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all others similarly situated, and on behalf of the general public

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF SACRAMENTO**

12 JUAN GARCIA on behalf of himself,
13 all others similarly situated, and on
behalf of the general public,

14 Plaintiff,

15 v.

16 BACKYARD PRODUCTS LLC; and
DOES 1-100,

17 Defendants.
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Case No. **24CV019984**

**PLAINTIFF'S PRIVATE ATTORNEYS GENERAL
ACT OF 2004 ("PAGA") COMPLAINT FILED
PURSUANT TO CALIFORNIA LABOR CODE §
2698, ET. SEQ.**

1. Violation of the PAGA for Failure to Pay
Straight Time Wages;
2. Violation of the PAGA for Failure to Pay All
Overtime Wages Owed;
3. Violation of PAGA for Failure to Provide Meal
Periods;
4. Violation of PAGA for Failure to Provide Rest
Periods;
5. Violation of PAGA for Failure to Provide
Recovery Periods;
6. Violation of the PAGA for Failure to Pay
Reporting Time Wages;
7. Violation of PAGA for Failure to Pay Wages
Due at Termination of Employment;
8. Violation of PAGA for Knowing and
Intentional Failure to Comply with Itemized
Employee Wage Statements; and
9. Violation of PAGA for Failure to
Reimburse/Illegal Deductions.

DEMAND FOR JURY TRIAL

1 Plaintiff JUAN GARCIA (hereinafter referred to as “Plaintiff”), on behalf himself and all other
2 non-exempt, hourly employees who worked for Defendant and/or DOES in California (hereinafter
3 referred to as the “Aggrieved Employees”), files this Complaint against Defendant Backyard Products
4 LLC (hereinafter referred to as “Defendant” or “BACKYARD PRODUCTS”) and/or DOES 1-100.

5 **I. INTRODUCTION**

6 1. This is a representative action seeking recovery of penalties under the California Labor Code
7 Private Attorneys General Act of 2004 (“PAGA”), California Labor Code Sections 2698 et.
8 seq., against Defendant and/or DOES 1-100. The PAGA permits an “aggrieved employee” to
9 bring a lawsuit on behalf of himself and other current and former workers to address an
10 employer’s violations of the *California Labor Code*.

11 2. Defendant and/or DOES boasts on its website that they “make America’s backyard a
12 destination they love through designing, manufacturing and installing cutting-edge sheds, pre-
13 fab studios, magical playsets and beautiful outdoor structures.” Backyard Products, Careers:
14 What We Do, <https://www.backyardproducts.com/career/> (last accessed September 19, 2024).

15 3. In fulfillment of its business of “installing cutting-edge sheds, pre-fab studios, magical playsets
16 and beautiful outdoor structures,” Defendant and/or DOES hired Plaintiff and other similarly
17 situated workers it misclassified as independent contractors, to perform installations and
18 delivery work in California, including Sacramento County.

19 4. At all times mentioned herein, Defendant and/or DOES have conducted business in
20 Sacramento County and elsewhere within California.

21 5. Defendant and/or DOES have maintained uniform policies that violate the wage and hour
22 rights of Plaintiff and similarly situated workers in the manner complained of herein.

23 6. This action is brought on behalf of Plaintiff and all other Aggrieved Employees of Defendant
24 and/or DOES who were misclassified as independent contractors as alleged herein. Plaintiff
25 seek penalties on behalf of himself and all other Aggrieved Employees of Defendant and/or
26 DOES as provided herein. This Complaint also seeks attorneys’ fees and costs under the
27 PAGA, *California Labor Code* section 2699(g)(1).

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1 **II. JURISDICTION AND VENUE**

2 7. The Plaintiff is an individual residing in California. At all times relevant to this action, Plaintiff
3 performed work for Defendant and/or DOES in California. Plaintiff, and each of the Aggrieved
4 Employees, worked for Defendant and/or DOES, and/or its operating divisions and
5 subsidiaries, within the State of California. Plaintiff and the Aggrieved Employees were
6 misclassified by Defendant and/or DOES as independent contractors. Plaintiff and each of the
7 Aggrieved Employees were subject to the unlawful policies beginning one (1) year prior to the
8 date Plaintiff sent Notice to the State of California Labor and Workforce Development Agency
9 (LWDA).

10 8. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
11 and/or DOE operate industrial facilities, employ hourly employees, conduct business, and
12 commit *California Labor Code* violations within Sacramento County and California. Each
13 Defendant and/or DOE is within the jurisdiction of this Court for service of process purposes.
14 The unlawful acts alleged herein have a direct effect on Plaintiff and the other Aggrieved
15 Employees situated within the State of California and within Sacramento County.

16 9. Plaintiff brings this action on behalf of himself and the Aggrieved Employees of Defendant
17 and/or DOES pursuant to the PAGA. Plaintiff, as personal representative of the general public,
18 will and do seek to recover any and all penalties for each and every violation shown to exist or
19 to have occurred during the one (1) year period before Plaintiff provided notice to the LWDA
20 of their intent to bring this action, in an amount according to proof, as to those penalties that
21 are otherwise only available to public agency enforcement actions. Funds recovered will be
22 distributed in accordance with the PAGA, with at least seventy-five (75) percent of the
23 penalties recovered being reimbursed to the State of California and the LWDA.

24 10. There is no federal question at issue as the issues herein are based solely upon California
25 statutes and law, including the *California Labor Code*, *IWC Wage Orders*, *Code of Civil*
26 *Procedure*, and *Civil Code*.

27 11. The California Superior Court also has jurisdiction in this matter because the penalties sought
28 exceed the minimum jurisdictional limits of the Superior Court and will be established at trial,

1 according to proof. Defendant and/or DOES either own, maintain offices, transact business,
2 have an agent or agents, and/or otherwise are found within the County of Sacramento,
3 California.

4 **III. THE PARTIES**

5 **A. Plaintiff**

6 12. Throughout the relevant time period, Plaintiff was and is a resident of California. During the
7 relevant time period, Plaintiff performed work for Defendant and/or DOES in California and
8 performed work in Sacramento County. Plaintiff was misclassified by Defendant and/or DOES
9 as independent contractors.

10 13. Plaintiff Juan Garcia was employed by Defendant and/or DOES until on or about April 19,
11 2024.

12 14. Plaintiff and the Aggrieved Employees performed work in the State of California for Defendant
13 and/or DOES.

14 15. A notice correspondence showing compliance with *Labor Code* Section 2699.3 was sent by
15 Plaintiff Juan Garcia to the LWDA and Defendant on May 6, 2024. This notice demonstrates
16 that Plaintiff Juan Garcia is an aggrieved employee and has standing to bring a representative
17 action on behalf of the LWDA and as a private attorney general. The violations alleged in this
18 notice also form the basis for the allegations herein. No notice of cure by Defendant and/or
19 DOES was provided and no notice of investigation was received from the LWDA in the
20 statutorily proscribed sixty-five (65) day period since the mailing of the notices of the
21 action. Accordingly, Plaintiff Juan Garcia files this action as a “Representative Action” as
22 authorized by *Labor Code* section 2699.3(a)(2)(C).

23 **B. Defendants**

24 16. Defendant and/or DOES boast on their website that they “make America’s backyard a
25 destination they love through designing, manufacturing and installing cutting-edge sheds, pre-
26 fab studios, magical playsets and beautiful outdoor structures.”

27 17. Defendant and/or DOES operate out of locations in California.

28 18. Defendant and/or DOES utilize workers such as Plaintiff to perform services of its customers

in California.

19. Defendant and/or DOES classify Plaintiff and the Aggrieved Employees as independent contractors.

20. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are now, and/or at all times mentioned in this Complaint were doing business in the State of California and/or throughout the United States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

21. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

22. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners, agents, owners, and/or shareholders of Defendants and/or DOES and were acting on behalf of Defendants and/or DOES at all times.

IV. GENERAL ALLEGATIONS

23. During all, or a portion, of the one (1) year period before Plaintiff filed notice of their claims with the LWDA, Plaintiff and each of the Aggrieved Employees worked for Defendant and/or DOES in the State of California.

24. Defendant and/or DOES boasts on its website that they “make America’s backyard a destination they love through designing, manufacturing and installing cutting-edge sheds, pre-fab studios, magical playsets and beautiful outdoor structures.”

25. In fulfillment of its business of “installing cutting-edge sheds, pre-fab studios, magical playsets and beautiful outdoor structures,” Defendant and/or DOES hired Plaintiff, and other similarly situated workers it misclassified as independent contractors, to perform installations and

- delivery work in California, including Sacramento County.
26. As this installation work Plaintiff and similarly situated workers Defendant and/or DOES misclassified as independent contractors is within the usual course of Defendant's and/or DOES' business, Plaintiff and similarly situated workers were employees and misclassified as independent contractors under *California Labor Code* section 2775.
27. Defendant and/or DOES controlled the manner and means of work Plaintiff and similarly situated employees misclassified as independent contractors performed. Thus, Plaintiff and similarly situated misclassified employees were not free from the control and direction of Defendant and/or DOES in connection with the performance of the work, but under the contract for the performance of the work and in fact.
28. Plaintiff and similarly misclassified employees were also not normally engaged in an independently established trade, occupation, or business.
29. Plaintiff and similarly misclassified employees did not independently make the decision to go into business for themselves.
30. Plaintiff and similarly misclassified employees did not take the usual steps to establish and promote themselves as independent business people, such as through incorporation, licensure, advertisements, routine offerings to provide the services of the independent business to the public or to a number of potential customers, and the like.
31. Therefore, Defendant and/or DOES are unable to satisfy any of the elements of the ABC test codified at *California Labor Code* section 2775.
32. In the alternative, because Defendant and/or DOES retain the right to control the manner and means of Plaintiff' and similarly misclassified employees' work, Plaintiff and similarly situated employees are employees under the right-to-control test and are entitled to all protections afforded employees under the Wage Order and *California Labor Code*.
33. Throughout the relevant time period, Defendant and/or DOES have maintained uniform policies that violate the wage and hour rights of Plaintiff and similarly situated misclassified employees in the manner complained of herein.
34. Plaintiff brings this action on behalf of himself and all Aggrieved Employees defined as all

1 individuals who worked for Defendant and/or DOES in the State of California and were
2 classified by Defendant and/or DOES as independent contractors at any time beginning one
3 year prior to the date Plaintiff sent notice to the LWDA.

4 35. Plaintiff reserves the right to amend or modify the definition of Aggrieved Employees with
5 respect to the issues or in any other way.

6 **FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
7 **PAGA for Failure to Pay Straight Time Wages (California Labor Code §2698 et. seq.).**

8 36. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
9 as if fully pled.

10 37. Defendant and/or DOES have had a continuous policy of not paying Plaintiff and the
11 Aggrieved Employees for all hours worked.

12 38. It is fundamental that an employer must pay its employees for the time worked. *California*
13 *Labor Code* section 222 prohibits the withholding on part of a wage. *California Labor Code*
14 section 223 prohibits the payment of less than a statutory or contractual wage scale. *California*
15 *Labor Code* sections 1194-1197.1 prohibit the payment of less than the minimum wage.
16 *California Labor Code* section 224 only permits deductions from wages when the employer is
17 required or empowered to do so by state or federal law or when the deduction is expressly
18 authorized in writing by the employee for specified purposes that do not in effect reduce the
19 agreed upon wage.

20 39. Section 1197.1 of the *California Labor Code* states “[a]ny employer or other person acting
21 individually as an officer, agent, or employee of another person, who pays or causes to be paid
22 to any employee a wage less than the minimum fixed by an applicable state or local law, or by
23 an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
24 damages payable to the employee, and any applicable penalties pursuant to Section 203.”

25 40. Plaintiff and those similarly situated Aggrieved Employees were employed by Defendant
26 and/or DOES at all relevant times. Defendant and/or DOES were required to compensate
27 Plaintiff for all hours worked and were prohibited from making deductions that had the effect
28 of reducing the agreed upon wage.

1 41. Defendant and/or DOES have a continuous policy of not paying Plaintiff and the Aggrieved
2 Employees for all hours worked. Defendant and/or DOES pay on a flat fee basis. Each job
3 earns Plaintiff and the Aggrieved Employees a set, flat amount. That flat amount, however,
4 does not pay for things such as drive time. As Defendant and/or DOES mandate Plaintiff and
5 the Aggrieved Employees have their own vehicle that can handle enough weight to perform
6 the work, requires them to transport tools and ladders, that drive time is compensable hours
7 worked. Defendant and/or DOES also does not pay for all hours worked in its piece-rate pay
8 structure, such as fueling vehicles, responding to calls, or filling out paperwork.

9 42. Further, Defendant and/or DOES also fail to keep accurate time records of Plaintiff' and the
10 Aggrieved Employees' time as a result of its continuous policies or practices of not paying
11 them for all hours worked as discussed above. Defendant and/or DOES do not have any record
12 of these hours worked.

13 43. Failing to pay for all hours worked while under Defendant's and/or DOES' control and/or
14 while suffered or permitted to work has resulted in Plaintiff and the Aggrieved Employees
15 being deprived of straight time wages.

16 44. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial
17 unpaid wages, and lost interest on such wages, and expenses.

18 45. Plaintiff and the Aggrieved Employees were employed by Defendant and/or DOES at all
19 relevant times. Defendant and/or DOES were required to compensate Plaintiff and the
20 Aggrieved Employees for all hours worked and were prohibited from making deductions that
21 had the effect of reducing the agreed upon wage.

22 46. Defendant and/or DOES commit the acts alleged herein knowingly and willfully, with the
23 wrongful and deliberate intention of injuring Plaintiff and the Aggrieved Employees.
24 Defendant and/or DOES act with malice or in conscious disregard of Plaintiff' and the
25 Aggrieved Employees' rights.

26 47. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the
27 State of California and were classified by Defendant and/or DOES as independent contractors.

28 48. Plaintiff, as former worker of Defendant and/or DOES who Defendant and/or DOES

misclassified as independent contractors and failed to pay all wages, are aggrieved employees with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

49. Plaintiff, as representative of the people of the State of California, seeks any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

50. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

51. In the alternative, Plaintiff, as aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the PAGA for Failure to Pay All Overtime Wages Owed

52. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully pled.

53. *California Labor Code* section 510 states that eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

- 1 54. *California Labor Code* section 510 dictates that any work in excess of 12 hours in one day
2 shall be compensated at the rate of no less than twice the regular rate of pay for an employee.
3 In addition, any work in excess of eight hours on any seventh day of a workweek shall be
4 compensated at the rate of no less than twice the regular rate of pay of an employee.
- 5 55. Defendant and/or DOES fail to pay overtime when employees worked over eight (8) hours per
6 day and when employees worked over forty (40) hours per week. Defendant and/or DOES fail
7 to pay Plaintiff and the Aggrieved Employees for all hours worked, including hours worked
8 over eight (8) hours in a day and forty (40) hours in a week.
- 9 56. Plaintiff and the Aggrieved Employees were deprived of wages for all overtime hours worked
10 because Defendant and/or DOES fail to pay them overtime wages for all overtime hours
11 worked. This resulted in the Plaintiff and the Aggrieved Employees not being paid all overtime
12 wages owed to them.
- 13 57. Defendant and/or DOES have a continuous policy of failing to pay Plaintiff and Aggrieved
14 Employees for all hours worked, including those hours worked over eight (8) hours in a day
15 and forty (40) hours in a week. Defendant and/or DOES have a continuous policy of failing to
16 pay overtime when employees worked over eight (8) hours per day and when employees
17 worked over forty (40) hours per week. Because Defendant and/or DOES fail to pay them
18 overtime wages for all overtime hours worked, Plaintiff and Aggrieved Employees were
19 deprived of wages for all overtime hours worked, which resulted in Plaintiff and the Aggrieved
20 Employees not being paid all overtime wages owed to them.
- 21 58. Defendant and/or DOES have a continuous policy of not paying Plaintiff and the Aggrieved
22 Employees for all hours worked.
- 23 59. Defendant and/or DOES have a continuous policy of not paying Plaintiff and the Aggrieved
24 Employees for all hours worked. Defendant and/or DOES pay on a flat fee basis. Each job
25 earns the Plaintiff and the Aggrieved Employees a set, flat amount. That flat amount, however,
26 does not pay for things such as drive time. As Defendant and/or DOES mandate Plaintiff and
27 the Aggrieved Employees have their own vehicle that can handle enough weight to perform
28 the work, requires them to transport tools and ladders, that drive time is compensable hours

1 worked. Defendant and/or DOES also do not pay for all hours worked in its piece-rate pay
2 structure, such as fueling vehicles, responding to calls, or filling out paperwork. Plaintiff and
3 the Aggrieved Employees are not paid for this time, and when they work over eight (8) hours
4 in a shift or 40 hours in a week, these unpaid hours must be compensated at an overtime rate.

5 60. Plaintiff and those similarly situated Aggrieved Employees were employed by Defendant
6 and/or DOES at all relevant times. Defendant and/or DOES were required to compensate
7 Plaintiff and the Aggrieved Employees for all overtime hours worked and were prohibited from
8 making deductions that had the effect of reducing the agreed upon wage.

9 61. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial
10 unpaid wages, and lost interest on such wages, and expenses.

11 62. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the
12 State of California and were classified by Defendant and/or DOES as independent contractors.

13 63. Plaintiff, as representative of the people of the State of California, will seek any and all
14 penalties otherwise capable of being collected by the Labor commission and/or the Department
15 of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

16 64. Plaintiff, as representative of the people of the State of California, will seek all penalties
17 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
18 each of the following, as set forth in *California Labor Code* section 2699.5, which provides
19 that section 2699.3(a) applies to any alleged violation of the following provisions: sections
20 222, 223 and 510.

21 65. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
22 behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil
23 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the
24 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars
25 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per
26 *California Labor Code* section 2699(f)(2).

27 66. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other
28 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for

violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the PAGA for Failure to Provide Meal Periods (California Labor Code §2698 et. seq.).

67. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully pled.

68. Under *California Labor Code* section 512, and IWC Wage Order 4-2001(11), no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

69. In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes.

70. Under *California Labor Code* section 226.7, if the employer does not provide an employee a meal period in accordance with the above requirements, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

71. Defendant and/or DOES breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, Defendant and/or DOES fails to provide Plaintiff and the Aggrieved Employees with meal periods within the first five (5) continuous hours of work. Defendant and/or DOES do not provide meal periods, because they rely on their unlawful misclassification of Plaintiff and the Aggrieved Employees as independent contractors. As part

of its independent contractor misclassification regime, Defendant and/or DOES turn a blind eye on whether Plaintiff and the Aggrieved Employees actually take meal periods in accordance with *Labor Code* section 512 or Wage Order 4-2001, section 11. Defendant and/or DOES fail to perform its obligation to relieve Plaintiff and the Aggrieved Employees of all duty and control during meal periods and fail to actively provide or offer meal periods of not less than 30-minutes to Plaintiff and the Aggrieved Employees.

72. Defendant and/or DOES have a consistent policy and/or practice of not providing second meal periods to Plaintiff and the Aggrieved Employees and/or providing compensation in lieu thereof. Specifically, Plaintiff and the Aggrieved Employees are required to work shifts greater than ten (10) hours long but never received second meal periods in shifts over ten (10) hours long.

73. By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Defendant and/or DOES willfully violate the provisions of *California Labor Code* sections 226.7 and 512, and IWC Wage Order No. 4-2001.

74. As a result of the unlawful acts of Defendant and/or DOES, Plaintiff and the Aggrieved Employees have been deprived of premium wages and/or other compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest, attorneys' fees, and costs.

75. Defendant's and/or DOES' conduct violates applicable IWC Wage Order 4-2001 and *California Labor Code* sections 226.7 and 512(a).

76. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the State of California and were classified by Defendant and/or DOES as independent contractors.

77. Plaintiff, as a worker who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

78. Plaintiff, as representative of the people of the State of California, will seek all penalties

otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7 and 512.

79. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

80. In the alternative, Plaintiff, as aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to *California Labor Code* Section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the PAGA for Failure to Provide Rest Periods (California Labor Code §2698 et. seq.).

81. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully pled.

82. Industrial Welfare Commission Order No. 4-2001 section 12(A) states “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

83. At all times mentioned herein, Defendant and/or DOES have failed to authorize and/or permit rest period time based upon the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

84. Defendant and/or DOES have a consistent policy and/or practice of not providing duty free, net-ten minute, paid rest periods to Plaintiff and all Aggrieved Employees and/or providing

- 1 compensation in lieu thereof.
- 2 85. Defendant and/or DOES have a continuous policy and practice that fails to provide Plaintiff
3 and the Aggrieved Employees with rest periods “at the rate of ten (10) minutes net rest time
4 per four (4) hours or major fraction thereof.” Specifically, Defendant and/or DOES do not
5 provide Plaintiff and the Aggrieved Employees with rest periods consisting of ten (10) minutes
6 net rest time, nor do they provide them with a rest period per four (4) hours worked or major
7 fraction thereof. Defendant and/or DOES simply rely on its misclassification and do not
8 authorize and permit rest periods in accordance with California Labor Code and Wage Order,
9 section 11.
- 10 86. Additionally, Defendant and/or DOES breached the legal duty to provide rest periods to
11 employees by imposing a continuous and consistent policy of requiring Plaintiff and the
12 Aggrieved Employees to work through their rest periods to satisfy the demanding workload
13 duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the Aggrieved
14 Employees of the right to be completely free from employer control under California law.
- 15 87. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per
16 day by Plaintiff and the Aggrieved Employees, and by failing to provide compensation for
17 these unprovided rest periods, as alleged above, Defendant and/or DOES willfully violate the
18 provisions of *California Labor Code* section 226.7.
- 19 88. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the
20 State of California and were classified by Defendant and/or DOES as independent contractors.
- 21 89. Plaintiff, as non-exempt employee who was unlawfully deprived of paid ten (10) minute rest
22 periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
23 has satisfied all prerequisites to serve as representatives of the general public to enforce
24 California’s labor laws, and the penalty provisions identified in *California Labor Code* section
25 2699.5 for violations of *California Labor Code* section 226.7.
- 26 90. Plaintiff, as non-exempt employee who was unlawfully deprived of paid ten (10)-minute rest
27 periods, is an aggrieved employees with standing to bring an action under the PAGA. Plaintiff
28 satisfied all prerequisites to serve as a representative of the general public to enforce

California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

91. Plaintiff, as representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7.

92. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

93. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

FIFTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the PAGA for Failure Provide Recovery Periods (California Labor Code §2698 et. seq.).

94. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully pled.

95. Under California Code of Regulations, Title 8, section 3395(d)(1), "[w]hen the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling." Cal. Code of Reg. Title 8, § 3395(d)(1). Furthermore, "[t]he amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully

- 1 in the shade without having to be in physical contact with each other.” *Id.*
- 2 96. “Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade
3 when they feel need to do so to protect himself from overheating.” Cal. Code of Reg. Title 8,
4 § 3395(d)(3). “Such access to shade shall be permitted at all times.” *Id.*
- 5 97. Defendant and/or DOES have failed to permit access to shade and preventative cool down rest
6 and/or recovery periods to Plaintiff and the Aggrieved Employees when the temperature
7 reached eighty (80) degrees Fahrenheit. Specifically, Plaintiff and the Aggrieved Employees
8 work in areas such as Sacramento County in California during the summer and autumn months,
9 when temperatures frequently exceed eighty (80) degrees Fahrenheit. However, Defendant
10 and/or DOES does not allow and encourage Plaintiff and the Aggrieved Employees to take
11 preventative cool-down rest recovery periods in shaded areas when the applicable temperatures
12 are reached. Thus, Defendant and/or DOES have failed to permit, allow, or encourage Plaintiff
13 and the Aggrieved Employees to take preventative cool down recovery periods in the shade to
14 protect against overheating when the temperature exceeds eighty (80) degrees Fahrenheit.
- 15 98. Defendant and/or DOES have failed to utilize any alternative procedures for providing access
16 to shade or equivalent protection to Plaintiff and the Aggrieved Employees. Defendant and/or
17 DOES fail to implement other cooling measures in lieu of shade at least as effective as shade
18 in allowing employees to cool.
- 19 99. Because of Defendant’s and/or DOES’ demanding policies on task completion times, Plaintiff
20 and those similarly situated felt that breaking to exercise their rights to take recovery period
21 breaks would sacrifice their jobs with Defendant and/or DOES.
- 22 100. Throughout the statutory period, Defendant’s and/or DOES’ uniform policies and practices
23 resulted in Plaintiff and the Aggrieved Employees not receiving recovery periods.
- 24 101. Throughout the statutory period, Defendant and/or DOES valued productivity over providing
25 recovery periods and, because of this, recovery periods were not priorities to Defendant and/or
26 DOES.
- 27 102. Throughout the relevant time period, Defendant’s and/or DOES’ policies promoting
28 productivity subjugated Plaintiff’ and those similarly situated’s rights to recovery periods.

1 103. Therefore, Defendant and/or DOES failed to provide preventative cool down rest and/or
2 recovery periods to Plaintiff and the Aggrieved Employees in accordance with California Code
3 of Regulations, Title 8, section 3395.

4 104. By failing to provide recovery periods required by law, and by failing to provide compensation
5 for these unprovided recovery periods, as alleged above, Defendant and/or DOES have
6 willfully violated the provisions of *California Labor Code* section 226.7.

7 105. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the
8 State of California and were classified by Defendant and/or DOES as independent contractors.

9 106. Plaintiff, as non-exempt employee who was unlawfully deprived of recovery periods, is an
10 aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied
11 all prerequisites to serve as a representative of the general public to enforce California's labor
12 laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for
13 violations of *California Labor Code* section 226.7.

14 107. Plaintiff, as non-exempt employee who was unlawfully deprived of recovery periods, is an
15 aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all
16 prerequisites to serve as representative of the general public to enforce California's labor laws,
17 and the penalty provisions identified in *California Labor Code* section 2699.5.

18 108. Plaintiff, as representative of the people of the State of California, will seek all penalties
19 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
20 each of the following, as set forth in *California Labor Code* section 2699.5, which provides
21 that section 2699.3(a) applies to any alleged violation of the following provisions: sections
22 226.7.

23 109. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as aggrieved employee, on behalf
24 of himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties:
25 one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial
26 violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for
27 each Aggrieved Employee per pay period for each subsequent violation, per *California Labor*
28 *Code* section 2699(f)(2).

110. In the alternative, Plaintiff, as aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the PAGA for Failure to Pay Reporting Time Wages (California Labor Code §2698 et. seq.).

111. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully pled.

112. IWC Wage Order 4-2001(5) requires employers to pay “reporting time pay.” Each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his or her usually or scheduled day’s work, must be paid for half of the usual or scheduled day’s work, but in no event less than two hours nor more than four hours, at his or her regular rate of pay. If an employee is required to report to work a second time in any one workday and is furnished less than two hours of work on the second reporting, he or she must be paid for two hours at his or her regular rate of pay.

113. Defendant and/or DOES require Plaintiff and the Aggrieved Employees to report to work and Plaintiff and the Aggrieved Employees would report to work, but for less than half of their usual day’s work. For instance, Defendant and/or DOES would have Plaintiff report to work on their off days and perform tasks that would last for about a half hour. On those days, Plaintiff would not receive a half-day’s worth of wages or two hours worth of wages, which violates section 5 of Industrial Welfare Commission Order No. 4-2001.

114. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the State of California and were classified by Defendant and/or DOES as independent contractors.

115. Plaintiff, as a former worker of Defendant and/or DOES who Defendant and/or DOES was misclassified as independent contractor and failed to pay reporting time wages, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

1 116. Plaintiff, as representative of the people of the State of California, seeks any and all penalties
2 otherwise capable of being collected by the Labor Commission and/or the Department of Labor
3 Standards Enforcement (“DLSE”). This includes each of the following, as set forth in
4 *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any
5 alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

6 117. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
7 behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil
8 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the
9 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars
10 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per
11 *California Labor Code* section 2699(f)(2).

12 118. In the alternative, Plaintiff, as aggrieved employee, on behalf of himself and other Aggrieved
13 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
14 pursuant to this chapter or any provisions regulating hours and days of the week of the
15 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

16 **SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
17 **PAGA for Failure to Pay Wages Due at Termination and During Employment (California Labor**
18 **Code §2698 et. seq.).**

19 119. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
20 as if fully pled.

21 120. Defendant and/or DOES and/or their officers and/or managing agents willfully failed to pay,
22 in a timely manner, wages owed to Plaintiff and the Aggrieved Employees who left
23 Defendant’s and/or DOES’ employ or who were terminated.

24 121. Plaintiff and the Aggrieved Employees who ended their employment with Defendant and/or
25 DOES during the last year were entitled to be promptly paid all lawful compensation, and other
26 premiums, as required by *California Labor Code* sections 201 through 203.

27 122. At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer
28 discharges an employee, the wages earned and unpaid at the time of discharge are due and

payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

123. Defendant and/or DOES have failed to provide Plaintiff and formerly employed Aggrieved Employees all their final wages at their time of termination in accordance with *California Labor Code* sections 201 and 202.

124. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to pay the Aggrieved Employees who are no longer employed by Defendant and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Defendant's and/or DOES' employ.

125. Defendant and/or DOES have a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving Defendant's and/or DOES' employ.

126. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff and the Aggrieved Employees for all hours worked. Defendant and/or DOES pay on a flat fee basis. Each job earns Plaintiff and the Aggrieved Employees a set, flat amount. That flat amount, however, does not pay for things such as drive time. As Defendant and/or DOES mandate Plaintiff and the Aggrieved Employees have their own vehicle that can handle enough weight to perform the work, requires them to transport tools and ladders, that drive time is compensable hours worked. Defendant and/or DOES also do not pay for all hours worked in its piece-rate pay structure, such as fueling vehicles, responding to calls, or filling out paperwork.

127. Additionally, Defendant and/or DOES fail to pay all meal and rest period premiums owed to Plaintiff and Aggrieved Employees.

128. Defendant's and/or DOES' failure to pay Plaintiff and the Aggrieved Employees who are no longer employed by Defendant and/or DOES their wages, that were earned and unpaid, at the time of termination or within seventy-two (72) hours of their leaving Defendant's and/or

DOES' employ, is in violation of *California Labor Code* sections 201 and 202.

129. *California Labor Code* section 203 provides that when an employer willfully fails to pay wages owed, in accordance with *California Labor Code* sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the wages shall not continue for more than thirty (30) days.

130. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the State of California and were classified by Defendant and/or DOES as independent contractors.

131. Plaintiff, as non-exempt employee who Defendant and/or DOES fail to pay all wages at the time of termination, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

132. Plaintiff, as representative of the people of the State of California, seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 201 through 203.

133. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as aggrieved employee, on behalf of himself and the other Aggrieved Employees, seek recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

134. In the alternative, Plaintiff, as aggrieved employee, on behalf of himself and other Aggrieved Employees, seek penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* section 558(a)(1) and 558(a)(2).

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EIGHTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (California Labor Code §2698 et. seq.).

135. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully pled.

136. *California Labor Code* section 226(a) requires Defendant and/or DOES to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff and the Aggrieved Employees. *California Labor Code* section 226(a) requires Defendant and/or DOES, at the time of each payment of wages, to “furnish each of her or her employees, either as an detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (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, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee....”

137. *California Labor Code* section 226, subdivision (a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.”

138. In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular

payroll period.” An employer complies with section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in the subsequently issue paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

139. Defendant and/or DOES have knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Plaintiff and the Aggrieved Employees.

140. Additionally, by virtue of its failure to pay for all time worked, Defendant and/or DOES knowingly and intentionally did not correctly itemize the gross wages earned, total hours worked, net wages earned, and number of hours worked at each hourly rate on wage statements provided to Plaintiff and the Aggrieved Employees as *California Labor Code* section 226, subsection (a), requires in every pay period during the period of the relevant statute of limitations.

141. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff and the Aggrieved Employees for all hours worked. Defendant and/or DOES pay on a flat fee basis. Each job earns Plaintiff and the Aggrieved Employees a set, flat amount. That flat amount, however, does not pay for things such as drive time. As Defendant and/or DOES mandate Plaintiff and the Aggrieved Employees have their own vehicle that can handle enough weight to perform the work, requires them to transport tools and ladders, that drive time is compensable hours worked. Defendant and/or DOES also do not pay for all hours worked in its piece-rate pay structure, such as fueling vehicles, responding to calls, or filling out paperwork.

142. In addition, Defendant and/or DOES knowingly and intentionally did not include all meal and rest period premiums owed on wage statements. Defendant and/or DOES therefore knowingly and intentionally fail to itemize all meal and rest period premiums owed on Plaintiff’ and the Aggrieved employees’ wage statements throughout the relevant statute of limitations.

143. Defendant and/or DOES also fail to provide Plaintiff and Aggrieved Employees with written

notice that sets forth the amount of sick leave available for use, either in employees' itemized wage statements or in a separate writing provided to employees on the designated pay date.

144. Throughout the relevant time period, because of the knowing and intentional failure by Defendant and/or DOES to comply with itemized employee wage statement provisions, Plaintiff and the Aggrieved Employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

145. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the State of California and were classified by Defendant and/or DOES as independent contractors.

146. Plaintiff, as non-exempt employee who Defendant and/or DOES fail to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

147. Plaintiff, as representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226, 1174, 1199.

148. Pursuant to Labor Code section 2699(f), Plaintiff, as aggrieved employee, on behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per Labor Code section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

149. In the alternative, Plaintiff, as aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

1 **NINTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
2 **Private Attorneys General Act of 2004 (PAGA) for Failure to Reimburse/Illegal Deductions**
3 **(California Labor Code §2698 et. seq.).**

4 150. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
5 as if fully pled.

6 151. *California Labor Code* section 2082 provides: “[a]n employer shall indemnify his or her
7 employee for all necessary expenditures or losses incurred by the employee in direct
8 consequence of the discharge of his or her duties, or of his or her obedience to the directions
9 of the employer.... [which] shall include[s] all reasonable costs, including, but not limited to,
10 attorney’s fees incurred by the employee enforcing the rights granted by this section.”

11 152. Under *California Labor Code* section 221, “[i]t shall be unlawful for any employer to collect
12 or receive from an employee any part of wages theretofore paid by said employer to said
13 employee.”

14 153. Plaintiff and the Aggrieved Employees incurred expenses in the discharge of their duties
15 without receiving reimbursement from Defendant and/or DOES. For instance, in order “[t]o
16 transport the shed kits,” Defendant and/or DOES mandate that Plaintiff and the Aggrieved
17 Employees “will need a full-sized truck capable of carrying the weight of 1 or more shed kits,
18 or a size/weight appropriate trailer.” At a minimum, Defendant and/or DOES mandate “reliable
19 transportation to/from the job site and the ability to bring your own tools, ladders, and
20 compressor.” Thus, Defendant and/or DOES mandate Plaintiff and the Aggrieved Employees
21 use their own car at their own expense to perform the necessary functions of the job. Plaintiff
22 and the Aggrieved Employees are not reimbursed for the costs of the vehicle, such as, but not
23 limited to, insurance, maintenance, fuel, and mileage. Defendant and/or DOES mandate
24 Plaintiff and the Aggrieved Employees have minimum levels of insurance that name Defendant
25 and/or DOES as an additional insured. Defendant and/or DOES also mandate Plaintiff and the
26 Aggrieved Employees bear the expenses for their tools, such as hand tools, ladders,
27 roofing/framing guns, compressors, and hoses. Defendant and/or DOES also mandate the use
28 of personal phones. Defendant and/or DOES reimburse Plaintiff and the Aggrieved Employees

- for none of these expenses in violation of *California Labor Code* section 221, and 2802.
154. *California Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.
155. These claims are on behalf of all individuals who worked for Defendant and/or DOES in the State of California and were classified by Defendant and/or DOES as independent contractors.
156. Plaintiff, as non-exempt employee who incurred business expenses which Defendant and/or DOES failed to reimburse, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.
157. Plaintiff, as representative of the people of the State of California, seeks all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: for violations of the *California Labor Code* section 2802.
158. Pursuant to *Labor Code* section 2699(f), Plaintiff, as aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other Aggrieved Employees, prays for relief and judgment against Defendant and/or DOES, jointly and severally, as follows:

- A. For penalties as provided under *California Labor Code* sections 558(a)(1) and 558(a)(2).
- B. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide compliant meal periods;
- C. For all statutory penalties for each pay period during which an employee was underpaid due to failure to provide compliant meal periods;

- 1 D. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
2 2699, et. seq. for failure to provide all rest periods;
- 3 E. For all statutory penalties provided under the *California Labor Code* for each pay period during
4 which an employee was underpaid due to failure to provide paid rest periods;
- 5 F. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
6 2699, et. seq. for failure to timely pay wages at separation;
- 7 G. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
8 2699, et. seq. for failure to provide compensation at the regular and overtime rate for all time
9 worked;
- 10 H. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
11 2699, et. seq. for failure to provide compensation at the minimum wage;
- 12 I. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
13 2699, et. seq. for failure to provide accurate, itemized wage statements;
- 14 J. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
15 2699, et. seq. for failure to adopt a lawful sick pay policy;
- 16 K. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
17 2699, et. seq. for failure to reimburse business expenses; and
- 18 L. For reasonable attorneys' fees and costs under the PAGA, *California Labor Code* section
19 2699(g)(1).

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff demands a jury trial as to liability.

22 **MARA LAW FIRM, PC**

23
24 Date: October 2, 2024

Signed: 

David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiff JUAN GARCIA, on
behalf of himself and all others similarly
situated, and on behalf of the general public