

JAMIE K. SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
BRANDON BROUILLETTE, ESQ. (SBN 273156)
bbrouillette@crosnerlegal.com
ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
CROSNER LEGAL, PC
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (866) 276-7637
Fax: (310) 510-6429

Attorneys for Plaintiff MICHAEL TIGHE
on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

MICHAEL TIGHE, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

FERRELLGAS PARTNERS, L.P., a
Delaware Limited Partnership;
PEOPLEREADY, INC., a Washington
Corporation; TRUEBLUE, INC., a
Washington Corporation; and DOES 1-100,
inclusive,

Defendants.

Case No.: **CVRI 2406088**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, MICHAEL TIGHE, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 FERRELLGAS PARTNERS, L.P., a Delaware Limited Partnership; PEOPLEREADY, INC., a
4 Washington Corporation; TRUEBLUE, INC., a Washington Corporation; and DOES 1-100,
5 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
6 believes and thereon alleges as follows:

7 **INTRODUCTION**

8 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
9 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
10 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
11 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
12 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

13 **JURISDICTION AND VENUE**

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

16 3. Venue is proper in this judicial district and the County of Riverside pursuant to
17 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
18 this judicial district, DEFENDANTS employed PLAINTIFF to work in this judicial district and
19 conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
20 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
21 proper in any county where the defendants committed Labor Code violations against some of its
22 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
23 because the cause, or some part of the cause, arose in the County of Riverside.

24 **THE PARTIES**

25 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
26 California and a citizen of the State of California.

27 5. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
28 DEFENDANTS as a non-exempt employee with a job title(s) of warehouse laborer and/or

1 warehouse associate and/or a similar title(s) and/or job position(s) from in or around November
2 2023, through in or around February 2024.

3 6. Defendant FERRELLGAS PARTNERS, L.P. (“Ferrellgas”) is a Delaware Limited
4 Partnership that, at all relevant times, was authorized to do business within the State of California
5 and is doing business in the State of California.

6 7. Ferrellgas owns, operates and/or manages warehouse distribution centers,
7 manufacturing and/or processing and/or distribution centers, warehouses and/or facilities and/or
8 other location(s) in California, including but not limited to, the warehouse distribution centers,
9 manufacturing and/or processing and/or distribution centers, warehouses and/or facilities in
10 Riverside, California.

11 8. Ferrellgas operates locations under including but not limited to the following brand
12 name(s): “Blue Rhino,” “Blue Rhino Corporation,” and/or “Ferrellgas”.

13 9. Ferrellgas, through its various locations, serves including but not limited to, the
14 propane industry.

15 10. Defendant PEOPLEREADY, INC. is a Washington Corporation that, at all relevant
16 times, was authorized to do business within the State of California and is doing business in the State
17 of California.

18 11. Defendant TRUEBLUE, INC. is a Washington Corporation that, at all relevant times,
19 was authorized to do business within the State of California and is doing business in the State of
20 California.

21 12. Defendants PEOPLEREADY, INC. and/or TRUEBLUE, INC. (“People Ready”)
22 operates a staffing business.

23 13. DEFENDANTS own, operate, manage and/or staff its employees to work at
24 including but not limited to, the warehouse distribution centers, manufacturing and/or processing
25 and/or distribution centers, warehouses and/or facilities and/or other location(s) in California,
26 including but not limited to, the warehouse distribution centers, manufacturing and/or processing
27 and/or distribution centers, warehouses and/or facilities in Riverside, California.

28 14. PLAINTIFF was assigned by People Ready to work at Ferrellgas’ Riverside,

1 California location(s), which operates/operated under including but not limited to, the name(s) “Blue
2 Rhino” and/or “Blue Rhino Corporation.”

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

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

19 **JOINT LIABILITY**

20 17. Under California law, the definition of the terms “to employ” are broadly construed
21 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
22 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
23 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
24 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
25 was to reach situations in which multiple entities control different aspects of the employment
26 relationship. Supervision of the work, in the specific sense of exercising control over how services
27 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
28 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a

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

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

16 19. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
17 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
18 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
19 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
20 policies and practices regardless of the location(s) where they worked. Among other things,
21 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
22 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
23 over the day-to-day operations and employment matters, including the power to hire and fire, set
24 schedules, issue employee policies, and determine rates of compensation across its locations in
25 California; (3) DEFENDANTS utilize the same policies and procedures for all California
26 employees, including issuing the same employee handbooks and other form agreements; (4)
27 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
28 employment matters; and, (6) DEFENDANTS share employees.

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

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

21 22. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
22 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
23 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
24 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
25 PLAINTIFF seeks relief in this Complaint.

26 23. Moreover, based on information and belief, People Ready hired PLAINTIFF and
27 entered into a written employment agreement with PLAINTIFF. During PLAINTIFF's employment,
28 People Ready maintained control over many aspects of PLAINTIFF's employment, including,

1 among other things, having the authority to discipline PLAINTIFF, change PLAINTIFF's job
2 assignment, change PLAINTIFF's work hours, change PLAINTIFF's rates of pay, and to terminate
3 PLAINTIFF's employment.

4 24. Based on information and belief, when PLAINTIFF was first hired, People Ready
5 provided PLAINTIFF with orientation and training materials. People Ready issued PLAINTIFF
6 written policies concerning meal periods, rest breaks, timekeeping, hours worked, and payment of
7 PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on information and
8 belief, among other things, these policies provided that PLAINTIFF's weekly time records be
9 submitted to People Ready, and People Ready was supposed to process PLAINTIFF's time records
10 and pay PLAINTIFF for all hours worked. People Ready exercised ultimate control over the
11 payment of PLAINTIFF's wages, as People Ready issued PLAINTIFF his paychecks. Finally,
12 People Ready directed PLAINTIFF to comply with Ferrellgas' policies and directions. PLAINTIFF
13 is informed and believes that People Ready exercised the same control over, applied the same
14 policies and practices, and engaged in the same acts and omissions with regard to the other
15 Aggrieved Employees.

16 25. Ferrellgas similarly suffered or permitted PLAINTIFF to work for them or engaged
17 PLAINTIFF to work for them. PLAINTIFF is informed and believes that Ferrellgas entered into a
18 written agreement with People Ready, pursuant to which Ferrellgas paid People Ready to provide it
19 with workers, including PLAINTIFF, to conduct Ferrellgas's business operations – namely, to work
20 in Ferrellgas's warehouse distributions centers and/or other facilities and/or other location(s).
21 Ferrellgas suffered or permitted PLAINTIFF to work at Ferrellgas for the entirety of PLAINTIFF's
22 employment.

23 26. Ferrellgas further exercised control over PLAINTIFF's wages, hours and working
24 conditions. Ferrellgas also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
25 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
26 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
27 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
28 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)

1 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
2 employment; (7) required PLAINTIFF to record hours worked using Ferrellgas's timekeeping
3 system; (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks;
4 (9) subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was
5 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief,
6 Ferrellgas issued further written policies and practices and guidelines governing PLAINTIFF's
7 working conditions with which PLAINTIFF was required to comply.

8 27. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
9 control over, applied the same policies and practices, and engaged in the same acts and omissions
10 with regard to all other Aggrieved Employees.

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

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

20 30. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
21 control over, applied the same policies and practices, and engaged in the same acts and omissions
22 with regard to the other Aggrieved Employees.

23 31. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
24 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
25 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
26 services from which they benefited, and furthermore that the aforementioned entities had the right
27 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
28 times herein, so as to be considered the joint employers of PLAINTIFF.

1 32. By reason of their status as joint employers of PLAINTIFF and Aggrieved
2 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
3 Code and applicable Wage Orders as to all Aggrieved Employees.

4 **LIABILITY UNDER CALIFORNIA LABOR CODE SECTION 2810.3**

5 33. California Labor Code section 2810.3(b)(1) provides in pertinent part that “a client
6 employer shall share with the labor contractor” all civil liability for the payment of wages to the
7 workers supplied by the labor contractor.

8 34. People Ready is a “labor contractor” in that it supplies Ferrellgas with workers to
9 perform labor within Ferrellgas’s usual course of business. Lab. Code § 2810.3(a)(3).

10 35. Ferrellgas is a “client employer” in that each of those business entities “obtains or is
11 provided workers to perform labor within its usual course of business” from labor contractor People
12 Ready Lab. Code § 2810.3(a)(1)(A). Moreover, Ferrellgas has a workforce of more than twenty-
13 five workers and is supplied with at least five workers from a labor contractor at any given time.
14 Lab. Code § 2810.3(a)(1)(B).

15 36. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
16 of wages to all workers supplied to Ferrellgas by People Ready.

17 37. PLAINTIFF complied with all administrative requirements by providing notice by
18 certified mail of the claims alleged herein to Ferrellgas. Lab. Code § 2810.3(d).

19 38. Any reference herein to any alleged act or omission by any DEFENDANT shall be
20 deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly
21 and severally.

22 **PAGA ALLEGATIONS**

23 39. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
24 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
25 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
26 following:

- 27 (a) all non-exempt workers who were directly employed by People Ready regardless
28 of where those non-exempt workers were assigned or staffed to work in California

1 at any time from one year plus 65 days from the filing of the initial Complaint
2 through the present (“PAGA Period”);

3 (b) all non-exempt workers who were assigned or staffed to work at Ferrellgas by
4 People Ready and/or any other staffing/temporary service agencies at any location in
5 California at any time during the PAGA Period; and

6 (c) all non-exempt workers who were directly employed by Ferrellgas to work at any
7 location in California at any time during the PAGA Period.

8 40. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
9 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
10 limitations period and suffered one or more of the Labor Code violations set forth herein.
11 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
12 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
13 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
14 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
15 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
16 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
17 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
18 *Id.* at 760-761.

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

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

25 42. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
26 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
27 Employees.

28 43. The LWDA did not provide notice of its intention to investigate DEFENDANTS’

1 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
2 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
3 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
4 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

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

8 FACTUAL ALLEGATIONS

9 45. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees
10 worked for DEFENDANTS in the State of California. At all times referenced herein,
11 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or
12 permitted them to work.

13 46. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
14 DEFENDANTS as a non-exempt employee with a job title(s) of warehouse laborer and/or
15 warehouse associate and/or a similar title(s) and/or job position(s).

16 47. From in or around November 2023, through in or around February 2024,
17 PLAINTIFF was assigned by People Ready to work at Ferrellgas' Riverside, California location(s)
18 which operated/operates under including but not limited to the following name(s): "Blue Rhino"
19 and/or "Blue Rhino Corporation."

20 48. PLAINTIFF regularly worked at least approximately ten (10) to twelve (12) hours
21 per day, at least (4) four to five (5) days per week.

22 49. 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. Based on information and belief,
24 DEFENDANTS also compensated Aggrieved Employees with non-discretionary compensation,
25 including but not limited to, non-discretionary bonus/incentive pay, shift differential pay and/or
26 other non-discretionary compensation.

27 50. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
28 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of

1 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
2 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
3 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
4 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
5 below.

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

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

16 53. For example, based on information and belief, DEFENDANTS required Aggrieved
17 Employees to be at their assigned workstations at the start of a scheduled shift, thereby forcing
18 Aggrieved Employees to gather work-related equipment and/or safety gear, make any necessary
19 adjustments to tools/equipment and/or perform maintenance/cleaning tasks, don work
20 clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their
21 scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock
22 work.

23 54. Based on information and belief, at times, Aggrieved Employees were required to
24 stand in line behind other employees to access DEFENDANTS' time-keeping system and/or were
25 required to spend time reinitiating DEFENDANTS' time-keeping system before they could clock
26 in for the start of their shifts and/or after completing a purported meal period.

27 55.

28 56. Based on information and belief, Aggrieved Employees were required to complete

1 other off-the-clock work tasks after clocking out for the end of their shifts and/or during
2 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum
3 and overtime wages owed to Aggrieved Employees.

4 57. For example, based on information and belief, DEFENDANTS required Aggrieved
5 Employees to clock out for the end of their shifts but to continue working due to the need to
6 return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates
7 and/or debriefings and/or participate in work meetings, respond to work-related communications
8 and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages
9 and overtime wages owed to Aggrieved Employees. For example, oftentimes PLAINTIFF was
10 required to clock out for the end of his shifts but to continue completing work tasks off the clock,
11 such as but not limited to, cleaning his work machine and/or DEFENDANTS' floor(s) and/or
12 completing other off-the-clock work tasks, resulting in DEFENDANTS' failure to compensate
13 PLAINTIFF for all hours worked and the underpayment of wages owed to PLAINTIFF.

14 58. Based on information and belief, DEFENDANTS did not compensate Aggrieved
15 Employees for all time spent donning and doffing personal protective equipment, safety equipment
16 and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses, reflective vests, hats/bump
17 caps/safety helmets and/or face masks) during meal periods, before the start of a scheduled shift,
18 and after completing a scheduled shift, resulting in DEFENDANTS' failure to pay Aggrieved
19 Employees for all work time and the underpayment of minimum wages and overtime wages owed
20 to Aggrieved Employees.

21 59. Based on information and belief, at times, DEFENDANTS' electronic employee
22 time-keeping system/app malfunctioned such that Aggrieved Employees were required to either
23 reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable
24 to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-
25 the-clock work and the underpayment of wages owed to Aggrieved Employees. Based on
26 information and belief, Aggrieved Employees experienced the same issues when clocking out for
27 shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was not
28 recorded and not compensated and resulted in unpaid minimum wages owed to Aggrieved

1 Employees.

2 60. Based on information and belief, Aggrieved Employees were required to undergo
3 security screenings and/or other mandated screenings before and/or after a scheduled shift and/or
4 before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

5 61. Based on information and belief, DEFENDANTS required Aggrieved Employees to
6 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
7 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

8 62. Based on information and belief, Aggrieved Employees were also pressured to
9 complete at least some additional work tasks off-the-clock in order to meet DEFENDANTS' goals
10 and expectations.

11 63. For example, based on information and belief, Aggrieved Employees were required
12 to complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-
13 related phone calls and/or messages they received to their phones and/or mobile devices and were
14 required to respond to, including but not limited to, communications from supervisors regarding
15 scheduling and/or other work tasks, resulting in the underpayment of wages owed to Aggrieved
16 Employees.

17 64. Based on information and belief, DEFENDANTS failed to pay Aggrieved
18 Employees the applicable minimum wage for the county and/or city within which the Aggrieved
19 Employee worked in California.

20 65. Based on information and belief, DEFENDANTS failed to pay Aggrieved
21 Employees for time they were required to spend completing orientation, policy questionnaires,
22 and/or time spent completing the onboarding process including but not limited to reviewing various
23 documents and policies provided by DEFENDANTS. Based on information and belief, this work
24 time was completed off-the-clock and was not compensated.

25 66. Based in information and belief, DEFENDANTS implemented a time-rounding
26 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
27 compensable time because the time-rounding system implemented by DEFENDANTS would
28 almost always, if not always, result in understating actual compensable work time.

1 67. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
2 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
3 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
4 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
5 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
6 forty (40) hours in a week.

7 68. Based on information and belief, DEFENDANTS had actual and/or constructive
8 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
9 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
10 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
11 of California's minimum and overtime wage laws.

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

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

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

25 72. Based on information and belief, DEFENDANTS failed to incorporate all non-
26 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple
27 base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the
28 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed

1 to PLAINTIFF and other Aggrieved Employees.

2 73. Additionally, DEFENDANTS also violated California's overtime laws as to those
3 Aggrieved Employees that were subject to an Alternative Workweek Schedule (AWS).

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

11 75. (C) Election Procedures Election procedures for the adoption and repeal of
12 alternative

13 76. workweek schedules require the following: (1) Each proposal for an alternative
14 workweek schedule shall be in the form of a written agreement proposed by the employer. The
15 proposed agreement must designate a regularly scheduled alternative workweek in which the
16 specified number of workdays and work hours are regularly recurring. The actual days worked
17 within that alternative workweek schedule need not be specified. The employer may propose a single
18 work schedule that would become the standard schedule for workers in the work unit, or a menu of
19 work schedule options, from which each employee in the unit would be entitled to choose. If the
20 employer proposes a menu of work schedule options, the employee may, with the approval of the
21 employer, move from one menu option to another. (2) In order to be valid, the proposed alternative
22 workweek schedule must be adopted in a secret ballot election, before the performance of work, by
23 at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held
24 during regular working hours at the employees' work site. For purposes of this subsection, "affected
25 employees in the work unit" may include all employees in a readily identifiable work unit, such as
26 a division, a department, a job classification, a shift, a separate physical location, or a recognized
27 subdivision of any such work unit. A work unit may consist of an individual employee as long as
28 the criteria for an identifiable work unit in this subsection is met. (3) Prior to the secret ballot vote,

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

1 resulting from the adoption of an alternative workweek schedule may not be required to work those
2 new work hours for at least 30 days after the announcement of the final results of the election. (8)
3 Employers shall not intimidate or coerce employees to vote either in support of or in opposition to
4 a proposed alternative workweek.

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

10 78. On information and belief, PLAINTIFF alleges that DEFENDANTS failed to
11 comply with the above procedures, and thus, failed to properly institute an alternative workweek for
12 the purpose of obtaining a lawful exemption from overtime premiums for its mandated alternative
13 workweek schedule. Based on information and belief, DEFENDANTS also failed to report the
14 results to the Office of Policy, Research, and Legislation, or the DLSE, within thirty after the
15 purported election results, and thus, violated Labor Code §§ 511, 1199, and the Applicable Wage
16 Orders. This conduct results in violations of Labor Code §§ 510, 511, and 1198- 1199, and the
17 Applicable Wage Orders. These violations subject employer to civil penalties under Labor Code §§
18 558 and 2699, and All Applicable Wage Orders. Each violation of each Labor Code section and
19 Wage Order provision results in a separate civil penalty, for each Aggrieved Employee, for each
20 pay period during which the referenced statutes and Wage Order provisions were violated.

21 79. Moreover, to the extent there was an AWS that was properly adopted,
22 DEFENDANTS violated California's overtime laws as to Aggrieved Employees that were subject
23 to an Alternative Workweek Schedule (AWS) but were required to work shifts shorter than the
24 agreed upon AWS. Under the relevant Wage Order, "If an employer... requires an [AWS] employee
25 to work fewer hours than those that are regularly scheduled by the agreement, the employer shall
26 pay the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's
27 regular rate of pay for all hours worked in excess of eight (8) hours... for the day the employee is
28 required to work the reduced hours." See Section 3 of all applicable Wage Orders.

1 80. Based on information and belief, at times during Aggrieved Employees' respective
2 employments by DEFENDANTS, Aggrieved Employees worked subject to an alternative work
3 week schedule. Based on information and belief, at times, Aggrieved Employees that were subject
4 to an AWS, were sent home early and/or worked less hours than those that were scheduled under
5 the AWS. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5 times
6 the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid Aggrieved
7 Employees their base rate for all hours worked on the shortened shift(s) in violation of the alternative
8 workweek schedule, and in violation of California Labor Code section 510, the applicable Wage
9 Order, and Labor Code section 1198. As such, Aggrieved Employees that were subject to an AWS
10 were also deprived of all owed overtime wages when required to work shortened shifts.

11 81. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
12 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
13 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
14 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
15 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
16 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
17 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
18 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
19 completely.

20 82. For example, based on information and belief, Aggrieved Employees were forced to
21 take late meal periods in order to complete assigned job duties.

22 83. Based on information and belief, Aggrieved Employees were at times interrupted
23 during purported meal periods and/or had meal periods cut short and/or restricted to
24 DEFENDANTS' premises due to the need to continue assigned job duties.

25 84. Based on information and belief, other Aggrieved Employees were consistently
26 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
27 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
28 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and

1 expectations.

2 85. Based on information and belief, DEFENDANTS implemented policies and/or
3 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
4 during unpaid meal periods.

5 86. Based on information and belief, DEFENDANTS required Aggrieved Employees to
6 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
7 into account when scheduling meal periods for Aggrieved Employees. Based on information and
8 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

9 87. Based on information and belief, despite DEFENDANTS' failure to provide lawful
10 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
11 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
12 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
13 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
14 Employees did not receive lawful meal periods.

15 88. Moreover, based on information and belief, Aggrieved Employees who worked shifts
16 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

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

19 90. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
20 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
21 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
22 did DEFENDANTS have any sort of compliant policy in practice.

23 91. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
24 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
25 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
26 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
27 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
28 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

1 92. Based on information and belief, DEFENDANTS had actual and/or constructive
2 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
3 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
4 violation of California's meal period laws.

5 93. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
6 additional hour of wages at their respective regular rates of compensation for each workday a lawful
7 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
8 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
9 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
10 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
11 compensation for purposes of calculating the owed meal period premium.

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

16 95. PLAINTIFF and other Aggrieved Employees were not adequately informed,
17 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
18 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
19 the taking or timing of duty-free rest periods.

20 96. Based on information and belief, DEFENDANTS did not have a have a compliant
21 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
22 practice.

23 97. For example, based on information and belief, Aggrieved Employees were unable to
24 take compliant rest periods due to their need to complete assigned job duties and/or were unable to
25 take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted
26 to DEFENDANTS' premises.

27 98. For example, per DEFENDANTS' unlawful rest period policies and practices,
28 DEFENDANTS only allowed PLAINTIFF a maximum of two (2) rest periods per shift even when

1 PLAINTIFF worked more than ten (10) hours in a shift.

2 99. Based on information and belief, DEFENDANTS did not have a lawful policy,
3 instruction, or practice as to the taking, timing, or duty-free nature of rest periods.

4 100. For example, based on information and belief, DEFENDANTS failed to authorize
5 and permit rest periods that were a “net” ten minutes in a suitable rest area, and instead, to the extent
6 rest periods were provided, DEFENDANTS limited Aggrieved Employees to only ten-minute rest
7 periods, requiring them to be back at their workstations within ten minutes of leaving their work
8 stations , in violation of California rest period law.

9 101. Based on information and belief, DEFENDANTS did not have a lawful policy,
10 instruction, or practice as to the taking, timing, or duty-free nature of rest periods. For example,
11 based on information and belief, DEFENDANTS failed to authorize and permit rest periods that
12 were a “net” ten minutes in a suitable rest area, and instead, to the extent rest periods were provided,
13 DEFENDANTS limited PLAINTIFF and other Aggrieved Employees to only ten-minute rest
14 periods, requiring them to be back at their workstations within ten minutes of leaving their work
15 stations, in violation of California rest period law.

16 102. Based on information and belief, DEFENDANTS implemented policies and/or
17 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
18 DEFENDANTS’ control during rest periods.

19 103. For example, based on information and belief, Aggrieved Employees were restricted
20 to the worksite premises and/or were required to monitor work communication devices and/or
21 respond to work communications during purportedly off-duty rest periods, and as such, were not
22 relieved of all duties and DEFENDANTS’ control during any rest periods, in violation of California
23 rest period law.

24 104. Based on information and belief, DEFENDANTS did not pay PLAINTIFF a single
25 rest period premium during his employment despite having actual and/or constructive knowledge
26 that DEFENDANTS required PLAINTIFF to work through his rest periods, take
27 interrupted/shortened rest periods and/or remain on duty during any rest periods. Based on
28 information and belief, any purported rest periods were interrupted, cut short, on duty, restricted to

1 premises, and/or late due to understaffing, the nature and constraints of their job duties, and/or
2 commentary from supervisors pressuring them to skip rest periods completely and/or take non-
3 compliant rest periods.

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

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

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

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

19 109. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
20 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
21 Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the
22 toilet rooms and shall be available to employees during work hours."

23 110. DEFENDANTS' locations/facilities are generally similar in layout and design, and
24 there was, and continues to be, space that allows for a resting facility that employees may use to
25 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
26 Employees with a resting facility within DEFENDANTS' facilities/locations with reasonable or no
27 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
28 suitable breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive

1 to resting, including but not limited to leaning up against the wall, or search for facilities outside of
2 DEFENDANTS' premises which are not designated or reserved for their rest, such as their personal
3 vehicles.

4 111. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
5 during their hours of work, particularly during meal and/or rest periods.

6 112. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved
7 Employees violated and continues to violate the applicable Wage Order, section 13(B) and the
8 California Labor Code, including but not limited to section 1198.

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

17 114. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
18 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
19 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
20 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
21 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
22 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
23 other off-the-clock work policies and practices described above) which results in a violation of
24 Labor Code section 226(a).

25 115. Separately, and independent of the above allegations, based on information and
26 belief, DEFENDANTS issued wage statements to Aggrieved Employees that failed to list the total
27 hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

28 116. Based on information and belief, wage statements issued by DEFENDANTS failed

1 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid, in
2 violation of including but not limited to, Labor Code section 226(a)(2) and/or Labor Code section
3 226(a)(6). For example, based on information and belief, at times, DEFENDANTS issued wage
4 statements to Aggrieved Employees containing payment for hours worked during previous pay
5 periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate
6 pay period for that retroactive pay, further failing to list the total hours worked for the pay period,
7 including but not limited to, the total hours worked for the pay period the retroactive pay corresponds
8 with.

9 117. Based on information and belief, DEFENDANTS issued wage statements to
10 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
11 226(a)(4).

12 118. Moreover, based on information and belief, DEFENDANTS issued wage statements
13 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
14 other things, failing to list the correct name and/or address of the legal entity that is the employer,
15 in violation of Labor Code section 226(a)(8).

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

20 120. For example, based on information and belief, DEFENDANTS issued wage
21 statements to Aggrieved Employees that do not provide an accurate overtime rate because instead
22 of multiplying the regular rate of pay by one and one-half, the wage statements either fail to provide
23 an accurate overtime rate of pay that incorporates all non-discretionary remuneration and/or the
24 wage statements provide at least two (2) separate overtime rate categories with each provide
25 corresponding rates that are either the same as the base, list a rate that is half the base rate of pay
26 and/or otherwise fail to list the accurate overtime rate of pay.

27 121. As such, DEFENDANTS do not list an accurate overtime rate anywhere on wage
28 statements issued to Aggrieved Employees, in violation of California law, including but not limited

1 to, Labor Code section 226(a)(9).

2 122. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
3 not include all of the statutorily required information, including but not limited to, the correct name
4 and/or address of the legal entity that is the employer.

5 123. Based on further information and belief, DEFENDANTS issued wage statements to
6 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential
7 wages were paid in violation of Labor Code section 226.

8 124. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
9 Employees that were not accurate and did not include all of the statutorily required information. As
10 such, DEFENDANTS violated Labor Code section 226.

11 125. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
12 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
13 to said employee." Based on information and belief DEFENDANTS made unlawful deductions
14 from Aggrieved Employees paychecks during the relevant period including without limitation,
15 deducting business costs and/or deducting wages for purported overpayments from previous pay
16 periods and/or unlawfully ducting wages for negligently damaged property and/or unlawfully
17 deducting transaction fees/pay/money card fees and/or deducting costs advanced by
18 DEFENDANTS. Such a practice is in violation of including but not limited to, Labor Code Sections
19 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

20 126. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
21 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
22 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
23 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
24 required by law, including but not limited to the following records: total daily hours worked,
25 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
26 began and ended each work period, time records of meal periods, and accurate itemized wage
27 statements.

28 127. DEFENDANTS have failed and continue to fail to keep accurate and complete

1 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
2 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
3 employer control during unpaid meal periods, failure to record the true start and end times of meal
4 periods, shift start times and shift end times, and other off-the-clock work policies and practices
5 described herein.

6 **128. Violation of Labor Code Sections 2100-2112.** Based on information and belief,
7 DEFENDANTS had/have a policy and practice of failing to provide Aggrieved Employees, upon
8 hire, with a written description of each quota they are subject to (e.g., quantified number of tasks to
9 be performed or materials to be handled) within a defined period of time and any potential adverse
10 employment action that may result from failure to meet the quota. Based on further information and
11 belief, DEFENDANTS had/have a policy and practice of subjecting Aggrieved Employees to quotas
12 that prevented those Aggrieved Employees from taking their meal and rest periods and/or using
13 bathroom facilities and/or interfered with compliance of California's occupational health and safety
14 laws.

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

21 **130.** Based on information and belief, DEFENDANTS shifted the costs of doing business
22 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
23 to, uniforms/work clothing/work shoes/personal protective/safety gear, the use of Aggrieved
24 Employees' personal vehicles and/or personal cell phones/mobile devices, internet and/or data usage
25 for work-related purposes, including but not limited to, to receive and respond to work-related
26 messages and/or phone calls. For example, based on information and belief, Aggrieved Employees
27 were required to receive and respond to work-related calls and/or messages from supervisors and/or
28 other employees regarding scheduling and/or other work tasks but were not reimbursed by

1 DEFENDANTS at all and/or in full for these business expenses.

2 131. For example, DEFENDANTS required PLAINTIFF to use his personal cell phone
3 / mobile device for work, including but not limited to, for sending and/or receiving work-related
4 calls and/or messages, however, DEFENDANTS did not reimburse PLAINTIFF at all and/or in full
5 for the business expenses PLAINTIFF incurred in connection therewith, including but not limited
6 to, increased data plan charges.

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

11 133. As explained above, Aggrieved Employees were improperly required to pay for
12 business expenses that are supposed to be the responsibility of DEFENDANTS.

13 134. Based on information and belief, DEFENDANTS regularly failed to reimburse and
14 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
15 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
16 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
17 assigned by DEFENDANTS.

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

22 136. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
23 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
24 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
25 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
26 accrued sick leave hours on the correct number of hours worked (as a result of the
27 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
28 times/other required off-the-clock work including but not limited to unpaid meal periods) and by

1 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
2 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
3 compensation into the sick leave pay rate calculation.

4 137. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
5 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
6 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
7 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
8 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
9 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
10 used sick leave and the balance of paid sick leave.

11 138. Based on information and belief, throughout the relevant time period,
12 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
13 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
14 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
15 prior to their respective separations, for as on several occasions thereafter, he or she would have
16 been entitled to use the banked sick leave and earn appropriate compensation.

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

22 140. As such, DEFENDANTS have violated California's paid sick leave laws and
23 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
24 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
25 unlawful practices and policies violate Labor Code sections 245-248.5.

26 141. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
27 provides as follows:

28 142. (A) Each workday an employee is required to report for work and does report, but is

1 not put to work or is furnished less than half said employee's usual or scheduled day's work, the
2 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
3 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
4 than the minimum wage. (B) If an employee is required to report for work a second time in any one
5 workday and is furnished less than two (2) hours of work on the second reporting said employee
6 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
7 minimum wage.

8 143. Aggrieved Employees were not paid reporting time wages in accordance with
9 California law, including but not limited to the applicable IWC Wage Order. For example, based on
10 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but
11 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
12 in accordance with California law.

13 144. Based on information and belief, DEFENDANTS have a policy and practice of
14 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
15 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
16 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
17 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

18 145. **Seating Violations.** Per section 14(A-B) of all applicable IWC Wage Orders,
19 employees shall be provided with suitable seats when the nature of the work reasonably permits the
20 use of seats and when they are not actively engaged in the work duties that would not permit them
21 to be seated.

22 146. All applicable IWC Wage Orders, Section 14(A-B) provides:

23 (A) All working employees shall be provided with suitable seats when the nature of the
24 work reasonably permits the use of seats.

25 (B) When employees are not engaged in the active duties of their employment and the
26 nature of the work requires standing, an adequate number of suitable seats shall be placed in
27 reasonable proximity to the work area and employees shall be permitted to use such seats when it
28 does not interfere with the performance of their duties.

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

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

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

13 150. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
14 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
15 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
16 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
17 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
18 limited to, any owed shift differentials) to Aggrieved Employees upon separation of employment,
19 in violation of California law, including but not limited to, Labor Code section 227.3.

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

25 152. Upon separation of employment, Aggrieved Employees' final paychecks were not
26 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
27 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
28 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,

1 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
2 accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate
3 including non-discretionary compensation, including but not limited to, shift differentials).

4 153. Based on further information and belief, DEFENDANTS failed to timely provide all
5 owed wages immediately upon discharge of employment. Based on information and belief, at times,
6 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
7 Aggrieved Employees would not be called in for work for longer than a single pay period due to
8 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
9 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
10 the end of such periods of employment, in violation of including but not limited to Labor Code
11 section 201-202.

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

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

21 156. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

22 Unlawful Agreements.

23 157. Labor Code section 432.5 provides that "no employer...shall require any employee
24 or applicant for employment to agree, in writing, to any term or condition which is known by such
25 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required
26 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
27 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
28 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful

1 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
2 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
3 employment in violation of Labor Code section 432.5.

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

12 159. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
13 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
14 432.5.

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

22 161. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
23 engaged in these same herein described unlawful practices, which led to violations of the California
24 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
25 unlawful practices to all of its employees that it applied to PLAINTIFF.

26 Unlawful Inquires into Criminal History

27 162. Labor Code section 432.7 prohibits an employer from asking applicants about past
28 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on

1 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
2 convictions on its employment application, in violation of California law.

3 163. Upon information and belief, DEFENDANTS, in violation of California law,
4 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
5 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
6 employment and/or otherwise impermissibly inquired into criminal history on its employment
7 application in violation of California law, and in violation of Labor code section 432.5.

8 **FIRST CAUSE OF ACTION**
9 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
10 **2698, *ET SEQ.***

11 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
12 **Defendants)**

13 164. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

14 **Failure to Keep Accurate Records**

15 165. California Labor Code § 1174 requires employers to keep “accurate and complete”
16 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
17 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
18 times during which all owed meal periods were provided each day.

19 166. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
20 and complete records as required by law, including but not limited to the following records: total
21 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
22 Aggrieved Employees began and ended each work period, time records of meal periods, and
23 accurate itemized wage statements.

24 167. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
25 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
26 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
27 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
28 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay

1 period during which the referenced statutes and Wage Order provisions were violated.¹

2 **Meal Period Violations**

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

8 169. Employers must also provide employees with a second duty-free, uninterrupted thirty
9 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
10 be provided before the end of the 10th hour of work. *Ibid.*

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

19 171. Employers must pay employees an additional hour of wages at the employees’
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
23 provide an employee a meal period in accordance with the applicable provision of this Order, the
24 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation

25 ¹ 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 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

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

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

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

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

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

23 177. These unlawful meal period policies and practices result in violations of Labor Code
24 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
25 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
26 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
27 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

28 **Rest Period Violations**

1 178. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
2 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
3 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
4 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
5 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
6 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
7 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
8 1029). The rest period requirement obligates employers to permit and authorize employees to take
9 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
10 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
11 257. If the employer fails to provide any required rest period, the employer must pay the employee
12 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
13 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
14 applicable IWC Wage Order, §12(B).

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

25 180. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
26 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
27 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
28 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,

1 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
2 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

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

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

10 183. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
11 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
12 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
13 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
14 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
15 the regular rate of compensation for purposes of determining the owed rest period premium.

16 184. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
17 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
18 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

19 **Failure to Provide Suitable Resting Facilities**

20 185. Per section 13 of all applicable IWC Wage Orders, employees shall be provided with
21 suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
22 shall be provided in an area separate from the toilet rooms and shall be available to employees during
23 work hours.”

24 186. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
25 there was, and continues to be, space that allows for a resting facility that employees may use to
26 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
27 Employees with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no
28 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a

1 suitable breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive
2 to resting, including but not limited to leaning up against the wall, or search for facilities outside of
3 DEFENDANTS' premises which are not designated or reserved for their rest, such as their personal
4 vehicles.

5 187. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
6 during their hours of work, particularly during meal and/or rest periods.

7 188. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved
8 Employees violated and continues to violate the applicable Wage Order, section 13(B) and the
9 California Labor Code, including but not limited to section 1198.

10 **Minimum and Overtime Wage Violations**

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

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

24 191. As explained above, DEFENDANTS violated California's minimum and overtime
25 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
26 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
27 start and end times and meal period start and end times), payment according to scheduled hours
28 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during

1 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
2 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

3 192. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
4 Aggrieved Employees for all hours worked.

5 193. Based on information and belief, DEFENDANTS had actual or constructive
6 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
7 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
8 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
9 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
10 Employees.

11 194. Based on information and belief, DEFENDANTS calculated the owed overtime
12 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
13 based on the minimum wage established for the cities and/or counties within which Aggrieved
14 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
15 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
16 above the California minimum wage rate.

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

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

24 197. 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.

3 198. Based on information and belief, at times during Aggrieved Employees' respective
4 employments by DEFENDANTS, Aggrieved Employees worked subject to an alternative work
5 week schedule. Based on information and belief, at times, Aggrieved Employees that were subject
6 to an AWS, were sent home early and/or worked less hours than those that were scheduled under
7 the AWS. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5 times
8 the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid Aggrieved
9 Employees their base rate for all hours worked on the shortened shift(s) in violation of the alternative
10 workweek schedule, and in violation of California Labor Code section 510, the applicable Wage
11 Order, and Labor Code section 1198. As such, Aggrieved Employees that were subject to an AWS
12 were also deprived of all owed overtime wages when required to work shortened shifts.

13 199. This conduct results in violations of Labor Code sections 218.5, 510, 511, 558, 558.1,
14 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
15 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
16 Wage Orders, section 20.

17 **Statutory Wage Violations**

18 200. California Labor Code section 223 makes it unlawful for an employer to secretly pay
19 wages lower than required by statute while purporting to pay legal wages. As described above,
20 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
21 earned minimum and overtime compensation for all hours worked which resulted in the payment of
22 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
23 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
24 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
25 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
26 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
27 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
28 Labor Code § 2699(f)-(g).

1 **Refusal to Make Payment**

2 201. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
3 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
4 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
5 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
6 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
7 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
8 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
9 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

10 **Standard Conditions of Labor Violations**

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

19 **Business Expense Violations**

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

26 _____
27 ² 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).

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

9 205. Further, "any contract or agreement, express or implied, made by any employee to
10 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
11 any employee or his personal representative of any right or remedy to which he is entitled to under
12 the laws of this State." *See* Cal. Lab. Code section 2804.

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

15 207. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
16 full reimbursement for all reasonable expenses associated with carrying out their duties required
17 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
18 expenses in violation of Labor Code section 2802.

19 208. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
20 Employees have suffered injury in that they were not completely reimbursed as mandated by
21 California law.

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

26 210. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
27 Employees have suffered injury in that they were not completely reimbursed as mandated by
28 California law.

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

Wage Statement Violations

212. California law requires every employer semi-monthly or at the time of each payment of wages to furnish its employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (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. Lab. Code § 226.

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

214. Moreover, due to violations detailed above, including but not limited to, DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide meal and rest break premiums, and failure to pay all sick leave wages at the proper rates, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based

1 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
2 compensation earned during the pay period into the regular rate of pay for purposes of calculating
3 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
4 overtime worked by PLAINTIFF and other Aggrieved Employees.

5 215. As explained above, wage statements issued by DEFENDANTS failed to list the
6 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
7 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
8 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
9 described above), which results in a violation of Labor Code section 226(a).

10 216. Failure to list all hours worked on a wage statement, gives rise to an inference of
11 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
12 1308, 1337).

13 217. Separately, and independent of the above allegations, based on information and
14 belief, DEFENDANTS issued wage statements to Aggrieved Employees that failed to list the total
15 hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

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

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

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

26 221. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
27 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
28 Employees over whether they received all wages owed to them.

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

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

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

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

18 226. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
19 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
20 during which the statute provisions were violated. ³

21 **Unlawful Deductions**

22 227. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
23 an employee any part of wages theretofore paid by said employer to said employee." Based on
24 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
25 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
26 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
27 Section 2699.

28 ³ Labor Code § 226.3 (establishing that the civil penalty is ~~46~~ per employee per violation").

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

7 **Reporting Time Pay Violations**

8 229. Section 5 of all applicable IWC Wage Orders, provides as follows:

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

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

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

27 **Seating Violations**

28 233. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be

1 provided with suitable seats when the nature of the work reasonably permits the use of seats and
2 when they are not actively engaged in the work duties that would not permit them to be seated.

3 234. All applicable IWC Wage Orders, Section 14(A-B) provides:

4 (A) All working employees shall be provided with suitable seats when the nature of the
5 work reasonably permits the use of seats.

6 (B) When employees are not engaged in the active duties of their employment and the
7 nature of the work requires standing, an adequate number of suitable seats shall be placed in
8 reasonable proximity to the work area and employees shall be permitted to use such seats when it
9 does not interfere with the performance of their duties.

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

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

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

22 238. The Aggrieved Employees worked in various positions. The nature of Aggrieved
23 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
24 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
25 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
26 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
27 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
28 separate civil penalty.

1 **Sick Leave Violations**

2 239. DEFENDANTS violated California's paid sick leave laws including, Labor Code
3 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
4 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
5 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
6 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
7 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
8 compensation into the sick leave pay rate calculation.

9 240. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
10 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
11 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
12 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
13 Aggrieved Employees' intelligent exercise of their paid sick leave.

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

18 242. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
19 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
20 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
21 were entitled to the maximum number of hours accruable.

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

27 244. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

28 245. On information and belief, PLAINTIFF alleges that all of these practices were

1 experienced and continue to be experienced by other Aggrieved Employees.

2 246. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
3 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
4 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

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

6 247. California Labor Code section 227.3 provides that when an employer policy provides
7 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
8 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
9 employee's final rate in accordance with such contract of employment or employer policy respecting
10 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
11 off upon termination.

12 248. Based on information and belief, DEFENDANTS had and continue to have a
13 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
14 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
15 to Aggrieved Employees upon separation of employment, in violation of California law, including
16 but not limited to, Labor Code section 227.3.

17 **Untimely Payment of Final Wages**

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

25 250. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
26 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
27 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
28 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code

1 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
2 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

3 251. Based in information and belief, DEFENDANTS failed and continue to fail to timely
4 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
5 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
6 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
7 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
8 sick leave and/or paid time off wages at the properly accrued rates.

9 252. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
10 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
11 256.

12 **Violation of Labor Code Section 208**

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

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

22 **Violation of Labor Code Sections 2100-2112**

23 255. Based on information and belief, DEFENDANTS had/have a policy and practice of
24 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
25 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
26 defined period of time and any potential adverse employment action that may result from failure to
27 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
28 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees

1 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
2 compliance of California's occupational health and safety laws.

3
4 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

5 *Unlawful Agreements.*

6 256. Labor Code section 432.5 provides that "no employer...shall require any employee
7 or applicant for employment to agree, in writing, to any term or condition which is known by such
8 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required
9 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
10 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
11 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
12 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
13 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
14 employment in violation of Labor Code section 432.5.

15 257. Labor Code section 432.6(a), provides that "a person shall not, as a condition of
16 employment, continued employment, or the receipt of any employment-related benefit, require any
17 applicant for employment or any employee to waive any right..."Based on information and belief,
18 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
19 signed as a condition of employment, including but not limited to, during the onboarding process.
20 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
21 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
22 invalid waivers are otherwise unlawful under Labor Code section 432.6.

23 258. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
24 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
25 432.5.

26 **Violation of Labor Code Section 432.6**

27 259. Based on information and belief, DEFENDANTS required Aggrieved Employees to
28 sign meal period waivers that were universally signed as a condition of employment, including but

1 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
2 under Labor Code section 432.6.

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

6 261. Labor Code Section 432.6(b) provides in pertinent part:

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

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

16 Unlawful Inquires into Criminal History

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

21 265. Upon information and belief, DEFENDANTS, in violation of California law,
22 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
23 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
24 employment and/or otherwise impermissibly inquired into criminal history on its employment
25 application in violation of California law.

26 266. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
27 Code section 432.7. By asking about convictions at the application phase or prior to extending an
28 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated

1 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
2 disclose arrests and/or convictions as a condition of employment.

3 267. Under the provisions of PAGA and the above mentioned Labor Code sections,
4 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
5 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 432.7, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194,
6 1197, 1197.1, 1198, 1199, 2699, 2699.3, 2100-2112, 2802, 2810.5 and all applicable Wage Orders
7 as well as all interpretations of these laws by California Courts and administrative bodies, as well
8 as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
9 penalties:

- 10 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
11 relevant California Labor Code provisions listed herein only if permitted by the
12 PAGA statute, pursuant to Labor Code section 2699(a); and
13 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
14 violations without a civil penalty recoverable under the PAGA, all in the default
15 amounts provided by Labor Code section 2699(f).

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

18 **PRAYER FOR RELIEF**

19 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
20 PLAINTIFF, the State of California, and all Aggrieved Employees:

- 21 1. For civil penalties under Labor Code Section 2699 (75% payable to the
22 LWDA and 25% payable to Aggrieved Employees);
23 2. For an order temporarily, preliminarily and permanently enjoining and
24 restraining DEFENDANTS from engaging in similar unlawful conduct as set
25 forth herein;
26 3. For reasonable attorney's fees and costs of suit; and

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

Dated: October 25, 2024

CROSNER LEGAL, PC

By: 

Jamie K. Serb, Esq.
Brandon Brouillette, Esq.
Zachary M. Crosner, Esq.
Attorneys for Plaintiff
MICHAEL TIGHE