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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO-CENTRAL DIVISION

11 ELDA MEZA, an individual, as the
12 State of California's designated proxy
13 under the Private Attorneys General Act
14 (PAGA) and for Aggrieved Employees,

15 Plaintiffs,

16 vs.

17 COWORX STAFFING SERVICES
18 LLC, a Delaware limited liability
19 corporation; KARA ROGAN, an
20 individual; and DOES 1 through 10
21 inclusive

22 Defendants.

Case No.: 37-2024-00029634-CU-OE-CTL

Judge: Hon. Marcella O. McLaughlin
Dept.: 72

**FIRST AMENDED COMPLAINT
FOR:**

1. Failure to Provide Access to Employee Personnel Records (Cal. Labor Code §§ 226, 432, and 1198.5);
2. Failure to Pay State Minimum/Regular Wages via the PAGA;
3. Failure to Pay State Overtime Wages via the PAGA;
4. Failure to Timely Pay Wages via the PAGA;
5. Meal and Rest Break Labor Code Violations via the PAGA;
6. Wage Statement Violations via the PAGA;
7. Failure to Maintain Payroll Records via the PAGA;
8. Failure to Reimburse in Violation of California Labor Code § 2802 via the PAGA; and
9. Miscellaneous Labor Code Violations via the PAGA.

1 Plaintiff ELDA MEZA, an individual in her capacity as the State of
2 California's designated proxy under the Private Attorneys General Act and on behalf
3 of Aggrieved Employees (collectively the "Plaintiffs") allege:

4 **NATURE OF THE ACTION**

5 1. Plaintiff MEZA is suing in her individual capacity and proceeding herein
6 under the Private Attorneys General Act (PAGA) of 2004, as amended, Labor Code
7 §§ 2698, *et seq.*, seeking civil penalties on behalf of the State of California and for all
8 Aggrieved Employees. *Adolph v. Uber Technologies, Inc.*, 14 Cal. 5th 1104 (2023).

9 **THE PARTIES**

10 2. The State of California is the real party in interest in a PAGA action. *Kim*
11 *v. Reins Int'l California, Inc.*, 9 Cal. 5th 73, 81 (2020) (the "government entity on
12 whose behalf the plaintiff files suit is always the real party in interest.")

13 3. Plaintiff ELDA MEZA is an individual residing in California, County of
14 San Diego.

15 4. Defendant COWORX STAFFING SERVICES LLC is a Delaware
16 limited liability company doing business in the County of San Diego, California.

17 5. Defendant KARA ROGAN is an individual and is and was Defendant
18 COWORX STAFFING SERVICES LLC's corporate officer/managing agent and, as
19 such, this Defendant is believed to be an "other person acting on behalf of an
20 employer" within the meaning of Labor Code §§ 558 and 558.1.

21 6. The true names and capacities, whether individual, corporate, associate,
22 or otherwise of the Defendants named herein as DOES 1 through 10, are unknown to
23 Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious
24 names pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will
25 seek leave to amend this Complaint to allege the true names and capacities of DOES
26 1 through 10 when their names are ascertained. Plaintiffs are informed and believe,
27 and based thereon allege, that each of the DOE Defendants is in some manner liable
28 to Plaintiffs for the events and actions alleged herein.

7. Unless otherwise specified by name, the named Defendants and DOES 1 through 50 are collectively referred to as "DEFENDANT EMPLOYER."

8. All named Defendants and DOES 1 through 10 are collectively referred to as “Defendants.”

JURISDICTION & VENUE

9. Pursuant to Article VI, § 10 of the California Constitution, subject matter jurisdiction is proper in the Superior Court of California, County of San Diego, State of California because Plaintiffs allege claims arising under California law.

10. This Court has jurisdiction over the Defendants because each is an association, corporation, business entity, or individual that conducts substantial business in the State of California, County of San Diego.

11. Pursuant to § 395 of the California Code of Civil Procedure, venue is proper in the Superior Court of California for the County of San Diego because this is where the misconduct alleged in this Complaint occurred.

GENERAL ALLEGATIONS

12. Defendants are in the staffing agency business loaning employees to different businesses in California.

13. During all times relevant, Defendants employed Plaintiff MEZA as a nonexempt worker in California until it involuntarily terminated the Plaintiff without paying Plaintiff all wages to which Plaintiff had a right to receive in a timely manner in an amount to be proven at trial.

14. The named Plaintiff is an “aggrieved employee” because Defendants employed Plaintiff in California and Plaintiff experienced one or more of the alleged Labor Code violations committed against the Plaintiffs, and therefore the named Plaintiff is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the Aggrieved Employees, who are also aggrieved employees as defined by Labor Code § 2699(c).

15. California law provides that an aggrieved employee may file a

1 representative action under the PAGA against an employer for civil penalties in
2 connection with violations of the Labor Code and Wage Order.

3 16. On information and belief, current and former employees of Defendants
4 suffered from Defendants' Labor Code violations.

5 **Failure to Provide Payroll Records and Personnel Files.**

6 17. On or about March 21, 2024, Plaintiff, via counsel, sent a letter via email
7 and regular U.S. Mail to DEFENDANT EMPLOYER requesting to obtain access to
8 Plaintiff's payroll records and employee personnel file.

9 18. Defendants failed to respond to the foregoing letter.

10 19. On or about May 3, 2024, Plaintiff, via counsel, sent a second letter via
11 email and regular U.S. Mail to DEFENDANT EMPLOYER requesting to obtain
12 access to Plaintiff's payroll records and employee personnel file.

13 20. DEFENDANT EMPLOYER has failed to produce Plaintiff's personnel
14 file in a timely manner in violation of the Labor Code.

15 21. Due to the foregoing, Plaintiffs seek civil penalties.

16 **Unpaid Minimum/Regular Wages.**

17 22. During all times relevant, Plaintiffs are informed and believe and based
18 thereon allege that pursuant to company policies and/or practices and/or directions
19 implemented and enforced by Defendants, that Defendants failed to pay Aggrieved
20 Employees all their regular/minimum wages, in an amount to be proven at trial.

21 23. Plaintiff and Aggrieved Employees normally started work from home,
22 gathering equipment, supplies, product brochures, and other information Defendants
23 mailed or otherwise supplied to its workers' homes, unpacking the foregoing
24 materials and placing such materials into their cars to bring to the workplace for set-
25 up and display.

26 24. The process of unpacking materials Defendants sent to Aggrieved
27 Employees and travelling to client locations sometimes took minutes, sometimes
28 hours to perform and Defendants regularly and systematically, as a policy and

1 practice, did not permit Plaintiff and, upon information and belief, other employees,
2 to report this worktime and, thus, Defendants did not pay them for this labor in
3 violation of California law.

4 25. Plaintiffs alleges that Aggrieved Employees were required to drive their
5 personal vehicles, but were not paid for their travel time despite the requirement to
6 pay them for travel time per California law.

7 26. Plaintiffs' unpaid wage claims are also premised on many situations, the
8 exact number which will be proven at trial, where Aggrieved Employees' two distinct
9 work periods during the same workday were separated by more than a one-hour break
10 during which time Defendants regularly and systematically, as a policy and practice,
11 failed to pay split-shift pay for one hour of pay at no less than minimum wage for the
12 time between the shifts in violation of California law, including but not limited to §
13 4(C) of IWC Wage Order 4.

14 27. Plaintiffs are also informed and believe and based thereon allege that
15 Defendants regularly and systematically, as a policy and practice, deducted 30
16 minutes or more from Plaintiff and other Aggrieved Employees' time records via
17 some sort of auto-deduction system whereby Defendants underpaid the Aggrieved
18 Employees in violation of California law.

19 **Unpaid Overtime.**

20 28. During all times relevant, Plaintiffs allege that pursuant to company
21 policies and/or practices and/or directions implemented and enforced by Defendants,
22 that Defendants underpaid overtime, failed to pay overtime, or both to Aggrieved
23 Employees.

24 **Meal and Rests Break Claims.**

25 29. During all times relevant, Plaintiffs allege that pursuant to company
26 policies and/or practices and/or directions implemented and enforced by Defendants,
27 that Defendants failed to permit Aggrieved Employees to take all their compliant off-
28 duty meal and rest breaks during the required timeframe as required by law and failed

1 to pay them premium pay in lieu thereof, in an amount to be proven at trial.

2 30. Plaintiffs are informed and believe and based thereon allege that because
3 of Defendants' policy, Defendants prevented Aggrieved Employees from taking all
4 their uninterrupted rest breaks to which they had the right to enjoy in an amount to be
5 proven at trial, and Defendants failed to pay them premium pay as required under
6 California law. *See Augustus v. ABM Security Services*, 2 Cal. 5th 257 (2016).

7 31. This claim is premised, in part, on the named Plaintiff's experience of not
8 being provided lawful meal breaks and, in part, on Defendants' failure to produce
9 time records thus far despite Plaintiffs' written requests.

10 **Unreimbursed Work-Related Expense Claims.**

11 32. During all times relevant, Plaintiffs allege that pursuant to company
12 policies and/or practices and/or directions implemented and enforced by Defendants,
13 that Defendants failed to reimburse Aggrieved Employees for work-related expenses
14 in violation of California law.

15 33. Plaintiff and Aggrieved Employees worked at retail locations and
16 businesses where they had no access to work phones, other than their personal cell
17 phones.

18 34. Defendants regularly and systematically, as a policy and practice, did not
19 did not reimburse Plaintiffs and Aggrieved Employees when they used their cell
20 phones and/or internet to record their hours worked and communicate with
21 Defendants regarding their jobs.

22 35. Plaintiffs are informed and believe, and thereupon allege, that
23 Defendants' requirement for employees to use their supplies and equipment to
24 perform their work duties without reimbursement was an attempt to defray the costs
25 onto its employees.

26 36. Defendants passed the cost of doing business onto its employees by
27 requiring, without reimbursement, their employees to purchase equipment, tools, and
28 services necessary to perform work for Defendants.

1 **Erroneous Wage Statements in Violation of Labor Code § 226.**

2 37. During all times relevant, Plaintiffs allege that pursuant to company
3 policies and/or practices and/or directions implemented and enforced by Defendants,
4 that Defendants failed to issue lawful wage and earning statements to Aggrieved
5 Employees.

6 38. This claim is premised, in part, on Defendants' failure to issue wage and
7 earning statements that provide the "rate of pay and the total hours worked for each
8 temporary services assignment" as required by subdivision (a)(9) of Labor Code 226.

9 39. This claim is also premised on Defendants' failure to pay wages in a
10 lawful manner as described above, making the wage statements it issued to Aggrieved
11 Employees inaccurate in violation of Labor Code 226.

12 **Derivative PAGA Claims.**

13 40. During all times relevant, Plaintiffs allege that pursuant to company
14 policies and/or practices and/or directions implemented and enforced by Defendants,
15 that Defendants failed to pay Aggrieved Employees their final paychecks immediately
16 upon involuntary termination or within 72 hours of voluntary separation, and/or
17 Defendants did not pay all final wages at the location of employment, and/or said
18 final paychecks did not include all wages due to the employee in violation of
19 California law.

20 41. As to the named Plaintiff's Labor Code §§ 201.3 and 203 claims, the
21 named Plaintiffs specifically allege that Plaintiffs did not receive all wages to which
22 the Plaintiffs had the right to receive in a timely manner in an amount to be proven at
23 trial.

24 42. To date, Plaintiffs are informed and believe, and therefore allege that
25 Defendants have not paid Aggrieved Employees all wages due and payable, in an
26 amount to be proven at trial in violation of Labor Code §§ 201.3, 203, and 256 via
27 PAGA.

28 43. Based on the foregoing, Plaintiffs seek the remedies set forth in this

1 Complaint.

2 **REPRESENTATIVE ACTION (i.e., PAGA) CLAIMS**

3 44. This is a representative action filed pursuant to PAGA, §§ 2698, 2699
4 that generally consists of the following group:

5 **All current or former employees who worked for the**
6 **Defendants in the state of California from May 21, 2023 to**
7 **the present.**

8 45. All members of the represented group are referred to as the “Aggrieved
9 Employees.”

10 46. The “PAGA Period” means from **May 21, 2023** to the present.

11 47. California law provides that an employee may file an action against an
12 employer for civil penalties in connection with violations of the Labor Code and
13 Wage Orders provided the aggrieved employee file an action on behalf of him or
14 herself and similarly situated current and former employees.

15 48. At all material times, Defendants and DOES 1 through 50 were and/or
16 are Aggrieved Employees’ employers or persons acting on behalf of Aggrieved
17 Employees’ employer, within the meaning of California Labor Code § 558, and, as
18 such, are subject to civil penalties for each underpaid employee as set for in Labor
19 Code § 558.

20 49. As set forth in further detail below, based on the analysis and
21 investigation of the Plaintiffs’ claims, Plaintiffs’ attorneys sent letters to the
22 California Labor and Workforce Development Agency (LWDA) and to Defendants
23 informing Defendants of their claims and intent to pursue litigation.

24 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 50. As to exhaustion of administrative remedies, on **May 21, 2024**,
26 Plaintiffs, via counsel, sent correspondence to the LWDA (via online filing) and
27 Defendants via certified U.S. Mail indicating that Plaintiffs are pursuing the claims
28 alleged in this Complaint.

1 51. The LWDA did not serve notice of its intent to assume jurisdiction over
2 the applicable penalty claims nor provide notice as set forth in Labor Code §
3 2699.3(a)(2)(A) within the statutory period.

4 52. Therefore, Plaintiffs have exhausted their administrative remedies and
5 have the right to pursue claims and remedies as authorized by the PAGA.

6 53. The Causes of Action alleged herein are appropriately suited for a
7 representative action under the PAGA (Labor Code § 2698, *et seq.*) because:

- 8 a. This action involves allegations of violations of provisions
9 of the California Labor Code that provide for a civil penalty
10 to be assessed and collected by the LWDA or any
11 departments, divisions, commissions, boards, agencies, or
12 employees;
13 b. Plaintiffs are “aggrieved employees” because Plaintiffs were
14 employed by the alleged violator and had one or more of the
15 Labor Code violations alleged on this Complaint committed
16 against them; and
17 c. Plaintiffs have satisfied the procedural requirements of
18 Labor Code § 2699.3, as set forth above.

19 **FIRST CAUSE OF ACTION**

20 **Individual and Representative Claim for Civil Penalties**
21 **for Failure to Provide Access**
22 **to Employee Personnel File**
23 **and Payroll Records in Violation of**
24 **California Labor Code §§ 226, 432, and 1198.5**
25 **(Against all Defendants)**

26 54. Plaintiffs re-allege and incorporate by reference the foregoing
27 allegations, as though set forth herein.

28 55. California Labor Code § 226, subdivision (b), requires employers doing

1 business in the State of California to “afford current and former employees the right
2 to inspect or copy records pertaining to their employment, upon a reasonable request
3 to the employer...” and subdivision (c), requires employers to produce such records
4 within “21 calendar days from the date of the request.”

5 56. Plaintiffs maintain the records requested fall within the meaning of
6 Labor Code § 226 because, among other reasons, the requested documents are
7 “records pertaining to [his] employment.”

8 57. California Labor Code § 432, subdivision (b), requires employers doing
9 business in the State of California to provide current, former employees, and
10 applicants copies of all written instruments they sign upon request.

11 58. Plaintiffs maintain the records requested fall within the meaning of
12 Labor Code § 432 because some of the records requested constitute written
13 instruments the Plaintiffs signed.

14 59. California Labor Code § 1198.5, *et seq.*, similarly provides current and
15 former employees the right to inspect their employee personnel records and requires
16 the employer to provide the employee access to such records no later than 30 calendar
17 days from the date the employer receives a written request.

18 60. Plaintiffs maintain the records requested fall within the meaning of
19 Labor Code § 1198.5, *et seq.* because they were part of and/or related to Plaintiffs’
20 personnel file within the meaning of Labor Code § 1198.5.

21 61. As alleged above, Defendants did not provide Plaintiffs timely access
22 to Plaintiffs’ employee personnel files and/or the records to which Plaintiffs have the
23 right to obtain within the meaning of the foregoing statutes in violation of the above
24 described statutes.

25 62. Plaintiff are informed and believe and based thereon allege that
26 Defendants continue to withhold records required to be provided under the foregoing
27 statutes and asserts Plaintiffs have been left without an adequate remedy at law, and
28 has the right to obtain injunctive and/or declaratory relief from this Court including,

1 but not limited to, an order by the Court requiring Defendants to turn over copies of
2 Plaintiffs' complete employee personnel files.

3 63. Plaintiffs seek all remedies available to the Plaintiffs and pursuant to
4 Labor Code § 2699, Plaintiffs and Aggrieved Employees seek to recover from
5 Defendants, and each of them, civil penalties, attorneys' fees, and costs incurred
6 herein all in an amount to be shown according to proof at trial.

7 **SECOND CAUSE OF ACTION**

8 **Individual and Representative Claim for Civil Penalties**

9 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

10 **Failure to Pay Local/State Minimum/Regular Wages**

11 **in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, 1194, 1197, 1811,**
12 **1198, and the applicable Industrial Welfare Commission (IWC)**

13 **Wage Order, and Where applicable the Local Min. Wage Ordinance**

14 **(Against all Defendants)**

15 64. Plaintiffs re-allege and incorporate by reference the foregoing
16 allegations, as though set forth herein.

17 65. Pursuant to Labor Code §§ 216, 218, 218.5, 225.5, 1194, 1197, 1197.1,
18 and 1198, it is unlawful for a California employer to suffer or permit an employee to
19 work without paying wages for all hours worked, as required by the applicable IWC
20 Wage Order and, where applicable on public works projects, prevailing wage laws.

21 66. During all times relevant, Defendants were required to pay Plaintiffs and
22 other Aggrieved Employees their respective hourly rate for all hours worked and/or
23 minimum wages and/or prevailing wages per state law or applicable local law.

24 67. During all times relevant, at least one of the IWC Wage Orders applied
25 to Plaintiffs' employment with Defendants.

26 68. Pursuant to the applicable Wage Order, "hours worked" include the time
27 during which an employee is "suffered or permitted to work, whether or not required
28 to do so."

1 69. Under state and, where appropriate, local law, every employer must pay
2 each nonexempt employee minimum wages. (*See, e.g.*, Los Angeles County
3 Minimum Wage Ordinance; San Diego Minimum Wage Ordinance, etc.)

4 70. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
5 Defendants for violations of the foregoing laws during the proposed PAGA Period.

6 71. Labor Code § 1194 subdivision (a) permits an action to recover wages
7 because of the payment of a wage less than the minimum wage “applicable to the
8 employee” including attorneys’ fees, costs, and interest.

9 72. At all material times, Defendants were and/or are Aggrieved Employees’
10 employers or persons acting on behalf of Aggrieved Employees’ employer, within the
11 meaning of California Labor Code §§ 558 and 558.1, and, as such, are subject to civil
12 penalties for each underpaid employee as set for in Labor Code § 558.

13 73. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
14 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
15 period for the initial violation and two hundred (\$200.00) for each aggrieved
16 employee per pay period for each subsequent violation in which Defendants violated
17 the minimum wage and/or regular wage provisions of the Labor Code, including but
18 not limited to §§ 216, 218, 218.5, 558, 1194, 1197, 1197.1, 1194.2, 1197, and 1198
19 the exact amount of the applicable civil penalty is all in an amount to be shown
20 according to proof at trial.

21 74. Plaintiffs seek all remedies available to the Plaintiffs and Aggrieved
22 Employees pursuant to Labor Code § 2699, including but not limited to civil
23 penalties, attorneys’ fees, and costs incurred herein all in an amount to be shown
24 according to proof at trial.

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1 Defendants for violations of the foregoing overtime laws during the proposed PAGA
2 Period.

3 82. At all material times, Defendants were and/or are Aggrieved Employees'
4 employers or persons acting on behalf of Aggrieved Employees' employer, within the
5 meaning of California Labor Code §§ 558 and 558.1, and, as such, are subject to civil
6 penalties for each underpaid employee as set for in Labor Code § 558.

7 83. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
8 a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
9 period for the initial violation and two hundred (\$200.00) for each aggrieved
10 employee per pay period for each subsequent violation in which Defendants violated
11 the overtime provisions of the Labor Code, including but not limited to §§ 510, 558
12 and 1194, the exact amount of the civil penalties sought is in an amount to be shown
13 according to proof at trial.

14 84. Plaintiffs seek all remedies available to the Plaintiffs and Aggrieved
15 Employees pursuant to Labor Code § 2699, including but not limited to civil
16 penalties, attorneys' fees, and costs incurred herein all in an amount to be shown
17 according to proof at trial.

18 **FOURTH CAUSE OF ACTION**

19 **Individual and Representative Claim for Civil Penalties**

20 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

21 **Failure to Timely Pay Earned Wages in Violation of California**

22 **Labor Code §§ 201, 201.3, 202, 203, 204, 204b,**

23 **218.5, 218.6, 256, 1198, and the applicable Wage Order**

24 (Against all Defendants)

25 85. Plaintiffs re-allege and incorporate by reference the foregoing allegations
26 as though set forth herein.

27 86. Pursuant to Labor Code § 201, "If an employer discharges an employee,
28 the wages earned and unpaid at the time of discharge are due and payable

1 immediately.”

2 87. Pursuant to Labor Code § 201.3, temporary employment agencies must
3 pay temporary employees weekly.

4 88. Pursuant to Labor Code § 202, “If an employee not having a written
5 contract for a definite period quits his or her employment, his or her wages shall
6 become due and payable not later than 72 hours thereafter, unless the employee has
7 given 72 hours previous notice of his or her intention to quit, in which case the
8 employee is entitled to his or her wages at the time of quitting.”

9 89. Labor Code § 203 provides, in pertinent part: “If an employer willfully
10 fails to pay, without abatement or reduction, ... any wages of an employee who is
11 discharged or who quits, the wages of the employee shall continue as a penalty from
12 the due date thereof at the same rate until paid or until an action therefore is
13 commenced; but the wages shall not continue for more than 30 days. ...”

14 90. Pursuant to Labor Code § 204, “all wages ... earned by any person in
15 any employment are due and payable twice during each calendar month, on days
16 designated in advance by the employer as the regular paydays.”

17 91. Pursuant to Labor Code § 204b, “Labor performed by a weekly-paid
18 employee during any calendar week and prior to or on the regular payday shall be
19 paid for not later than the regular payday of the employer for such weekly-paid
20 employee falling during the following calendar week.”

21 92. Defendants did not properly pay Plaintiff and potentially other
22 Aggrieved Employees pursuant to the requirements of Labor Code §§ 201, 201.3,
23 202, 204 and/or 204b and thereby Plaintiffs seek the remedies sought in this
24 Complaint.

25 93. At all material times, Defendants and DOES 1 through 50 were and/or
26 are Aggrieved Employees’ employers or persons acting on behalf of Aggrieved
27 Employees’ employer, within the meaning of California Labor Code § 558, and, as
28 such, are subject to civil penalties for each underpaid employee as set for in Labor

1 Code § 558.

2 94. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
3 Defendants for any violations of the foregoing Labor laws during the proposed PAGA
4 Period.

5 95. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
6 a civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
7 period for the initial violation and two hundred (\$200.00) for each aggrieved
8 employee per pay period for each subsequent violation in which Defendants violated
9 Labor Code §§ 201, 201.3, 202, 203, 204, 204b, and 256.

10 96. Plaintiffs seek all remedies available to the Plaintiffs and Aggrieved
11 Employees pursuant to Labor Code § 2699, including but not limited to civil
12 penalties, attorneys' fees, and costs incurred herein all in an amount to be shown
13 according to proof at trial.

14 **FIFTH CAUSE OF ACTION**

15 **Individual and Representative Claim for Civil Penalties**

16 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

17 **Failure to Comply with the Meal and Rest Break Requirements Under Labor**
18 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order**

19 (Against all Defendants)

20 97. Plaintiffs re-allege and incorporate by reference the foregoing allegations
21 as though set forth herein.

22 98. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
23 Defendants for any violations of Labor Code §§ 226.7, 512, and 1198 during the
24 proposed PAGA Period.

25 99. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
26 civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
27 period for the initial violation and two hundred (\$200.00) for each aggrieved
28 employee per pay period for each subsequent violation in which all culpable

1 Defendants violated Cal. Labor Code §§ 226.7 and 512, the exact amount of the
2 applicable penalty is all in an amount to be shown according to proof at trial.

3 100. Wherefore, Plaintiffs request all remedies available to them and to the
4 Aggrieved Employees pursuant to the PAGA all in an amount to be shown according
5 to proof at trial.

6 **SIXTH CAUSE OF ACTION**

7 **Individual and Representative Claim for Civil Penalties**

8 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

9 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,**

10 **and the applicable IWC Wage Order**

11 (Against all Defendants)

12 101. Plaintiffs re-allege and incorporate by reference the foregoing allegations
13 as though set forth herein.

14 102. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
15 pertinent part, that every employer shall, “semimonthly or at the time of each
16 payment of wages, shall furnish to his or her employees, either as a detachable part of
17 the check, draft, or voucher paying the employee's wages, or separately if wages are
18 paid by personal check or cash, an accurate itemized statement in writing showing (1)
19 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
20 piece-rate units earned and any applicable piece rate if the employee is paid on a
21 piece-rate basis, (4) all deductions, provided that all deductions made on written
22 orders of the employee may be aggregated and shown as one item, (5) net wages
23 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
24 name of the employee and only the last four digits of his or her social security
25 number..., (8) the name and address of the legal entity that is the employer. . . , and
26 (9) all applicable hourly rates in effect during the pay period and the corresponding
27 number of hours worked at each hourly rate by the employee and, beginning July 1,
28 2013, if the employer is a temporary services employer as defined in Section 201.3,

1 the rate of pay and the total hours worked for each temporary services assignment. . .”
2 (Labor Code § 226 subdivision (a).)

3 103. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
4 Defendants for any violations of Labor Code §§ 226, 226.3, 226.6, and 1198 during
5 the proposed PAGA Period.

6 104. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
7 civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
8 period for the initial violation and two hundred (\$200.00) for each aggrieved
9 employee per pay period for each subsequent violation in which all culpable
10 Defendants violated the applicable Cal. Labor Code provisions alleged in this
11 Complaint, the exact amount of the applicable civil penalty is all in an amount to be
12 shown according to proof at trial.

13 105. The named Plaintiffs seek all remedies available to the Plaintiff and
14 Aggrieved Employees pursuant to Labor Code § 2699, including but not limited to
15 civil penalties, attorneys’ fees, and costs incurred herein under §§ 226, 226.3, and
16 226.6 all in an amount to be shown according to proof at trial.

17 **SEVENTH CAUSE OF ACTION**

18 **Individual and Representative Claim for Civil Penalties**

19 **For Failure to Maintain Required Records in Violation of California**

20 **Labor Code §§ 1174 and the Applicable Wage Order and/or § 1198**

21 (Against All Defendants)

22 106. Plaintiffs re-allege and incorporate by reference the foregoing allegations
23 as though set forth herein.

24 107. Section 7 of the typical Wage Order requires every employer to maintain
25 time and payroll records.

26 108. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
27 Defendants for any violations of Labor Code § 1174 for failing to maintain certain
28 records which employers are required to maintain, including but not limited to, an

1 accurate record indicating the number hours worked by the Plaintiffs.

2 109. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
3 civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
4 period for the initial violation and two hundred (\$200.00) for each aggrieved
5 employee per pay period for each subsequent violation in which all culpable
6 Defendants violated the applicable Cal. Labor Code provisions alleged in this
7 Complaint, the exact amount of the applicable civil penalty is all in an amount to be
8 shown according to proof at trial.

9 110. For the reasons alleged herein, Plaintiffs seek all available remedies
10 pursuant to the PAGA all in an amount to be shown according to proof at trial.

11 **EIGHTH CAUSE OF ACTION**

12 **Individual and Representative Claim for Civil Penalties**

13 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

14 **Failure to Failure to Indemnify/Reimburse Business Expenses in Violation of**

15 **California Labor Code §§ 2802, 1198, and the Applicable Wage Order**

16 (Against all Defendants)

17 111. Plaintiffs re-allege and incorporate by reference the foregoing allegations
18 as though set forth herein.

19 112. California Labor Code § 2802 requires employers to indemnify their
20 employees for expenses and losses incurred while discharging their duties or
21 obedience to the directions of their employer.

22 113. California Labor Code § 2804 prohibits waiver of this statutory right.

23 114. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
24 Defendants for any violations of Labor Code § 2802 for failing to reimburse
25 employees for work-related expenses.

26 115. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
27 civil penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
28 period for the initial violation and two hundred (\$200.00) for each aggrieved

1 employee per pay period for each subsequent violation in which all culpable
2 Defendants violated the applicable Cal. Labor Code provisions alleged in this
3 Complaint, the exact amount of the applicable civil penalty is all in an amount to be
4 shown according to proof at trial.

5 116. For the reasons alleged herein, Plaintiffs seek all available remedies
6 pursuant to the PAGA all in an amount to be shown according to proof at trial.

7 **NINTH CAUSE OF ACTION**

8 **Individual and Representative Claim for Civil Penalties**

9 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

10 **Individual and Representative Claim for PAGA Penalties and Wage**

11 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**
12 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1, 203.5,**
13 **204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of**
14 **Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2, 230.3,**
15 **230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of**
16 **Section 232.5, Sections 233, 234, 245-249, §§ 351-356,**
17 **and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450,**
18 **511, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921,**
19 **922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5,**
20 **1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, Sections**
21 **1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301,**
22 **1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695,**
23 **subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9,**
24 **1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47,**
25 **1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2,**
26 **2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6,**
27 **6310, 6311, and 6399.7 and the Applicable Wage Order**

28 (Against all Defendants)

1 117. Plaintiffs re-allege and incorporate by reference the foregoing allegations
2 as though set forth herein.

3 118. Pursuant to Labor Code § 2699, any provision of the Labor Code that
4 provides for a civil penalty to be assessed and collected by the LWDA or any of its
5 departments, divisions, commissions, boards, agencies or employees for violation of
6 the code may, as an alternative, be recovered through a civil action brought by an
7 aggrieved employee on behalf of himself or herself and other current or former
8 employees pursuant to the procedures specified in Labor Code § 2699.3.

9 119. Plaintiffs seek to recover civil penalties pursuant to the PAGA from the
10 Defendants for any violations of the foregoing Labor Codes.

11 120. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
12 civil penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6,
13 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and
14 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3,
15 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
16 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351-356, and 403,
17 subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450, 511, 513,
18 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923,
19 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via
20 the applicable Wage Order, subdivision (b) of Section 1198.3, 1198.5, Sections
21 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301,
22 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695,
23 subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9,
24 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47,
25 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2,
26 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6,
27 6310, 6311, and 6399.7.

28 121. Labor Code § 558 establishes a civil penalty as follows: Any employer

1 or other person acting on behalf of an employer who violates, or causes to be violated,
2 a section of this chapter or any provision regulating hours and days of work in any
3 order of the Industrial Welfare Commission (including the “Hours and Days of Work”
4 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
5 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
6 which the employee was underpaid in addition to an amount sufficient to recover
7 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
8 each underpaid employee for each pay period for which the employee was underpaid
9 in addition to an amount sufficient to recover underpaid wages; and (3) wages
10 recovered pursuant to this section shall be paid to the affected employee.

11 122. Plaintiffs seek civil penalties for Defendants’ conduct as alleged herein
12 as permitted by law all in an amount to be shown according to proof at trial.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 15 1. That Defendants, and each of them, be ordered and ordered to provide
16 Plaintiffs’ personnel files and payroll records;
- 17 2. For all remedies available to Plaintiffs under the applicable Industrial
18 Welfare Commission Order and the Labor Code via § 2698, *et seq.* including
19 but not limited to the recovery of civil penalties to the named Plaintiff and the
20 Aggrieved Employees in an amount to be determined at trial;
- 21 3. That Plaintiff and/or Aggrieved Employees be awarded reasonable
22 attorneys’ fees where available by law, including but not limited to pursuant to
23 Labor Code §§ 2698, *et seq.*, Code of Civil Procedure § 1021.5, and/or other
24 applicable laws; and

1 4. For such other and further relief as this Court may deem proper and
2 just.

3 Dated: February 19, 2025

Pancer Law Corporation

5 By: /s/Ian Pancer

6 Ian Pancer

7 Attorney for Plaintiffs
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2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA

4 COUNTY OF SAN DIEGO

5 I, Ian Pancer, the undersigned, am employed in the
6 County of San Diego, State of California; I am over the
7 age of 18 and not a party to the within action; my
8 business address is 4603 Mission Blvd., Ste 220, San
9 Diego, California 92109.

10 On February 19, 2025, I served the following
11 document(s) described as:

12 **FIRST AMENDED COMPLAINT**

13 on the interested parties to this action:

14 **See Attached List.**

15 ☒ (BY E-MAIL via E-file) I am readily familiar with the
16 business practice for collection and processing of
17 correspondence for emailing with the Court authorized
18 third-party vendor. This correspondence was sent via email
19 via this third-party vendor pursuant to the vendor's
20 policies and practices.

21 ☐ (BY OVERNIGHT DELIVERY SERVICE) I served the foregoing
22 document by Federal Express, an express service carrier
23 which provides overnight delivery, as follows. I placed
24 true copies of the foregoing document in sealed envelopes
25 or packages designated by the express service carrier,
26 addressed to each interested party as set forth above,
27 with fees for overnight delivery paid or provided for.

28 ☐ (BY PERSONAL SERVICE) I caused such envelope to be
delivered by hand to the offices of the above named
addressee(s).

☐ (BY FACSIMILE) I caused such documents to be delivered
via facsimile to the offices of the addressee(s) at the
following facsimile number:

Executed February 19, 2025, at San Diego, California.

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

/s/ Ian Pancer

Ian Pancer

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