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Kern County Superior Court
By Alexandra Valles, Deputy

Attorneys for Plaintiff MICHAEL GOLDBERG
on behalf of the State of California and all Aggrieved Employees and Class Members

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

MICHAEL GOLDBERG, on behalf of the
State of California and all Aggrieved
Employees and Class Members,

Plaintiff,

v.

GENERAL PRODUCTION SERVICE OF
CALIFORNIA, INC., a California
Corporation; and DOES 1-100, inclusive,
Defendants.

Case No.: BCV-24-102628

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

- 1. Recovery of Unpaid Minimum Wages and Liquidated Damages**
- 2. Recovery of Unpaid Overtime Wages**
- 3. Failure to Provide Meal Periods or Compensation in Lieu Thereof**
- 4. Failure to Provide Rest Periods or Compensation in Lieu Thereof**
- 5. Failure to Furnish Accurate Itemized Wage Statements**
- 6. Failure to Timely Pay All Wages Due Upon Separation of Employment**
- 7. Failure to Reimburse Business Expenses**
- 8. Unfair Competition *and***
- 9. Violation of the Private Attorneys General Act of 2004**

DEMAND FOR JURY TRIAL

1 Plaintiff, MICHAEL GOLDBERG, (“PLAINTIFF”), on behalf of the State of California
2 and all Aggrieved Employees (as defined below) and Class Members (as defined below), hereby
3 files this Complaint against Defendants GENERAL PRODUCTION SERVICE OF CALIFORNIA,
4 INC., a California Corporation; and DOES 1-100, inclusive, (collectively referred to herein as
5 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
8 California statutes, including but not limited to the PAGA, and decisional law and regulations.

9 2. Venue is proper in this judicial district and the County of Kern pursuant to California
10 Code of Civil Procedure section 395.5 because DEFENDANTS transact business within this judicial
11 district, DEFENDANTS employed PLAINTIFF to work in this judicial district, DEFENDANTS
12 maintain their principal place of business within this judicial district, and conduct alleged by
13 PLAINTIFF herein occurred in this judicial district. *See also Crestwood Behavioral Health, Inc. v.*
14 *Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county where
15 the defendants committed Labor Code violations against some of its employees). Venue is also
16 proper pursuant to section 393 of the California Code of Civil Procedure because the cause, or some
17 part of the cause, arose in the County of Kern.

18 **THE PARTIES**

19 3. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
20 California and a citizen of the State of California.

21 4. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
22 DEFENDANTS as a non-exempt employee with a job title(s) of well puller and/or a similar title(s)
23 and/or job position(s) in 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS'
24 Belridge and/or Taft, California location(s).

25 5. Defendant GENERAL PRODUCTION SERVICE OF CALIFORNIA, INC., is a
26 California Corporation that, at all relevant times, was authorized to do business within the State of
27 California and is doing business in the State of California.

28 6. DEFENDANTS own, operate, manage and/or staff its employees to work at

1 including but not limited to, the field locations, offices and/or facilities and/or other location(s) in
2 California, including but not limited to the field locations, offices and/or facilities in Belridge and/or
3 Taft, California. DEFENDANTS, through its various locations, serve including but not limited to,
4 the oil industry.¹

5 7. The true names and capacities of the DOE Defendants sued herein as DOES 1
6 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
7 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
8 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
9 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
10 become known.

11 8. PLAINTIFF is further informed and believes that, at all relevant times, each
12 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
13 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
14 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
15 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
16 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
17 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
18 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
19 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
20 controlled, aided and abetted the conduct of all other Defendants.

21 **JOINT LIABILITY**

22 9. Under California law, the definition of the terms “to employ” are broadly construed
23 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
24 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
25 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
26 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
27 was to reach situations in which multiple entities control different aspects of the employment

28 ¹ See <https://www.genprod.com/>. Last visited on July 30, 2024.

1 relationship. Supervision of the work, in the specific sense of exercising control over how services
2 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
3 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
4 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
5 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
6 California, applying a less stringent standard to what constitutes sufficient control by a business
7 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
8 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
9 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
10 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
11 employment,” *Id.* at 875 [emphasis added].

12 10. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and other
13 Aggrieved Employees (defined below) and Class Members (defined below) were jointly employed
14 by DEFENDANTS for purposes of the Wage Orders, under the alternative definitions of “to
15 employ” adopted by the California Supreme Court in *Martinez*, supra. As discussed below, these
16 DEFENDANTS (1) exercised control over wages, hours and working conditions of PLAINTIFF
17 and Aggrieved Employees and Class Members; (2) suffered or permitted PLAINTIFF and
18 Aggrieved Employees and Class Members to work for them; and (3) engaged PLAINTIFF and
19 Aggrieved Employees and Class Members to work for them.

20 11. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
21 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
22 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
23 across all of their locations/facilities and subjected all of the Aggrieved Employees and Class
24 Members to these same policies and practices regardless of the location(s) where they worked.
25 Among other things, PLAINTIFF is informed and believes that: (1) there is common ownership in,
26 and financial control, in DEFENDANTS’ companies, (2) DEFENDANTS utilize common
27 management, who have control over the day-to-day operations and employment matters, including
28 the power to hire and fire, set schedules, issue employee policies, and determine rates of

1 compensation across its locations in California; (3) DEFENDANTS utilize the same policies and
2 procedures for all California employees, including issuing the same employee handbooks and other
3 form agreements; (4) DEFENDANTS use at least some of the same Human Resources personnel
4 and attorneys to oversee employment matters; and, (6) DEFENDANTS share employees.

5 12. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
6 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and Aggrieved
7 Employees and Class Members upon whose behalf PLAINTIFF brings these allegations and cause
8 of action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
9 Employees and Class Members' wages, hours and working conditions, and/or suffered or permitted
10 them to work so as to be considered the joint employers of PLAINTIFF and Aggrieved Employees
11 and Class Members.

12 13. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
13 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
14 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
15 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
16 Employees and Class Members, and further that DEFENDANTS uniformly compensated and
17 controlled the wages of PLAINTIFF and other Aggrieved Employees and Class Members in a
18 uniform manner. DEFENDANTS collectively represented to PLAINTIFF and other Aggrieved
19 Employees and Class Members that each was an "at-will" employee of DEFENDANTS, and that
20 DEFENDANTS collectively retained the right to terminate PLAINTIFF's and other Aggrieved
21 Employees and Class Members' employment with or without cause. Upon information and belief,
22 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees and
23 Class Members in writing the details of their compensation, and the manner in which they were to
24 take meal and rest periods, the procedures required by DEFENDANTS collectively for recordation
25 of hours worked and the policies applicable to PLAINTIFF and Aggrieved Employees and Class
26 Members by which DEFENDANTS collectively would evaluate their wage rates.

27 14. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
28 and working conditions of PLAINTIFF and Aggrieved Employees and Class Members. As such,

1 DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and
2 the Aggrieved Employees and Class Members' employment, including the instrumentality that
3 resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

4 15. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
5 control over, applied the same policies and practices, and engaged in the same acts and omissions
6 with regard to the other Aggrieved Employees and Class Members.

7 16. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must
8 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
9 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
10 services from which they benefited, and furthermore that the aforementioned entities had the right
11 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
12 times herein, so as to be considered the joint employers of PLAINTIFF.

13 17. By reason of their status as joint employers of PLAINTIFF and Aggrieved
14 Employees and Class Members, DEFENDANTS are each liable for civil penalties for violations of
15 the California Labor Code and applicable Wage Orders as to all Aggrieved Employees.

16 **PAGA ALLEGATIONS**

17 18. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
18 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
19 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

20 All current and former non-exempt employees that worked either
21 directly or via a staffing agency for any one or more DEFENDANTS
22 at any location in California at any time from one year plus 65 days
23 from the filing of the initial Complaint through the present ("PAGA
24 Period").

25 19. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
26 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
27 limitations period and suffered one or more of the Labor Code violations set forth herein.
28 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved

1 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
2 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
3 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
4 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
5 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
6 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
7 *Id.* at 760-761.

8 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

9 20. PLAINTIFF, on May 21, 2024, through counsel, gave written notice by online filing
10 with the California Labor and Workforce Development Agency (“LWDA”) informing it that
11 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
12 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
13 certified mail.

14 21. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
15 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
16 Employees.

17 22. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
18 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
19 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
20 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
21 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

22 23. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
23 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
24 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

25 **CLASS ALLEGATIONS**

26 24. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
27 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
28 seeks to represent are defined as follows and referred to as the “Class” or “Class Members”:

1 All current and former non-exempt employees that worked either
2 directly or via a staffing agency for any one or more of the
3 DEFENDANTS at any location in California at any time within the
4 four years prior to the filing of the initial Complaint (“Class Period”).

5 a. Numerosity. While the exact number of Class Members is unknown to
6 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
7 all members is impractical under the circumstances of this case. PLAINTIFF is
8 informed and believes the Class consists of at least 100 individuals.

9 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
10 because common questions of law and fact predominate over individual issues.
11 Common questions include, but are not limited to, the following: (1) whether
12 DEFENDANTS understated hours worked and failed to pay all amounts due to
13 PLAINTIFF and the Class Members for wages earned, including minimum and
14 overtime wages, under California law; (2) whether DEFENDANTS provided
15 PLAINTIFF and the Class Members with all meal periods or premium payments
16 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
17 provided PLAINTIFF and the Class Members with all rest periods or premium
18 payments in lieu thereof, in compliance with California law; (4) whether
19 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
20 itemized wage statements in compliance with California law, displaying,
21 including but not limited to, the total hours worked during the pay period; (5)
22 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
23 wages due upon separation of employment; (6) whether DEFENDANTS failed
24 to reimburse PLAINTIFF and the Class Members for all business expenses; and
25 (7) whether DEFENDANTS violated California Business and Professions Code
26 sections 17200, *et seq.*

27 c. Ascertainable Class. The proposed Class is ascertainable as members can be
28 identified and located using information in DEFENDANTS’ business, payroll

1 and personnel records.

- 2 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
- 3 PLAINTIFF suffered a similar injury as members of the Class as a result of
- 4 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
- 5 and pay all owed minimum and overtime wages, failure to provide proper meal
- 6 periods and rest periods or premium compensation in lieu thereof, failure to
- 7 provide accurate wage statements, failure to reimburse business expenses, and
- 8 failure to timely pay all wages due upon separation of employment.
- 9 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
- 10 Class Members. PLAINTIFF has no interests adverse to the interests of the other
- 11 Class Members. Counsel who represent PLAINTIFF are competent and
- 12 experienced in litigating similar class action cases and are California lawyers in
- 13 good standing. Counsel for PLAINTIFF have the experience and resources to
- 14 vigorously prosecute this case.
- 15 f. Superiority. A class action is superior to other available means for the fair and
- 16 efficient adjudication of this controversy since individual joinder of all members
- 17 of the class is impractical. Class action treatment will permit a large number of
- 18 similarly situated persons to prosecute their common claims in a single forum
- 19 simultaneously, efficiently, and without the unnecessary duplication of effort
- 20 and expense that numerous individual actions would engender. Furthermore, as
- 21 the damages suffered by each individual member of the Class may be relatively
- 22 small, the expenses and burden of individual litigation would make it difficult
- 23 or impossible for individual members of the Class to redress the wrongs done to
- 24 them, while an important public interest will be served by addressing the matter
- 25 as a class action. The cost to the court system of adjudication of such
- 26 individualized litigation would be substantial. Individualized litigation would
- 27 also present the potential for inconsistent or contradictory judgments. Finally,
- 28 the alternative of filing a claim with the California Labor Commissioner is not

1 superior, given the lack of discovery in such proceedings, the fact that there are
2 fewer available remedies, and the losing party has the right to a trial de novo in
3 the Superior Court.

4 **FACTUAL ALLEGATIONS**

5 25. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees and
6 Class Members worked for DEFENDANTS in the State of California. At all times referenced herein,
7 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and Class Members
8 and suffered and/or permitted them to work.

9 26. PLAINTIFF is a former employee of DEFENDANTS.

10 27. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
11 title(s) of well puller and/or a similar title(s) and/or job position(s) in 2023.

12 28. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Belridge and/or Taft,
13 California location(s).

14 29. PLAINTIFF regularly worked at least eight (8) hours per day, often working at least
15 fourteen (14) to sixteen (16) hours per day, at least five (5) days per week.

16 30. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
17 DEFENDANTS as hours worked.

18 31. Based on information and belief, Aggrieved Employees and Class Members were
19 also compensated with non-discretionary compensation, including but not limited to, shift
20 differential pay, non-discretionary bonuses/incentive pay and/or other non-discretionary
21 compensation.

22 32. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
23 hourly basis for time counted by DEFENDANTS as hours worked.

24 33. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
25 PLAINTIFF and Aggrieved Employees and Class Members for all hours worked, resulting in the
26 underpayment of minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF
27 and Aggrieved Employees and Class Members for all hours worked by virtue of, DEFENDANTS'
28 automatic deduction and time rounding policies, and failure to relieve employees of all

1 duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or
2 improper meal periods, as explained below.

3 34. Based on information and belief, DEFENDANTS implemented a policy and/or
4 practice of rounding meal period start and end times and/or automatically deducting at least thirty
5 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
6 PLAINTIFF and other Aggrieved Employees and Class Members were subject to DEFENDANTS'
7 control during purported meal periods and/or were otherwise not afforded lawful meal periods,
8 depriving PLAINTIFF and Aggrieved Employees and Class Members of all wages owed.

9 35. Based on information and belief, Aggrieved Employees and Class Members were
10 not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to
11 scheduled hours worked instead of actual time worked, time rounding policies and practices, and/or
12 mandated off-the clock work policies and/or practices.

13 36. For example, DEFENDANTS' time records and wage statements evidence
14 DEFENDANTS paid PLAINTIFF according to scheduled hours worked instead of actual time work
15 and/or rounded PLAINTIFF's total hours worked to at least the nearest quarter, half and/or whole
16 hour during most if not all pay periods during PLAINTIFF's employment, resulting in
17 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
18 wages owed to PLAINTIFF. For example, DEFENDANTS' time records for PLAINTIFF reflect a
19 clock-in time of precisely 6:00 am or 7:00 and a clock-out time of precisely 2:30 pm on including
20 but not limited to the following dates: April 10, 2023, April 11, 2023, April 12, 2023, April 13,
21 2023, and April 14, 2023.

22 37. Moreover, as explained above, DEFENDANTS rounded and/or automatically
23 deducted precisely thirty-minutes per shift for meal periods that were interrupted, cut short, on-duty
24 and/or worked through completely, resulting in meal period law violations as well as
25 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
26 wages owed to PLAINTIFF.

27 38. For example, as described herein, based on information and belief, Aggrieved
28 Employees and Class Members were restricted to DEFENDANTS' worksite(s) and/or their

1 immediate workspace(s) during unpaid meal periods and/or were otherwise required to remain on
2 duty during unpaid meal periods, resulting in DEFENDANTS failure to compensate Aggrieved
3 Employees and Class Members for all hours worked and the underpayment of wages owed to
4 Aggrieved Employees and Class Members.

5 39. Based on information and belief, DEFENDANTS required Aggrieved Employees
6 and Class Members to be at their assigned workstations at the start of a scheduled shift, thereby
7 forcing Aggrieved Employees and Class Members to gather work-related equipment and/or safety
8 gear, make any necessary adjustments to tools/equipment and/or perform maintenance/cleaning
9 tasks, don work clothing/uniforms and/or protective equipment, and/or complete other work tasks
10 prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-
11 the-clock work.

12 40. Based on information and belief, at times, Aggrieved Employees and Class Members
13 were required to stand in line behind other employees to access DEFENDANTS' time-keeping
14 system and/or were required to spend time performing administrative/timekeeping-related tasks
15 before they could clock in for the start of their shifts and/or after completing a purported meal period.

16 41. Based on information and belief, Aggrieved Employees and Class Members were
17 required to complete other off-the-clock work tasks after clocking out for the end of their shifts
18 and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment
19 of minimum and overtime wages owed to Aggrieved Employees and Class Members.

20 42. For example, based on information and belief, DEFENDANTS required Aggrieved
21 Employees and Class Members to clock out for the end of their shifts but to continue working due
22 to the need to return/maintain tools, clean and/or organize their work stations/areas, provide shift
23 status updates and/or debriefings and/or participate in work meetings, respond to work-related
24 communications and/or perform other work tasks off-the-clock, resulting in the underpayment of
25 minimum wages and overtime wages owed to Aggrieved Employees and Class Members.

26 43. Based on information and belief, DEFENDANTS did not compensate Aggrieved
27 Employees and Class Members for all time spent donning and doffing personal protective
28 equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses,

1 hats/bump caps/safety helmets and/or face masks) during meal periods, before the start of a
2 scheduled shift, and after completing a scheduled shift, resulting in DEFENDANTS' failure to pay
3 Aggrieved Employees and Class Members for all work time and the underpayment of minimum
4 wages and overtime wages owed to Aggrieved Employees and Class Members.

5 44. Based on information and belief, Aggrieved Employees and Class Members were
6 required to undergo security screenings and/or other mandated screenings before and/or after a
7 scheduled shift and/or before or after clocking in/out for work, resulting in pre-shift and/or post-
8 shift off-the-clock work.

9 45. Based on information and belief, DEFENDANTS required Aggrieved Employees
10 and Class Members to undergo COVID-19 temperature screenings and/or complete questionnaires
11 prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-
12 shift off-the-clock work.

13 46. Based on information and belief, Aggrieved Employees and Class Members were
14 also pressured to complete at least some additional work tasks off-the-clock in order to meet
15 DEFENDANTS' goals and expectations.

16 47. For example, based on information and belief, Aggrieved Employees and Class
17 Members were required to complete off-the-clock work outside of scheduled shifts due to including
18 but not limited to, work-related phone calls and/or messages they received to their phones and/or
19 mobile devices and were required to respond to, including but not limited to, communications from
20 supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages
21 owed to Aggrieved Employees and Class Members.

22 48. Based on information and belief, DEFENDANTS failed to pay Aggrieved
23 Employees and Class Members the applicable minimum wage for the county and/or city within
24 which the Aggrieved Employee worked in California. Based on information and belief,
25 DEFENDANTS failed to pay Aggrieved Employees and Class Members for time they were required
26 to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding
27 process including but not limited to reviewing various documents and policies provided by
28 DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and

1 was not compensated.

2 49. Based in information and belief, DEFENDANTS implemented a time-rounding
3 system that as applied systematically deprived Aggrieved Employees and Class Members of
4 compensable time because the time-rounding system implemented by DEFENDANTS would
5 almost always, if not always, result in understating actual compensable work time. For example, as
6 explained above, DEFENDANTS' time records and wage statements for PLAINTIFF evidence
7 DEFENDANTS rounded PLAINTIFF's total hours worked to at least the nearest quarter, half and
8 or whole hour during each pay period PLAINTIFF worked for DEFENDANTS, resulting in
9 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
10 wages owed to PLAINTIFF.

11 50. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
12 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
13 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
14 minimum wages owed to PLAINTIFF and Aggrieved Employees and Class Members as well as
15 unpaid overtime wages for those Aggrieved Employees and Class Members who worked more than
16 eight (8) hours in a day and/or more than forty (40) hours in a week.

17 51. Based on information and belief, DEFENDANTS had actual and/or constructive
18 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
19 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
20 underpayment of minimum wages and overtime wages owed to Aggrieved Employees and Class
21 Members, in violation of California's minimum and overtime wage laws.

22 52. Based on information and belief, DEFENDANTS failed and continue to fail to pay
23 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
24 in a week.

25 53. Based on information and belief, DEFENDANTS failed and continue to fail to pay
26 Aggrieved Employees and Class Members two times their regular rate of pay for time worked
27 beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh
28 consecutive day of work in a work week, in violation of California's overtime laws.

1 54. Based on information and belief, DEFENDANTS failed to incorporate all non-
2 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
3 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
4 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
5 wages owed to PLAINTIFF and other Aggrieved Employees and Class Members.

6 55. Additionally, DEFENDANTS also violated California's overtime laws as to those
7 Aggrieved Employees and Class Members that were subject to an Alternative Workweek Schedule
8 (AWS).

9 56. Based on information and belief, DEFENDANTS adopted an Alternative Workweek
10 Schedule (AWS) during the relevant period that was an unlawful AWS as it was not properly elected
11 and/or implemented in accordance with the requirements of California law and/or DEFENDANTS
12 failed to comply with the AWS, and as such, DEFENDANTS violated California's overtime laws,
13 including but not limited to, Labor Code sections 510, 511, the applicable Wage Order, and Labor
14 Code section 1198. Based on information and belief, DEFENDANTS failed to properly adopt an
15 AWS in accordance with Labor Code section 511 and 1199, and the applicable Wage Order:

16 57. (C) Election Procedures Election procedures for the adoption and repeal of
17 alternative

18 58. workweek schedules require the following: (1) Each proposal for an alternative
19 workweek schedule shall be in the form of a written agreement proposed by the employer. The
20 proposed agreement must designate a regularly scheduled alternative workweek in which the
21 specified number of workdays and work hours are regularly recurring. The actual days worked
22 within that alternative workweek schedule need not be specified. The employer may propose a single
23 work schedule that would become the standard schedule for workers in the work unit, or a menu of
24 work schedule options, from which each employee in the unit would be entitled to choose. If the
25 employer proposes a menu of work schedule options, the employee may, with the approval of the
26 employer, move from one menu option to another. (2) In order to be valid, the proposed alternative
27 workweek schedule must be adopted in a secret ballot election, before the performance of work, by
28 at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held

1 during regular working hours at the employees' work site. For purposes of this subsection, "affected
2 employees in the work unit" may include all employees in a readily identifiable work unit, such as
3 a division, a department, a job classification, a shift, a separate physical location, or a recognized
4 subdivision of any such work unit. A work unit may consist of an individual employee as long as
5 the criteria for an identifiable work unit in this subsection is met. (3) Prior to the secret ballot vote,
6 any employer who proposed to institute an alternative workweek schedule shall have made a
7 disclosure in writing to the affected employees, including the effects of the proposed arrangement
8 on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly
9 noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the
10 alternative workweek schedule. An employer shall provide that disclosure in a non- English
11 language, as well as in English, if at least five (5) percent of the affected employees primarily speak
12 that non-English language. The employer shall mail the written disclosure to employees who do not
13 attend the meeting. Failure to comply with this paragraph shall make the election null and void. (4)
14 Any election to establish or repeal an alternative workweek schedule shall be held at the work site
15 of the affected employees. The employer shall bear the costs of conducting any election held
16 pursuant to this section. Upon a complaint by an affected employee, and after an investigation by
17 the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral
18 third party to conduct the election. (5) Any type of alternative workweek schedule that is authorized
19 by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3)
20 of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of
21 the affected employees shall be required to reverse the alternative workweek schedule. The election
22 to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is
23 submitted to the employer, except that the election shall be held not less than 12 months after the
24 date that the same group of employees voted in an election held to adopt or repeal an alternative
25 workweek schedule. The election shall take place during regular working hours at the employees'
26 work site. If the alternative workweek schedule is revoked, the employer shall comply within 60
27 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may
28 grant an extension of time for compliance. (6) Only secret ballots may be cast by affected employees

1 in the work unit at any election held pursuant to this section. The results of any election conducted
2 pursuant to this section shall be reported by the employer to the Office of Policy, Research and
3 Legislation within 30 days after the results are final, and the report of election results shall be a
4 public document. The report shall include the final tally of the vote, the size of the unit, and the
5 nature of the business of the employer. (7) Employees affected by a change in the work hours
6 resulting from the adoption of an alternative workweek schedule may not be required to work those
7 new work hours for at least 30 days after the announcement of the final results of the election. (8)
8 Employers shall not intimidate or coerce employees to vote either in support of or in opposition to
9 a proposed alternative workweek.

10 59. No employees shall be discharged or discriminated against for expressing opinions
11 concerning the alternative workweek election or for opposing or supporting its adoption or repeal.
12 However, nothing in this section shall prohibit an employer from expressing his/her position
13 concerning that alternative workweek to the affected employees. A violation of this paragraph shall
14 be subject to Labor Code § 98 et seq.

15 60. On information and belief, PLAINTIFF alleges that DEFENDANTS failed to
16 comply with the above procedures, and thus, failed to properly institute an alternative workweek for
17 the purpose of obtaining a lawful exemption from overtime premiums for its mandated alternative
18 workweek schedule. Based on information and belief, DEFENDANTS also failed to report the
19 results to the Office of Policy, Research, and Legislation, or the DLSE, within thirty after the
20 purported election results, and thus, violated Labor Code §§ 511, 1199, and the Applicable Wage
21 Orders. This conduct results in violations of Labor Code §§ 510, 511, and 1198- 1199, and the
22 Applicable Wage Orders.

23 61. These violations subject employer to civil penalties under Labor Code §§ 558 and
24 2699, and All Applicable Wage Orders. Each violation of each Labor Code section and Wage Order
25 provision results in a separate civil penalty, for each Aggrieved Employee, for each pay period
26 during which the referenced statutes and Wage Order provisions were violated.

27 62. Moreover, to the extent there was an AWS that was properly adopted,
28 DEFENDANTS violated California's overtime laws as to Aggrieved Employees and Class

1 Members that were subject to an Alternative Workweek Schedule (AWS) but were required to work
2 shifts shorter than the agreed upon AWS.

3 63. Under the relevant Wage Order, “If an employer... requires an [AWS] employee to
4 work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay
5 the employee overtime compensation at a rate of one and one-half (1 ½) times the employee’s
6 regular rate of pay for all hours worked in excess of eight (8) hours... for the day the employee is
7 required to work the reduced hours.” See Section 3 of all applicable Wage Orders. Based on
8 information and belief, at times during Aggrieved Employees and Class Members’ respective
9 employments by DEFENDANTS, Aggrieved Employees and Class Members worked subject to an
10 alternative work week schedule.

11 64. Based on information and belief, at times, Aggrieved Employees and Class Members
12 that were subject to an AWS, were sent home early and/or worked less hours than those that were
13 scheduled under the AWS. On such shortened shifts, Aggrieved Employees and Class Members
14 were entitled to overtime pay at 1.5 times the regular rate of pay after the first eight hours of work.
15 Instead, DEFENDANTS paid Aggrieved Employees and Class Members their base rate for all hours
16 worked on the shortened shift(s) in violation of the alternative workweek schedule, and in violation
17 of California Labor Code sections 510 and/or 511, the applicable Wage Order, and Labor Code
18 section 1198. As such, Aggrieved Employees and Class Members that were subject to an AWS were
19 also deprived of all owed overtime wages when required to work shortened shifts.

20 65. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees and Class
21 Members consistently worked shifts of at least five and one-half hours or more, entitling them to at
22 least one meal period. However, PLAINTIFF and other Aggrieved Employees and Class Members
23 would not receive legally compliant thirty (30) minute first and second meal periods. Based on
24 information and belief, Aggrieved Employees and Class Members were consistently unable to take
25 timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal
26 periods, interrupted meal periods, and/or work through part or all their meal periods due to
27 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
28 pressuring them to take non-compliant meal periods or skip meal periods completely.

1 66. For example, based on information and belief, Aggrieved Employees and Class
2 Members were forced to take late meal periods in order to complete assigned job duties.

3 67. Based on information and belief, Aggrieved Employees and Class Members were at
4 times and/or always interrupted during purported meal periods and/or had meal periods cut short
5 and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

6 68. For example, at times during PLAINTIFF's employment, including but not limited
7 to when DEFENDANTS assigned PLAINTIFF to work at DEFENDANTS' field location(s),
8 PLAINTIFF was restricted to the work site/DEFENDANTS' work premises during any meal
9 periods and as such was not relieved of all duties and DEFENDANTS' control during unpaid meal
10 periods, resulting in denied meal periods and DEFENDANTS' failure to compensate PLAINTIFF
11 for all hours worked and the underpayment of wages owed to PLAINTIFF.

12 69. Similarly, when PLAINTIFF was assigned to work in DEFENDANTS' office(s) for
13 including but not limited to, the approximately first four (4) weeks of PLAINTIFF's employment
14 with DEFENDANTS, DEFENDANTS required PLAINTIFF to remain on the worksite premises/at
15 his immediate workspace during purportedly off-duty meal periods, and as such PLAINTIFF was
16 not relieved of all duties and DEFENDANTS' control during unpaid meal periods, resulting in
17 denied meal periods and DEFENDANTS' failure to compensate PLAINTIFF for all hours worked
18 and the further underpayment of wages owed to PLAINTIFF.

19 70. Moreover, per DEFENDANTS unlawful meal period policies and practices,
20 PLAINTIFF was only afforded a maximum of a single meal period each shift even when working
21 shifts lasting longer than ten (10) and/or twelve hours and as described herein, that single meal
22 period was legally non-compliant due to including but not limited to DEFENDANTS' requirement
23 that PLAINTIFF remain tethered to the worksite premises during any meal periods.

24 71. For example, when PLAINTIFF worked shifts lasting longer than ten (10) and/or
25 twelve (12) hours, PLAINTIFF was not afforded any version of a second meal period, and when
26 PLAINTIFF worked shifts lasting longer than fifteen (15) hours, PLAINTIFF was not afforded any
27 version of a third meal period.

28 72. Additionally, including but not limited to, when PLAINTIFF was assigned by

1 DEFENDANTS to work in DEFENDANTS' field location(s), PLAINTIFF was often forced to take
2 his single meal period late (i.e. after working more than five (5) hours).

3 73. Based on information and belief, other Aggrieved Employees and Class Members
4 were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had
5 their meal periods interrupted, cut short, and/or otherwise on duty due to commentary from
6 supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet
7 DEFENDANTS' goals and expectations.

8 74. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve Aggrieved Employees and Class Members of all duties and
10 DEFENDANTS' control during unpaid meal periods.

11 75. Based on information and belief, DEFENDANTS required Aggrieved Employees
12 and Class Members to complete off-the-clock work prior to their scheduled shift time which
13 DEFENDANTS failed to take into account when scheduling meal periods for Aggrieved Employees
14 and Class Members. Based on information and belief, meal periods were late, in part due to
15 unaccounted pre-shift off-the-clock work.

16 76. Based on information and belief, despite DEFENDANTS' failure to provide lawful
17 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
18 times of PLAINTIFF's and other Aggrieved Employees and Class Members' meal periods and/or
19 automatically deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise
20 unlawful meal periods despite having actual and/or constructive knowledge that PLAINTIFF and
21 other Aggrieved Employees and Class Members did not receive lawful meal periods.

22 77. For example, DEFENDANTS' time records for PLAINTIFF reflect a precisely
23 thirty-minute meal period on the whole and/or half hour on including but not limited to the following
24 dates: April 10, 2023, April 11, 2023, April 12, 2023, April 13, 2023, and April 14, 2023. Based
25 on information and belief, DEFENDANTS rounded and/or automatically deducted precisely thirty-
26 minutes per shift for meal periods that were interrupted, cut short, on-duty and/or worked through
27 completely, resulting in meal period law violations as well as DEFENDANTS' failure to
28 compensate PLAINTIFF for all hours worked and the underpayment of wages owed to PLAINTIFF.

1 78. Moreover, based on information and belief, Aggrieved Employees and Class
2 Members who worked shifts of more than ten hours did not receive a second legally compliant thirty
3 (30) minute meal period.

4 79. For example, when PLAINTIFF worked more than ten (10) and/or twelve (12) hours
5 in a shift, PLAINTIFF was usually not provided with a compliant second meal period.

6 80. Based on information and belief, per DEFENDANTS' uniform policy and practice,
7 Aggrieved Employees and Class Members who worked shifts of more than fifteen (15) hours did
8 not receive a third legally compliant thirty (30) minute third meal break.

9 81. For example, when PLAINTIFF worked shifts lasting longer than fifteen (15) hours,
10 PLAINTIFF was not afforded any version of a third meal period.

11 82. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
12 other Aggrieved Employees and Class Members as to the timing and duty-free nature of meal
13 periods. Based on further information and belief, DEFENDANTS did not have a compliant written
14 meal period policy, nor did DEFENDANTS have any sort of compliant policy in practice.

15 83. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
16 records of the true start and end times of PLAINTIFF's and Aggrieved Employees and Class
17 Members' meal periods. Based on information and belief, to the extent meal periods were recorded,
18 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in
19 PLAINTIFF and other Aggrieved Employees and Class Members not being paid for all time worked
20 as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th
21 58.

22 84. Based on information and belief, DEFENDANTS had actual and/or constructive
23 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
24 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees
25 and Class Members, in violation of California's meal period laws.

26 85. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees and
27 Class Members, an additional hour of wages at their respective regular rates of compensation for
28 each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal

1 period premium at all for each workday a lawful meal period was not provided and/or failed to pay
2 the proper meal period premium for failure to incorporate all non-discretionary remuneration,
3 including but not limited to, bonuses, shift differential pay and/or other non-discretionary
4 compensation into the regular rate or compensation for purposes of calculating the owed meal period
5 premium.

6 86. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
7 PLAINTIFF and other Aggrieved Employees and Class Members with legally compliant rest
8 periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable,
9 are provided in the middle of the work period, as required by law.

10 87. PLAINTIFF and other Aggrieved Employees and Class Members were not
11 adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest
12 periods per California law. Based on information and belief, DEFENDANTS had no policy in place
13 nor instruction as to the taking or timing of duty-free rest periods.

14 88. Based on information and belief, DEFENDANTS did not have a have a compliant
15 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
16 practice.

17 89. For example, based on information and belief, Aggrieved Employees and Class
18 Members were at times and/or always unable to take compliant rest periods due to their need to
19 complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable
20 rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

21 90. For example, PLAINTIFF was restricted to his workstation/DEFENDANTS'
22 worksite premises during any rest periods and as such was not relieved of all duties and
23 DEFENDANTS' control during any rest periods, in violation of California rest period law.

24 91. For example, based on information and belief, DEFENDANTS failed to authorize
25 and permit rest periods that were a "net" ten minutes in a suitable rest area, and instead, to the extent
26 rest periods were provided, DEFENDANTS limited Aggrieved Employees and Class Members to
27 only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of
28 leaving their workstations, in violation of California rest period law.

1 92. Based on information and belief, any purported rest periods were interrupted, cut
2 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
3 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
4 completely and/or take non-compliant rest periods.

5 93. Moreover, based on information and belief, DEFENDANTS failed to provide any
6 form of a third rest period on shifts lasting longer than ten hours.

7 94. Based on information and belief, DEFENDANTS implemented policies and/or
8 practices that failed to relieve PLAINTIFF and other Aggrieved Employees and Class Members of
9 all duties and DEFENDANTS' control during rest periods.

10 95. Based on information and belief, Aggrieved Employees and Class Members were
11 pressured to complete their work duties according to a designated schedule such that rest periods
12 were only taken once tasks were completed, and/or as time permitted.

13 96. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
14 which PLAINTIFF and other Aggrieved Employees and Class Members experienced a
15 missed/unlawful rest period in violation of California law. DEFENDANTS either failed to pay a
16 rest period premium at all for each workday a proper rest period was not provided and/or failed to
17 pay the proper rest period premium for failure to incorporate all non-discretionary remuneration,
18 including but not limited to, bonuses, shift differential pay, and/or other non-discretionary
19 compensation into the regular rate of compensation for purposes of calculating the owed rest period
20 premium.

21 97. **Cooldown Recovery Period Violations.** California Code of Regulations, Title 8,
22 section 3395 mandates that all employers with “outdoor places of employment” implement a heat
23 illness prevention program that includes, among other requirements, providing workers “cool-
24 down” periods of at least five minutes in the shade. Specifically, section 3395 provides that
25 “employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of
26 no less than five minutes at a time when they feel the need to do so to protect themselves from
27 overheating” and that “such access to shade shall be permitted at all times.” Under California Labor
28 Code section 226.7, if an employer fails to provide an employee a recovery period, the employer

1 shall pay the employee one additional hour of pay at the employee's regular rate of compensation
2 for each workday that the meal or rest or recovery period is not provided.

3 98. Based on information and belief, Aggrieved Employees were required to spend
4 multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS
5 failed to provide proper heat illness prevention training and/or heat illness
6 policies/practices/programs as required by California's Heat Illness Prevention statute, Title 8
7 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by
8 California's Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS
9 maintained a policy and practice of not permitting necessary time for cooldown recovery breaks,
10 and as a result, Aggrieved Employees were required to remain outdoors with little to no access to
11 shade for extended periods of time. In addition, DEFENDANTS, failed to pay Aggrieved
12 Employees with an additional hour of pay at their respective regular rate(s) of pay for each missed
13 cooldown recovery period.

14 99. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
15 provide PLAINTIFF and other Aggrieved Employees and Class Members with accurate wage
16 statements that complied with Labor Code section 226. As DEFENDANTS failed to provide
17 PLAINTIFF and Aggrieved Employees and Class Members with meal and rest periods that
18 complied with Labor section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and
19 Aggrieved Employees and Class Members failed and continue to fail to correctly set forth the gross
20 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect
21 during the pay period and the corresponding number of hours worked at each hourly rate by the
22 employee.

23 100. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
24 Employees and Class Members that also failed to indicate the earned gross and net wages earned
25 during the pay period, the correct applicable rates of pay for all hours worked, and the total hours
26 worked by PLAINTIFF and Aggrieved Employees and Class Members (by virtue of rounded time
27 entries, automatic deduction for meal periods/failure to relieve Aggrieved Employees and Class
28 Members of all duties and employer control during unpaid meal periods, payment according to

1 scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies
2 and practices described above) which results in a violation of Labor Code section 226(a).

3 101. Based on information and belief, wage statements issued by DEFENDANTS failed
4 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid, in
5 violation of including but not limited to, Labor Code section 226(a)(2) and/or Labor Code section
6 226(a)(6).

7 102. For example, based on information and belief, at times, DEFENDANTS issued wage
8 statements to Aggrieved Employees and Class Members containing payment for hours worked
9 during previous pay periods, yet DEFENDANTS' wage statements do not include the inclusive
10 dates of the accurate pay period for that retroactive pay, further failing to list the total hours worked
11 for the pay period, including but not limited to, the total hours worked for the pay period the
12 retroactive pay corresponds with.

13 103. Based on information and belief, DEFENDANTS issued wage statements to
14 Aggrieved Employees and Class Members that fail to accurately list all deductions, in violation of
15 Labor Code section 226(a)(4).

16 104. Moreover, based on information and belief, DEFENDANTS issued wage statements
17 to PLAINTIFF and Aggrieved Employees and Class Members that further violate Labor Code
18 section 226(a), by among other things, failing to list the correct name and/or address of the legal
19 entity that is the employer, in violation of Labor Code section 226(a)(8).

20 105. Based on information and belief, wage statements issued by DEFENDANTS failed
21 to list all applicable hourly rates in effect during the pay period and the corresponding number of
22 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
23 Code section 226(a)(9).

24 106. As such, DEFENDANTS' issued wage statements to Aggrieved Employees and
25 Class Members that did not include all of the statutorily required information, including but not
26 limited to, the correct name and/or address of the legal entity that is the employer.

27 107. Based on further information and belief, DEFENDANTS issued wage statements to
28 Aggrieved Employees and Class Members that failed to list the accurate total hours worked

1 whenever shift differential wages were paid in violation of Labor Code section 226.

2 108. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
3 Employees and Class Members that were not accurate and did not include all of the statutorily
4 required information. As such, DEFENDANTS violated Labor Code section 226.

5 109. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
6 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
7 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
8 from Aggrieved Employees paychecks during the relevant period including without limitation,
9 deducting business costs and/or deducting wages for purported overpayments from previous pay
10 periods and/or unlawfully ducting wages for negligently damaged property and/or unlawfully
11 deducting transaction fees/pay/money card fees and/or deducting costs advanced by
12 DEFENDANTS. Such a practice is in violation of including but not limited to, Labor Code Sections
13 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

14 110. **Unreimbursed Business Expenses.** Based on information and belief,
15 DEFENDANTS required PLAINTIFF and other Aggrieved Employees and Class Members to incur
16 business expenses as a direct consequence of the performance of their job duties without providing
17 reimbursement, in violation of Labor Code section 2802. Based on information and belief,
18 PLAINTIFF and other Aggrieved Employees and Class Members were improperly required to
19 provide and maintain work tools that are supposed to be the responsibility of the employer.

20 111. Based on information and belief, DEFENDANTS shifted the costs of doing business
21 onto Aggrieved Employees and Class Members by requiring them to pay for business expenses,
22 including but not limited to, to receive and respond to work-related messages and/or phone calls.
23 For example, based on information and belief, Aggrieved Employees and Class Members were
24 required to receive and respond to work-related calls and/or messages from supervisors and/or other
25 employees regarding scheduling and/or other work tasks but were not reimbursed by
26 DEFENDANTS at all and/or in full for these business expenses.

27 112. For example, DEFENDANTS required PLAINTIFF to use his personal cell
28 phone/mobile device for work, including but not limited to, for making/sending and/or receiving

1 work-related calls and/or messages, however, DEFENDANTS failed to provide PLAINTIFF with
2 any and/or full reimbursement for the business expenses PLAINTIFF incurred in connection with
3 being required to use his personal cell phone/mobile device for work, including without limitation,
4 increased data plan charges.

5 113. Based on information and belief, Aggrieved Employees and Class Members were
6 not reimbursed for the cost of purchasing and/or maintaining their own hand tools and/or equipment
7 required to perform their assigned job duties and/or for the costs of purchasing and/or maintaining
8 work uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks and/or work
9 boots).

10 114. For example, DEFENDANTS required PLAINTIFF purchase and/or maintain work
11 boots and/or other uniforms/work clothing/work shoes and/or protective and/or safety gear
12 DEFENDANTS required PLAINTIFF wear for work, however, DEFENDANTS did not provide
13 PLAINTIFF with any and/or full reimbursement expenses PLAINTIFF incurred in connection
14 therewith.

15 115. Based on information and belief, at times, Aggrieved Employees and Class Members
16 were not reimbursed for the business use of their personal vehicles, including mileage, wear and
17 tear and/or cost of fuel when they were required to drive around and/or between job sites, and/or
18 otherwise use their personal vehicles in carrying out the duties assigned by DEFENDANTS. As
19 such, DEFENDANTS failed to compensate Aggrieved Employees and Class Members at the legally
20 mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant
21 period.

22 116. As explained above, based on information and belief, Aggrieved Employees and
23 Class Members were not reimbursed for the cost of using their personal phone(s) for work-related
24 purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work
25 shoes, personal protective/safety gear and/or cost of purchasing and/or maintaining their own hand
26 tools and/or equipment required to perform their assigned job duties.

27 117. Based on information and belief, Aggrieved Employees and Class Members were
28 improperly required to pay for business expenses that are supposed to be the responsibility of

1 DEFENDANTS.

2 118. Based on information and belief, DEFENDANTS regularly failed to reimburse and
3 indemnify Aggrieved Employees and Class Members for business expenses. Pursuant to California
4 Labor Code section 2802, PLAINTIFF and Aggrieved Employees and Class Members were entitled
5 to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders
6 and/or carrying out the duties assigned by DEFENDANTS.

7 119. DEFENDANTS' failure to provide Aggrieved Employees and Class Members with
8 full reimbursement for all reasonable expenses associated with carrying out their duties required
9 that Aggrieved Employees and Class Members subsidize and/or carry the burden of business
10 expenses in violation of Labor Code section 2802.

11 120. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
12 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
13 were due and owing upon termination or resignation. Based on information and belief,
14 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
15 requirements of Labor Code sections 201-202.

16 121. Upon separation of employment, Aggrieved Employees' final paychecks were not
17 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
18 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
19 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
20 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
21 accrued rates.

22 122. Based on further information and belief, DEFENDANTS failed to timely provide all
23 owed wages immediately upon discharge of employment. Based on information and belief, at times,
24 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
25 Aggrieved Employees would not be called in for work for longer than a single pay period due to
26 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
27 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
28 the end of such periods of employment, in violation of including but not limited to Labor Code

1 section 201-202.

2 123. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
3 engaged in these same herein described unlawful practices, which led to violations of the California
4 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
5 unlawful practices to all of its employees that it applied to PLAINTIFF.

6 **FIRST CAUSE OF ACTION**

7 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
8 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

9 124. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

10 125. It is fundamental that an employer must pay its employees for all time worked.
11 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
12 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
13 permits deductions from wages when the employer is required or empowered to do so by state or
14 federal law or when the deduction is expressly authorized in writing by the employee for specified
15 purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223
16 prohibits the pay of less than a statutory or contractual wage scale.

17 126. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
18 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
19 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
20 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
21 period is unlawful.

22 127. DEFENDANTS violated California’s minimum wage laws by failing to compensate
23 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
24 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
25 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
26 and/or payment according to scheduled hours worked rather than actual hours worked (described
27 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
28 wages.

128. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and

1 Class Members for all hours worked.

2 129. Based on information and belief, DEFENDANTS had actual or constructive
3 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
4 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
5 periods, policy and practice of payment according to scheduled work time rather than actual work
6 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
7 owed to PLAINTIFF and other Class Members.

8 130. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
9 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
10 attorney's fees and costs, in an amount to be proved at trial.

11 **SECOND CAUSE OF ACTION**

12 **Recovery of Unpaid Overtime Wages**
13 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

14 131. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

15 132. Employees in California must be paid overtime, equal to one and one-half times the
16 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
17 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
18 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
19 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
20 consecutive day of work in a workweek, unless they are exempt.

21 133. PLAINTIFF and the Class Members worked overtime hours for which they were not
22 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
23 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
24 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
25 scheduled hours worked rather than actual hours worked (described above), which resulted in the
26 failure to account for all hours worked and thus the denial of all owed overtime wages.

27 134. Based on information and belief, DEFENDANTS failed to pay twice Class
28 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in

1 violation of California's overtime laws.

2 135. Based on information and belief, DEFENDANTS further violated California's
3 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
4 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
5 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
6 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
7 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
8 other Class Members.

9 136. DEFENDANTS' conduct described above is in violation of California Labor Code
10 sections 510 and 1194 and all applicable Wage Orders.

11 137. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
12 wages, plus attorney's fees and costs, in an amount to be proved.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Provide Meal Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

15 138. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

16 139. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
17 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
18 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
19 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
20 waived, but only under the following circumstances: (1) if an employee's total work period in a day
21 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
22 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
23 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
24 waived by mutual consent of the employer and employee, but only if the first meal period was not
25 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
26 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
27 done so.

28 140. Employers must pay employees an additional hour of wages at the employees'

1 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
2 meal period, first meal period provided after five (5) hours, second meal period provided after 10
3 hours). Lab. Code § 226.7.

4 141. As explained above, PLAINTIFF and other Class Members were consistently unable
5 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being
6 forced to take late meal periods, interrupted meal periods, and/or work through part or all of their
7 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary
8 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
9 completely.

10 142. Based on information and belief, DEFENDANTS had and continue to have a policy
11 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
12 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
13 Members did not receive compliant meal periods.

14 143. Moreover, based on information and belief, Class Members did not receive a timely,
15 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

16 144. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
17 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
18 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
19 violation of California's meal period laws.

20 145. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
21 periods in violation of California law and/or failed to pay the proper meal period premium for failure
22 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
23 differential pay and/or other non-discretionary compensation into the regular rate or compensation
24 for purposes of calculating the owed meal period premium.

25 146. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
26 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
27 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
28 all in an amount to be proved at trial.

FOURTH CAUSE OF ACTION
Failure to Provide Rest Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

147. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

148. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period “insofar as practicable.” In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

149. If the employer fails to provide any required rest period, the employer must pay the employee one hour of pay at the employee’s regular rate of compensation for each workday the employer did not provide at least one legally required rest period, pursuant to Labor Code section 226.7.

150. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to DEFENDANTS’ control due to the nature and constraints of Class Members’ job duties, understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to skip rest periods completely or otherwise take non-compliant rest periods.

151. Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer control during rest periods. Based on further information and belief, Class Members were pressured to complete their work duties according to a designated schedule such that rest periods were only taken once tasks were completed, and/or as time permitted.

1 152. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
2 second, or third rest periods as required by California law.

3 153. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
4 period premium to PLAINTIFF and other Class Members for each workday in which there was a
5 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
6 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
7 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
8 regular rate of compensation for purposes of determining the owed rest period premium.

9 154. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
10 hour of additional pay at the regular rate of compensation for each workday that a required rest
11 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
12 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
13 trial.

14 **FIFTH CAUSE OF ACTION**

15 **Failure to Furnish Accurate Itemized Wage Statements** 16 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

17 155. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

18 156. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
19 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
20 wage statement accurately stating the following:

21 (1) gross wages earned, (2) total hours worked by the employee,
22 except for any employee whose compensation is solely based on a
23 salary and who is exempt from payment of overtime under
24 subdivision (a) of Section 515 or any applicable order of the Industrial
25 Welfare Commission, (3) the number of piece-rate units earned and
26 any applicable piece rate if the employee is paid on a piece-rate basis,
27 (4) all deductions, provided that all deductions made on written orders
28 of the employee may be aggregated and shown as one item, (5) net
wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and his or her social
security number, except that by January 1, 2008, only the last four
digits of his or her social security number or an employee
identification number other than a social security number may be
shown on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in
effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

1 157. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
2 meal and rest periods that complied with Labor Code section 226.7, any wage statements
3 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
4 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
5 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
6 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
7 during the pay period and the corresponding number of hours worked at each hourly rate by the
8 employee, in violation of Labor Code section 226(a)(9).

9 158. Moreover, due to violations detailed above, including but not limited to,
10 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
11 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
12 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
13 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross
14 and net wages earned and the correct applicable rates of pay for all hours worked. Based on
15 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
16 compensation earned during the pay period into the regular rate of pay for purposes of calculating
17 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
18 overtime worked by PLAINTIFF and other Class Members.

19 159. As explained above, any wage statements issued by DEFENDANTS failed to list the
20 "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries,
21 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
22 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
23 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
24 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
25 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
26 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

27 160. Based on information and belief, any wage statements issued by DEFENDANTS
28 failed to list all applicable hourly rates in effect during the pay period and the corresponding number

1 of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

2 161. Separately, and independent from the above allegations, DEFENDANTS issued
3 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by
4 failing to list the correct name and/or address of the legal entity that is the employer.

5 162. Based on information and belief, wage statements issued by DEFENDANTS failed
6 to list the inclusive dates of the pay period for which the Class Member is being paid.

7 163. DEFENDANTS' failure to accurately list all hours worked on all wage statements
8 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
9 Members over whether they received all wages owed to them.

10 164. As a result, PLAINTIFF and other Class Members have suffered injury as they could
11 not easily determine whether they received all wages owed to them and whether they were paid for
12 all hours worked.

13 165. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
14 address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered injury
15 as they could not contact their employer regarding any question(s) they had about wages paid.

16 166. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
17 Class Members with accurate, itemized wage statements.

18 167. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
19 have suffered injury. The absence of accurate information on their wage statements has prevented
20 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
21 mathematical computations to determine the amount of wages owed, and will cause difficulty and
22 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
23 submission of inaccurate information about wages and amounts deducted from wages to state and
24 federal government agencies. As a result, PLAINTIFF and Class Members are required to
25 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
26 and pay records than if DEFENDANT had complied with its legal obligations.

27 168. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
28 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226

1 violation occurred and one hundred dollars per employee per violation for each subsequent pay
2 period, not to exceed an aggregate penalty of four thousand dollars per employee.

3 169. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
4 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
5 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
6 provide currently employed Class Members with inaccurate wage statements and/or with no wage
7 statements at all in violation of California Labor Code § 226, including but not limited to §226(a).
8 Currently employed Class Members have no adequate legal remedy for the continuing injuries that
9 will be suffered as a result of DEFENDANTS' ongoing unlawful conduct. Injunctive relief is the
10 only remedy available for ensuring DEFENDANTS' compliance with California Labor Code §
11 226(a).

12 170. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
13 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
14 attorneys' fees, and costs of suit.

15 **SIXTH CAUSE OF ACTION**

16 **Failure to Timely Pay All Wages Due Upon Separation of Employment 17 (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

18 171. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

19 172. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
20 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
21 payable immediately."

22 173. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
23 employee not having a written contract for a definite period quits his or her employment, his or her
24 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
25 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
26 to his or her wages at the time of quitting."

27 174. Based in information and belief, DEFENDANTS failed and continue to fail to timely
28 pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of
Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class

1 Members do not include all wages owed as they are devoid of, including but not limited to, all owed
2 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
3 paid time off wages at the properly accrued rates.

4 175. Under Labor Code section 203, PLAINTIFF and the Class Members who are no
5 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days'
6 pay, plus attorney's fees and costs, in an amount to be proved at trial.

7 **SEVENTH CAUSE OF ACTION**
8 **Failure to Reimburse Business Expenses**
9 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

10 176. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

11 177. California law requires employers to indemnify their employees for all necessary
12 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
13 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
14 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
15 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
16 incurred by the employee enforcing the rights granted by this section."

17 178. Among other things, under California law, when employees must use their personal
18 cellphones for work-related purposes, the employer must reimburse them for a reasonable
19 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
20 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
21 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
22 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
23 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
24 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

25 179. As described above, PLAINTIFF and the Class Members were improperly required
26 to pay for business expenses that are legally the responsibility of the employer.

27 180. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full
28 reimbursement for all reasonable expenses associated with carrying out their duties required that
PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in

1 violation of Labor Code section 2802.

2 181. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
3 Members have suffered injury in that they were not completely reimbursed as mandated by
4 California law.

5 182. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
6 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
7 attorneys' fees, and costs of suit.

8 **EIGHTH CAUSE OF ACTION**

9 **Unfair Competition**

10 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

11 183. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 184. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
13 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
14 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
15 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
16 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
17 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
18 wage statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure
19 to timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to
20 provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to,
21 including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
22 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
23 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and
24 practices, payment according to scheduled hours worked and/or other off-the-clock work policies
25 and practices).

26 185. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
27 California Labor Code, DEFENDANTS have gained a competitive advantage over other
28 comparable companies doing business in the State of California that comply with their obligations
to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums

1 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
2 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
3 minimum and overtime wages and to pay all wages due upon separation of employment of their
4 employees.

5 186. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
6 and Class Members have suffered injury in fact and lost money or property, as described in more
7 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
8 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
9 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
10 unlawful and unfair business practices.

11 187. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
12 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
13 engaging in each of the unlawful practices and policies set forth herein.

14 188. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc
15 Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted
16 by law.

17 **NINTH CAUSE OF ACTION**
18 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
19 **2698, *ET SEQ.***
20 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
21 **Defendants)**

22 189. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

23 **Failure to Keep Accurate Records**

24 190. California Labor Code § 1174 requires employers to keep "accurate and complete"
25 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
26 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
27 times during which all owed meal periods were provided each day.

28 191. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
and complete records as required by law, including but not limited to the following records: total
daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other

1 Aggrieved Employees began and ended each work period, time records of meal periods, and
2 accurate itemized wage statements.

3 192. DEFENDANTS' failure to keep "accurate and complete" payroll records for
4 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
5 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
6 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
7 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
8 period during which the referenced statutes and Wage Order provisions were violated.²

9 **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

10 193. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage
11 Orders, section 7 require that employers keep the following information on file for each employee
12 for a minimum of three years: The employee's dates of employment; the employee's hourly rates
13 and the corresponding number of hours worked by the employee at each hourly rate, when the
14 employee begins and ends each work period (including meal periods) and split intervals; total hours
15 worked by the employee; all deductions; gross wages earned; and net wages earned.

16 194. Section (b) of Labor Code section 226 further requires employers to "afford current
17 and former employees the right to inspect or receive a copy of records pertaining to their
18 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
19 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
20 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
21 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
22 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
23 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
24 the employer. Lab. Code section 226(f).

25 ² Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period");
26 ;Labor Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which
27 the employee was underpaid"); All applicable wage orders, § 20 (establishing that "[i]n addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid") (emphasis added).

1 195. Personnel Records. In addition to their right to time and pay records, employees, and
2 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
3 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
4 section 432 further specifies that employers must furnish copies of all employment records bearing
5 the employee's signature. Labor Code section 1198.5 also requires that the file be made available
6 for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days
7 from the date the employer receives a written request." An employer's failure to comply within this
8 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar
9 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

10 196. Based on information and belief, DEFENDANTS fail to timely produce or make
11 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant
12 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order.

13 197. For example, PLAINTIFF, through counsel, sent a written request for personnel and
14 payroll records on or around the following date(s): May 17, 2024. However, DEFENDANTS failed
15 to timely produce complete personnel and payroll records within the time periods delineated by
16 California law. Based on information and belief, DEFENDANTS fail to timely produce or make
17 available other Aggrieved Employees' personnel records and/or payroll records when requested
18 pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order.

19 198. These violations subject DEFENDANTS to penalties under Labor Code sections
20 226, 1198.5, and 2699.

21 **Meal Period Violations**

22 199. California law requires employers to provide employees a duty-free, uninterrupted
23 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
24 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
25 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
26 *Court* (2012) 53 Cal.4th 1004.

27 200. Employers must also provide employees with a second duty-free, uninterrupted thirty
28 (30) minute meal period when an employee works more than (10) hours in a workday, and it must

1 be provided before the end of the 10th hour of work. *Ibid.*

2 201. Employers covered by any and all applicable IWC Wage Orders have an obligation
3 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
4 *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is
5 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
6 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
7 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
8 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
9 provided”).

10 202. Employers must pay employees an additional hour of wages at the employees’
11 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
12 meal period, first meal period provided after five (5) hours, second meal period provided after 10
13 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
14 provide an employee a meal period in accordance with the applicable provision of this Order, the
15 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
16 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

17 203. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
18 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
19 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
20 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
21 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
22 periods completely.

23 204. Based on information and belief, DEFENDANTS had and continue to have a policy
24 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
25 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
26 Aggrieved Employees did not receive compliant meal periods.

27 205. Moreover, based on information and belief, Aggrieved Employees did not receive a
28 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

1 206. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
2 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
3 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
4 violation of California's meal period laws.

5 207. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
6 periods in violation of California law and/or failed to pay the proper meal period premium for failure
7 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
8 differential pay and/or other non-discretionary compensation into the regular rate or compensation
9 for purposes of calculating the owed meal period premium.

10 208. These unlawful meal period policies and practices result in violations of Labor Code
11 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
12 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
13 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
14 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

15 **Rest Period Violations**

16 209. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
17 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
18 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
19 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
20 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
21 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
22 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
23 1029). The rest period requirement obligates employers to permit and authorize employees to take
24 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
25 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
26 257. If the employer fails to provide any required rest period, the employer must pay the employee
27 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
28 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and

1 applicable IWC Wage Order, §12(B).

2 210. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
3 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
4 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
5 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
6 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
7 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
8 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
9 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
10 “onus is on the employer to clearly communicate the authorization and permission [to take rest
11 periods] to its employees.”).

12 211. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
13 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
14 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
15 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
16 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
17 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

18 212. Based on information and belief, DEFENDANTS implemented policies and/or
19 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
20 employer control during rest periods. Based on further information and belief, Aggrieved
21 Employees were pressured to complete their work duties according to a designated schedule such
22 that rest periods were only taken once tasks were completed, and/or as time permitted.

23 213. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
24 first, second, or third rest periods as required by California law.

25 214. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
26 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
27 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
28 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including

1 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
2 the regular rate of compensation for purposes of determining the owed rest period premium.

3 215. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
4 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
5 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

6 **Cooldown Recovery Period Violations**

7 216. California Code of Regulations, Title 8, section 3395 mandates that all employers
8 with “outdoor places of employment” implement a heat illness prevention program that includes,
9 among other requirements, providing workers “cool-down” periods of at least five minutes in the
10 shade. Specifically, section 3395 provides that “employees shall be allowed and encouraged to take
11 a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the
12 need to do so to protect themselves from overheating” and that “such access to shade shall be
13 permitted at all times.” Under California Labor Code section 226.7, if an employer fails to provide
14 an employee a recovery period, the employer shall pay the employee one additional hour of pay at
15 the employee’s regular rate of compensation for each workday that the meal or rest or recovery
16 period is not provided.

17 217. Based on information and belief, Aggrieved Employees were required to spend
18 multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS
19 failed to provide proper heat illness prevention training and/or heat illness
20 policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8
21 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by
22 California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS
23 maintained a policy and practice of not permitting necessary time for cooldown recovery breaks,
24 and as a result, Aggrieved Employees were required to remain outdoors with little to no access to
25 shade for extended periods of time. In addition, DEFENDANTS, failed to pay Aggrieved
26 Employees with an additional hour of pay at their respective regular rate(s) of pay for each missed
27 cooldown recovery period.

1 **Minimum and Overtime Wage Violations**

2 218. California law provides that employees in California must be paid for all hours
3 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
4 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
5 The minimum wage standard applies to each hour employees worked for which they were not paid.
6 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
7 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
8 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

9 219. California law also provides that employees in California must be paid overtime,
10 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
11 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
12 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
13 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
14 consecutive day of work in a work week. *Ibid.*

15 220. As explained above, DEFENDANTS violated California's minimum and overtime
16 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
17 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
18 start and end times and meal period start and end times), payment according to scheduled hours
19 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
20 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
21 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

22 221. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
23 Aggrieved Employees for all hours worked.

24 222. Based on information and belief, DEFENDANTS had actual or constructive
25 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
26 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
27 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
28 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved

1 Employees.

2 223. Based on information and belief, DEFENDANTS calculated the owed overtime
3 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
4 based on the minimum wage established for the cities and/or counties within which Aggrieved
5 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
6 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
7 above the California minimum wage rate.

8 224. Based on information and belief, DEFENDANTS failed and continue to fail to pay
9 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
10 in a week.

11 225. Based on information and belief, DEFENDANTS failed and continue to fail to pay
12 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
13 in a week.

14 226. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
15 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
16 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
17 violation of California's overtime laws.

18 227. Based on information and belief, DEFENDANTS calculated the owed overtime
19 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
20 based on the minimum wage established for the cities and/or counties within which Aggrieved
21 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
22 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
23 above the California minimum wage rate.

24 228. Based on information and belief, DEFENDANTS further violated California's
25 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
26 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
27 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
28 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of

1 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
2 other Aggrieved Employees.

3 229. For example, based on information and belief, Aggrieved Employees earned shift
4 differential pay, non-discretionary bonuses/incentive pay and/or other non-discretionary
5 compensation during pay periods in which they worked overtime, yet DEFENDANTS failed to
6 incorporate all non-discretionary compensation into the regular rate(s) used to calculate the owed
7 overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to
8 Aggrieved Employees.

9 230. Based on information and belief, at times, Aggrieved Employees that were subject
10 to an AWS, were sent home early and/or worked less hours than those that were scheduled under
11 the AWS. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5 times
12 the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid Aggrieved
13 Employees their base rate for all hours worked on the shortened shift(s) in violation of the alternative
14 workweek schedule, and in violation of California Labor Code sections 510 and/or 511, the
15 applicable Wage Order, and Labor Code section 1198. As such, Aggrieved Employees that were
16 subject to an AWS were also deprived of all owed overtime wages when required to work shortened
17 shifts.

18 231. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
19 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
20 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
21 Wage Orders, section 20.

22 **Statutory Wage Violations**

23 232. California Labor Code section 223 makes it unlawful for an employer to secretly pay
24 wages lower than required by statute while purporting to pay legal wages. As described above,
25 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
26 earned minimum and overtime compensation for all hours worked which resulted in the payment of
27 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
28 statutory wages, including, but not limited to, minimum and overtime wages, to which they were

1 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
2 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
3 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
4 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
5 Labor Code § 2699(f)-(g).

6 **Refusal to Make Payment**

7 233. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
8 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
9 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
10 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
11 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
12 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
13 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
14 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

15 **Standard Conditions of Labor Violations**

16 234. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
17 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
18 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
19 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
20 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
21 minimum/overtime wages and other violations described herein result in separate violations of
22 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
23 1197.1 and 2699.

24 **Business Expense Violations**

25 235. California law requires employers to indemnify their employees for all necessary
26

27 ³ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
2 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
3 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
4 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
5 incurred by the employee enforcing the rights granted by this section.”

6 236. Among other things, under California law, when employees must use their personal
7 cellphones for work-related purposes, the employer must reimburse them for a reasonable
8 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
9 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
10 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
11 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
12 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
13 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

14 237. Further, “any contract or agreement, express or implied, made by any employee to
15 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
16 any employee or his personal representative of any right or remedy to which he is entitled to under
17 the laws of this State.” *See* Cal. Lab. Code section 2804.

18 238. As described above, PLAINTIFF and the Aggrieved Employees were improperly
19 required to pay for business expenses that are legally the responsibility of the employer.

20 239. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
21 full reimbursement for all reasonable expenses associated with carrying out their duties required
22 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
23 expenses in violation of Labor Code section 2802.

24 240. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
25 Employees have suffered injury in that they were not completely reimbursed as mandated by
26 California law.

27 241. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
28 full reimbursement for all reasonable expenses associated with carrying out their duties required

1 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
2 expenses in violation of Labor Code section 2802.

3 242. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
4 Employees have suffered injury in that they were not completely reimbursed as mandated by
5 California law.

6 243. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
7 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
8 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
9 Code § 2802 and the applicable Wage Order.

10 **Wage Statement Violations**

11 244. California law requires every employer semi-monthly or at the time of each payment
12 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
13 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
14 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
15 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
16 is paid; (7) the name of the employee and only the last four digits of his or her social security number
17 or an employee identification number other than a social security number; (8) the name and address
18 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
19 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

20 245. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
21 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
22 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
23 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
24 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
25 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
26 effect during the pay period and the corresponding number of hours worked at each hourly rate by
27 the employee, in violation of Labor Code section 226(a)(9).

28 246. Moreover, due to violations detailed above, including but not limited to,

1 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
2 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
3 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
4 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
5 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
6 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
7 compensation earned during the pay period into the regular rate of pay for purposes of calculating
8 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
9 overtime worked by PLAINTIFF and other Aggrieved Employees.

10 247. As explained above, wage statements issued by DEFENDANTS failed to list the
11 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
12 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
13 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
14 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
15 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
16 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

17 248. Based on information and belief, wage statements issued by DEFENDANTS failed
18 to list all applicable hourly rates in effect during the pay period and the corresponding number of
19 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
20 Code section 226(a)(9).

21 249. Separately, and independent from the above allegations, based on information and
22 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
23 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
24 entity that is the employer.

25 250. Based on information and belief, wage statements issued by DEFENDANTS failed
26 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

27 251. DEFENDANTS' failure to accurately list all hours worked on all wage statements
28 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved

1 Employees over whether they received all wages owed to them.

2 252. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
3 they could not easily determine whether they received all wages owed to them and whether they
4 were paid for all hours worked.

5 253. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
6 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
7 injury as they could not contact their employer regarding any question(s) they had about wages paid.

8 254. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
9 Aggrieved Employees with accurate, itemized wage statements.

10 255. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
11 Employees have suffered injury. The absence of accurate information on their wage statements has
12 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
13 mathematical computations to determine the amount of wages owed, and will cause difficulty and
14 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
15 submission of inaccurate information about wages and amounts deducted from wages to state and
16 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
17 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
18 and pay records than if DEFENDANT had complied with its legal obligations.

19 256. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
20 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
21 during which the statute provisions were violated. ⁴

22 **Unlawful Deductions**

23 257. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
24 an employee any part of wages theretofore paid by said employer to said employee." Based on
25 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
26 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
27 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 Section 2699.

2 258. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
3 each pay period during which the statute provisions were violated. See Lab. Code §225.5
4 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
5 provided in this article, every person who unlawfully withholds wages due any employee in
6 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
7 to pay each employee”).

8 **Reporting Time Pay Violations**

9 259. Section 5 of all applicable IWC Wage Orders, provides as follows:

10 260. (A) Each workday an employee is required to report for work and does report, but is
11 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the
12 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two
13 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less
14 than the minimum wage. (B) If an employee is required to report for work a second time in any one
15 workday and is furnished less than two (2) hours of work on the second reporting said employee
16 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
17 minimum wage.

18 261. Aggrieved Employees were not paid reporting time wages in accordance with
19 California law, including but not limited to the applicable IWC Wage Order. For example, based on
20 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but
21 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
22 in accordance with California law.

23 262. Based on information and belief, DEFENDANTS have a policy and practice of
24 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
25 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to
26 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
27 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

28 **Seating Violations**

1 263. Per all applicable IWC Wage Orders, employees shall be provided with suitable seats
2 when the nature of the work reasonably permits the use of seats and when they are not actively
3 engaged in the work duties that would not permit them to be seated.

4 264. Suitable seating is one of the worker protections covered by California's Wage
5 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
6 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
7 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

8 265. Based on information and belief, DEFENDANTS failed to provide Aggrieved
9 Employees with suitable seating, and when such employees were not engaged in duties which
10 required them to stand, no seating was placed in reasonable proximity to their workstations.

11 266. Moreover, based on information and belief, the nature of the work reasonably
12 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
13 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
14 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
15 of seats would not interfere with the performance of their duties.

16 267. The Aggrieved Employees worked in various positions. The nature of Aggrieved
17 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
18 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of all
19 applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to
20 civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section
21 and IWC Wage Order provision, for each Aggrieved Employee, results in a separate civil penalty.

22 **Sick Leave Violations**

23 268. DEFENDANTS violated California's paid sick leave laws including, Labor Code
24 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
25 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
26 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
27 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
28 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary

1 compensation into the sick leave pay rate calculation.

2 269. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
3 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
4 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
5 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
6 Aggrieved Employees’ intelligent exercise of their paid sick leave.

7 270. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
8 their paid sick leave at least prior to their respective separations, for as on several occasions
9 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
10 compensation.

11 271. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
12 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
13 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
14 were entitled to the maximum number of hours accruable.

15 272. Upon information and belief, DEFENDANTS failed and continue to fail to comply
16 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
17 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
18 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
19 wages.

20 273. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

21 274. On information and belief, PLAINTIFF alleges that all of these practices were
22 experienced and continue to be experienced by other Aggrieved Employees.

23 275. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
24 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
25 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

26 **Failure to Pay Vested Vacation/Paid Time Off**

27 276. California Labor Code section 227.3 provides that when an employer policy provides
28 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,

1 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
2 employee's final rate in accordance with such contract of employment or employer policy respecting
3 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
4 off upon termination.

5 277. Based on information and belief, DEFENDANTS had and continue to have a
6 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
7 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
8 (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-
9 discretionary compensation, including but not limited to, shift differentials) to Aggrieved
10 Employees upon separation of employment, in violation of California law, including but not limited
11 to, Labor Code section 227.3.

12 **Untimely Payment of Final Wages**

13 278. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
14 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
15 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
16 employee not having a written contract for a definite period quits his or her employment, his or her
17 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
18 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
19 to his or her wages at the time of quitting."

20 279. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
21 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
22 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
23 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
24 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
25 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

26 280. Based on information and belief, DEFENDANTS failed and continue to fail to timely
27 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
28 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF

1 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
2 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
3 sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all
4 owed vacation pay/paid time off paid at the final rate including non-discretionary compensation,
5 including but not limited to, shift differentials).

6 281. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
7 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
8 256.

9 **Violation of Labor Code Section 208**

10 282. Labor Code Section 208 provides: Every employee who is discharged shall be paid
11 at the place of discharge, and every employee who quits shall be paid at the office or agency of the
12 employer in the county where the employee has been performing labor. All payments shall be made
13 in the manner provided by law.

14 283. Based on information and belief, DEFENDANTS have a policy and practice of
15 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
16 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
17 office or agency of DEFENDANTS in the county where the work was performed, in violation of
18 Labor Code Section 208.

19 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

20 *Unlawful Agreements.*

21 284. Labor Code section 432.5 provides that “no employer...shall require any employee
22 or applicant for employment to agree, in writing, to any term or condition which is known by such
23 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
24 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
25 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
26 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
27 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
28 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing

1 employment in violation of Labor Code section 432.5.

2 285. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
3 employment, continued employment, or the receipt of any employment-related benefit, require any
4 applicant for employment or any employee to waive any right...”Based on information and belief,
5 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
6 signed as a condition of employment, including but not limited to, during the onboarding process.
7 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
8 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
9 invalid waivers are otherwise unlawful under Labor Code section 432.6.

10 286. Based on information and belief, DEFENDANTS also required Aggrieved
11 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
12 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
13 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
14 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

15 287. Based on further information and belief, DEFENDANTS knew that requiring
16 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
17 condition of obtaining and/or holding employment was unlawful.

18 288. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
19 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
20 432.5.

21 Unlawful Inquires into Criminal History

22 289. Labor Code section 432.7 prohibits an employer from asking applicants about past
23 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
24 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
25 convictions on its employment application, in violation of California law.

26 290. Upon information and belief, DEFENDANTS, in violation of California law,
27 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
28 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of

1 employment and/or otherwise impermissibly inquired into criminal history on its employment
2 application in violation of California law.

3 291. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
4 Code section 432.7. By asking about convictions at the application phase or prior to extending an
5 employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated
6 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
7 disclose arrests and/or convictions as a condition of employment.

8 Unlawful PAGA Waiver

9 292. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
10 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
11 to, an unlawful waiver of PAGA and/or representative actions as a condition of employment.

12 293. An action pursuant to PAGA "...is a representative action on behalf of the state"
13 *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
14 purporting to waive an employee's right to a trial of PAGA claims is contrary to California law and
15 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
16 ("We conclude that where, as here, an employment agreement compels the waiver of representative
17 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.")

18 294. Moreover, the California Supreme Court has ruled that a court cannot compel
19 arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an
20 individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is
21 no individual component to a PAGA action because 'every PAGA action ... is a representative
22 action on behalf of the state.'")

23 295. Upon information and belief, DEFENDANTS required Aggrieved Employees to
24 agree in writing to waive their right to a trial of PAGA claims in violation of California law. By
25 requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS
26 required written agreement to an unlawful provision as a condition of employment which is a
27 violation of labor code section 432.5.

28 **Violation of Labor Code Section 432.6**

1 296. Based on information and belief, DEFENDANTS required Aggrieved Employees to
2 sign meal period waivers that were universally signed as a condition of employment, including but
3 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
4 under Labor Code section 432.6.

5 297. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
6 employment, continued employment, or the receipt of any employment-related benefit, require any
7 applicant for employment or any employee to waive any right...”

8 298. Labor Code Section 432.6(b) provides in pertinent part:

9 299. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
10 applicant for employment or any employee because of the refusal to the waiver of any right...”

11 300. Based on information and belief, DEFENDANTS require/required Aggrieved
12 Employees to waive their right to first and/or second meal periods as a condition of working for
13 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not
14 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
15 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
16 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
17 refusal to waive their meal period rights.

18 301. Under the provisions of PAGA and the above mentioned Labor Code sections,
19 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
20 226.7, 227.3, 245-248.6, 256, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
21 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as
22 well as all interpretations of these laws by California Courts and administrative bodies, as well as
23 any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
24 penalties:

- 25 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
26 relevant California Labor Code provisions listed herein only if permitted by the
27 PAGA statute, pursuant to Labor Code section 2699(a); and
28 b. Default PAGA penalties for any violation of the enumerated list of Labor Code

1 violations without a civil penalty recoverable under the PAGA, all in the default
2 amounts provided by Labor Code section 2699(f).

3 c. The proper measure of penalties under PAGA is the number of violations,
4 whether those violations were committed as against PLAINTIFF or any
5 Aggrieved Employee, whether a party to this action or not.

6 302. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
7 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
10 PLAINTIFF, the State of California, all Aggrieved Employees and Class Members:

- 11 1. For an order that the action be certified as a class action;
- 12 2. For an order that PLAINTIFF be appointed as class representative;
- 13 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
- 14 4. For compensatory damages according to proof;
- 15 5. For liquidated damages according to proof;
- 16 6. For penalties according to proof;
- 17 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
18 withheld from PLAINTIFF and the Class Members;
- 19 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of
20 section 17200, *et seq.*, of the California Business and Professions Code;
- 21 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
- 22 10. For pre-judgment interest as permitted by law;
- 23 11. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25%
24 payable to Aggrieved Employees);
- 25 12. For attorney's fees and costs reasonably incurred; and

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1 13. For such other and further relief that the Court deems just and proper.

2
3 Dated: August 6, 2024

CROSNER LEGAL, PC

4
5 By: 

6 Jamie K. Serb, Esq.
7 Brandon Brouillette, Esq.
8 Zachary M. Crosner, Esq.
9 Attorneys for Plaintiff
10 MICHAEL GOLDBERG

11 **DEMAND FOR JURY TRIAL**

12 PLAINTIFF demands a trial by jury on all claims so triable.

13 Dated: August 6, 2024

CROSNER LEGAL, PC

14
15 By: 

16 Jamie K. Serb, Esq.
17 Brandon Brouillette, Esq.
18 Zachary M. Crosner, Esq.
19 Attorneys for Plaintiff
20 MICHAEL GOLDBERG
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