clocking back in from lunch prior to 30 minutes from the start of their meal period even when they
18 were required to return to work early from their meal periods or interrupt them, and so were unable to record
19 that time as time worked and were not paid for it.

20 26. Defendants’ failure to pay Plaintiff and Class Members minimum wages for all hours worked
21 violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

22 27. Pursuant to California Labor Code section 1194.2, Plaintiff and Class Members are entitled
23 to recover the amount of underpaid wages, plus liquidated damages in an amount equal to the wages
24 unlawfully unpaid and interest thereon, applicable civil penalties, and reasonable attorney’s fees and costs.

1 **SECOND CAUSE OF ACTION**

2 ***California Labor Code §§ 510 and 1198***

3 ***Failure to Pay Overtime Wages***

4 **(Class Against Defendants)**

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

7 29. California Labor Code sections 510, 1198, and Industrial Wage Order No. 9 provide that it is
8 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-
9 times that person's regular rate of pay, depending on the number of hours worked by the person on a daily
10 or weekly basis. Specifically, Industrial Wage Order No. 9 provides that Defendants were required to pay
11 Plaintiff and Class Members working more than eight hours in a day or more than forty hours in a workweek,
12 at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty
13 hours in a workweek.

14 30. Throughout the Class Period, Class Members were not paid overtime premiums for all of the
15 hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of eight
16 hours on the seventh consecutive day of work in a workweek, and/or in excess of 40 hours in a week because
17 all hours worked were not recorded as compensable time as a direct consequence of Defendants' policies
18 and practices, including without limitation its meal and rest period, on-call requirement during meal periods,
19 and off the clock work policies and/or practices.

20 31. Defendants knew or should have known that their policies and practices forced Class
21 Members to work in excess of eight hours per workday and/or 40 hours per workweek without being
22 compensated for all hours worked. Because Class Members worked shifts of more than eight hours a day or
23 forty hours a week on the clock, some of this work qualified for overtime premium pay. Therefore, Class
24 Members were not paid overtime wages at the correct rate of pay for all of the overtime hours worked.

25 32. Pursuant to Labor Code section 1194, Class Members are entitled to recover their unpaid
26 overtime compensation, as well as interest, costs, and attorneys' fees, and applicable civil penalties.
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1 **THIRD CAUSE OF ACTION**

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

3 ***Failure to Provide Meal Periods or Premium Pay in Lieu Thereof***

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

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

7 34. Labor Code section 512(a) provides that an employer may not require, cause, or permit an
8 employee to work for a period of more than five hours per day without providing the employee with a meal
9 period of not less than thirty minutes, except that if the total work period per day of the employee is not
10 more than six hours, the meal period may be waived by mutual consent of both the employer and the
11 employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest.*
12 *Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-104 (2012). An employee is also entitled to a second meal
13 period for shifts in which the employee works in excess of ten hours.

14 35. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an
15 employee to work during any meal period mandated by an applicable order of the IWC, including Industrial
16 Wage Order No. 16. “An off-duty meal period, therefore, is one in which the employee is relieved of all duty
17 during the 30-minute meal period . . . an employer’s obligation is to provide an off-duty meal period: an
18 uninterrupted 30-minute period during which the employee is relieved of all duty.” *Brinker Rest. Corp. v.*
19 *Superior Court*, 53 Cal. 4th 1004, 1035 (2012). The employee must also be “free to leave the premises.” *Id.*
20 at 1036.

21 36. Defendants also failed to relieve Plaintiff and Class Members from all duty when on their
22 meal period by requiring Plaintiff and Class Members to comply with an unlawful and systematic policy and
23 practice whereby Defendants required Plaintiff and Class Members to remain on-call during all meal periods.
24 Additionally, Defendants pressured Plaintiff and Class Members to prioritize completing assigned work by
25 working through their meal periods, skipping them, or by interrupting their meal periods, or by taking them
26 late. Numerous Class Members, including Plaintiff, were required take late meal periods, skip them,
27 interrupt them, or remain on duty due to the combination of Defendants’ scheduling practices and policies.

28 37. Defendants did not pay Plaintiff and Class Members all meal period premium wages when

meal periods were missed, interrupted by work, and taken late, in violation of Wage Order No. 9 and Labor Code sections 226.7 and 512(a).

38. Defendants' conduct violates Wage Order No. 9 and Labor Code sections 512(a), 226.7, and 1198. Plaintiff and Class Members are entitled to one additional hour of pay at their regular rate of compensation for each workday that a compliant meal period was not provided, and interest thereon, along with applicable civil penalties.

FOURTH CAUSE OF ACTION

California Labor Code §§ 226.7 and 1198

Failure to Provide Rest Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

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

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

41. 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.

42. 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 Wage Order No. 9. 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,

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

834 (2016).

43. 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.”).

44. Defendants failed to relieve Plaintiff and Class Members from all duty when on their rest period by requiring Plaintiff and Class Members to comply with an unlawful and systematic policy and practice that interfered with their ability to take compliant rest periods whereby they required Plaintiff and Class Members to remain on-call throughout rest periods. Additionally, Defendants pressured Plaintiff and Class Members to prioritize completing assigned work by working through their rest periods, skipping them, or by interrupting their rest periods, or by taking them late.

45. 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.

46. Pursuant to Wage Order No. 9 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. Defendant was aware that its actions were a violation of applicable law but consistently refused to pay premium pay as required by law.

FIFTH CAUSE OF ACTION

California Labor Code § 2802

Failure to Reimburse Necessary Business Expenses

premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”).

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

2 47. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully
3 set forth herein.

4 48. Labor Code section 2802 provides that “[a]n employer shall indemnify his or his employee
5 for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
6 his or his duties, or of his or his obedience to the directions of the employer.” Lab. Code § 2802.

7 49. Defendants failed to reimburse Plaintiff and Class Members for all business-related expenses
8 that were necessary to perform their job, including requiring Plaintiff and the Class to use of their personal
9 cell phones for Defendants’ business. *See Cochran v. Schwan’s Home Services, Inc.*, 228 Cal. App. 4th 1137
10 (2014).

11 50. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for the costs
12 Plaintiff and Class Members incurred plus attorneys’ fees and costs. Lab. Code § 2802.

13 **SIXTH CAUSE OF ACTION**

14 ***California Labor Code §§ 226(a)/(f)/(h), 226.3, and 1174(d)***

15 ***Failure to Provide and Maintain Accurate Records***

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

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

19 52. Labor Code § 226 requires employers to furnish employees with an accurate, itemized
20 statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the
21 employee (for hourly-paid, non-exempt employees); (3) net wages earned; and (4) all applicable hourly rates
22 in effect during the pay period and the corresponding number of hours worked at each hourly rate by the
23 employee.

24 53. At all times relevant to this complaint, Defendants’ failure to pay premium wages for missed
25 meal and rest periods and minimum and/or overtime wages for work-off-the-clock rendered Class
26 Members’ wage statements inaccurate by failing to accurately reflect Class Member’s time worked, as well
27 as gross and net wages earned.
28

54. 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.

55. 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 Defendants' compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

56. Additionally, Defendants' actions in regard to Labor Code § 248.2(d)(2)(A) constitute violations of Labor Code sections 233 and 245, *et seq.* As a result, Plaintiff and the Class are accordingly entitled to all applicable civil penalties, and reasonable attorney's fees and costs in an amount subject to proof at trial. Lab. Code §§ 233 and 245, *et seq.*

SEVENTH CAUSE OF ACTION

California Labor Code §§ 201, 202, 203, 204, 210

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

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." Additionally, in *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal. 5th 93 (2022), the California Supreme Court recently held that failure to pay

1 employee has given 72 hours previous notice of his or her intention to quit, in which case the
2 employee is entitled to his or her wages at the time of quitting. Notwithstanding any other
3 provision of law, an employee who quits without providing a 72-hour notice shall be entitled
4 to receive payment by mail if he or she so requests and designates a mailing address. The date
5 of the mailing shall constitute the date of payment for purposes of the requirement to provide
6 payment within 72 hours of quitting.

7 59. Defendants do not include definite periods of service in their contracts of employment for
8 Class Members employed at their California plant(s). Plaintiff's contract of employment did not include a
9 definite term.

10 60. Labor Code § 203 provides:

11 If an employer willfully fails to pay, without abatement or reduction, in accordance with §
12 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the
13 wages of the employee shall continue as a penalty from the due date thereof at the same rate
14 until paid or until an action therefor is commenced; but the wages shall not continue for more
15 than 30 days.

16 61. Labor Code § 204 provides that all wages, other than those mentioned in Section 201 and
17 202, are due and payable twice during each calendar month, on days designated in advance by the employer
18 as regular paydays.

19 62. Failure to Timely Pay Wages Due. As set forth above, Defendants failed to timely pay the
20 minimum wages, overtime wages, and meal and rest period premiums resulting from its deficient
21 timekeeping and meal and rest period policies upon its regularly scheduled paydays.

22 63. Relief. Defendants' failure to pay Plaintiff and those Class Members wages on their regularly
23 scheduled pay dates subjects Defends to civil penalties in the amount of \$100 per employee per initial
24 violation and \$200 per employee for every subsequent violation of Labor Code § 204 pursuant to Labor
25 Code § 210.

26 64. Failure to Pay Upon Termination. Plaintiff and many Class Members have left Defendants'
27 _____
28 premiums for violating the California Labor Code's meal and rest break provisions constitutes "wages"
for purposes of waiting time penalties.

1 employ during the Class Period. As discussed above, Defendants knowingly failed to pay Plaintiff and Class
2 Members all earned wages upon termination. Instead, Defendants willfully and intentionally refused to pay
3 the earned rest and/or meal period premiums and earned minimum wages as alleged herein to Plaintiff and
4 Class Members in violation of Labor Code §§ 201 and 202.

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

10 **EIGHTH CAUSE OF ACTION**

11 ***California Labor Code §§ 558, 2698, et seq.***

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

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

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

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

22 68. These penalties may be "stacked" separately for each of Defendants' violations of the Labor
23 Code. *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal.
24 June 22, 2012) ("[F]ederal courts applying California law have concluded that stacking is appropriate.");
25 *see also O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30,
26 2016) ("Finally, Plaintiff ignore the potential for stacking of PAGA penalties related to wage-and-hour
27 claims other than the gratuities and expense reimbursement claim, i.e., meal and rest breaks, minimum wage
28

1 and overtime, and workers' compensation.").

2 69. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by Defendants during
3 the applicable statutory period and suffered the Labor Code violations alleged herein. Accordingly, he seeks
4 to recover, on behalf of himself and all other current and former aggrieved employees of Defendants, the
5 civil penalties provided by PAGA, including civil penalties for Defendants' violations of Labor Code §§ 201,
6 202, 203, 204, 210, 226, 226.3, 226.7, 233, 246, 248, 248.2, 248.5, 510, 512, 558, 1182.12, 1174, 1194, 1194.2,
7 1197, 1197.1, 1198, 1401, 2802, 2698 *et seq.*, and Industrial Wage Order No. 9, plus reasonable attorneys' fees
8 and costs.

9 70. Representative Action. Plaintiff seeks to recover the PAGA civil penalties through a
10 representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court*,
11 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required, but Plaintiff may
12 choose to seek certification of the PAGA claims.

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

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

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

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

27 73. Based on the foregoing, Plaintiff and aggrieved employees are entitled to civil penalties, to be
28

1 paid by Defendants and allocated as required by PAGA in the following formula: (a) in an amount set forth
2 as a civil penalty in the underlying statute; or (b) \$100 per initial violation per employee per pay period, and
3 \$200 for each subsequent violation per employee per pay period.

4 74. Labor Code sections 1194.2 and 1197.1 authorizes employees to recover liquidated damages
5 in an amount equal to the wages unlawfully withheld and interest thereon. Labor Code 1197.1 also authorized
6 civil penalties as follows: \$100 for any initial violation intentional committed per employee per pay period
7 in which a violation occurs, and \$250 per subsequent violation per employee per pay period in which a
8 violation occurs, regardless of whether the first violation was intentional.

9 75. Plaintiff is also entitled to recover for himself, other aggrieved employees, and the State of
10 California, civil penalties pursuant to Labor Code § 210 (entirely independent and apart from, any other
11 penalty provided in this article) in the amount of \$100 per employee per initial violation of the timely
12 payment requirements of Labor Code § 240 (semimonthly payments) and \$200 per employee for each
13 subsequent violation, plus 25% of the amount unlawfully withheld.

14 76. Labor Code § 558 provides:

15 (a) Any employer or other person acting on behalf of an employer who violates, or causes to
16 be violated, a section of this chapter or any provision regulating hours and days of work in
17 any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

18 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
19 pay period for which the employee was underpaid

20 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
21 employee for each pay period for which the employee was underpaid.

22 77. Plaintiff, the aggrieved employees, and the State of California are entitled to recover the
23 maximum civil penalties allowed by law for the violations of the Labor Code and IWC Wage Order No. 9 as
24 alleged in this Complaint.

25 78. Procedural Requirements Met. On May 23, 2024, Plaintiff electronically filed a notice of
26 claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff has not received notice
27 from the LWDA that it was exercising jurisdiction over the allegations set forth in the notice. As of 65 days
28

1 from date of electronic filing, *i.e.*, July 28, 2024, all requirements for administrative exhaustion for bringing
2 these PAGA claims will have been met.³ Labor Code § 2699.3(a)(2). A true and correct copy of Plaintiff's
3 PAGA Notice is attached herein as **Exhibit A**.

4 **NINTH CAUSE OF ACTION**

5 ***California Business and Professions Code §§ 17200, et seq.***

6 ***Violation of California's Unfair Competition Law***

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

8 79. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully set
9 forth herein.

10 80. Defendants are each a "person" as defined by California Business & Professions Code
11 § 17201, as it is a natural person, corporation, firm, partnership, joint stock company, and/or association.

12 81. Unlawful Business Practices. Defendants' knowing violations of the Labor Code and IWC
13 Wage Order No. 9 constitute an unlawful business practice as set forth in Business & Professions Code
14 § 17200, *et seq.*

15 82. Defendants' failure to abide by the laws discussed herein provide Defendants an unfair
16 advantage over their competitors at the expense of their workers. Instead, Defendants cut corners in the
17 name of higher profits and at the expense of employee well-being. Defendants' action thereby constitutes
18 an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200, *et seq.*

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

23
24
25
26 ³ See, e.g., *Magadia v. Wal-Mart Assocs., Inc.*, 319 F. Supp. 3d 1180, 1188–89 (N.D. Cal. 2018); *Donnelly v.*
27 *Sky Chefs, Inc.*, 2016 WL 9083158, at *2 (N.D. Cal. 2016); *Bradescu v. Hillstone Rest. Grp., Inc.*, No. SACV
28 13-1289-GW RZX, 2014 WL 5312546, at *10 (C.D. Cal. Sept. 18, 2014), *order confirmed*, No. SACV 13-
1289-GW RZX, 2014 WL 5312574 (C.D. Cal. Oct. 10, 2014).

1 **DEMAND FOR JURY TRIAL**

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

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully prays judgment as follows:

- 6 A. For an Order:
- 7 a. Certifying the Class;
- 8 b. Appointing Plaintiff as representative of the Class;
- 9 c. Appointing Plaintiff's counsel as Class Counsel;
- 10 B. For actual and liquidated damages according to proof at trial;
- 11 C. For statutory and civil penalties and special damages, according to proof at trial;
- 12 D. For pre- and post-judgment interest on monetary damages;
- 13 E. For preliminary and permanent injunctive relief;
- 14 F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and
- 15 G. For such other relief as this Court deems just and proper.

16
17 Dated: May 23, 2024

Respectfully submitted,

18 **KING & SIEGEL LLP**

19
20 By: _____
21 Elliot J. Siegel, Esq.
22 Lawrence W. Beall, Esq.
23 Attorneys for Plaintiff and the Putative Class
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27
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