

Christina M. Lucio (SBN 253677)
christina@emplawllp.com
Mitchell J. Murray (SBN 285691)
mitchell@emplawllp.com
Nicholas W. Schieffelin (SBN 302329)
nick@emplawllp.com
EMPLAW, LLP
2235 Encinitas Boulevard, Suite 210
Encinitas, California 92024
Telephone: (760) 942-9433

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento

09/11/2024

By: V. Bloxson Deputy

Attorneys for Plaintiff YONATAN GHEBRESLASSIE,
individually, and in his representative capacity as private attorney general

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

YONATAN GHEBRESLASSIE,
individually, and in his representative
capacity as private attorney general,

Plaintiffs,

v.

A BRIGHT FUTURE, INC., a California
Corporation, and DOES 1-50, inclusive,

Defendants.

COMPLAINT FOR DAMAGES FOR:

24CV018079

**Civil Penalties Under Private Attorneys'
General Act, Labor Code Section 2698 *et*
*seq.***

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff YONATAN GHEBRESLASSIE ("Plaintiff"), individually, and in his representative capacity as private attorney general, asserts claims against Defendant A BRIGHT FUTURE, INC., a California Corporation,; and DOES 1-50, inclusive (collectively "Defendant") as follows:

INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys' General Act of 2004 ("PAGA"), Cal. Lab. Code section 2698 *et seq.* PAGA permits "aggrieved employees" to bring a lawsuit as a representative action on behalf of themselves and all other current and former aggrieved employees, to recover civil penalties and address an employer's violations of the California Labor Code.

2. Plaintiff brings this action pursuant to the PAGA on a representative basis on behalf of all non-exempt employees working directly or indirectly for Defendant in the State of California (the “Aggrieved Employees”) from one year prior to the filing of the PAGA notice to the conclusion of this action.

3. Plaintiff brings this action on behalf of himself and the Aggrieved Employees to recover civil penalties and address Defendant's violations of the California Labor Code and the IWC Wage Orders.

4. Pursuant to *Huff v. Securitas Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state and not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Ghebreslassie has standing to pursue penalties on behalf of the state of violations affecting all the aggrieved employees working for Defendant, regardless of their classification, job title, or locations in California.

5. In this case, Defendant violated various provisions of the California Labor Code and IWC Wage Orders. Defendant's violations include: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Owed; (3) Failure To Provide Lawful Meal Periods; (4) Failure To Authorize And Permit Rest Periods; (5) Failure to Timely Pay Wages During Employment; (6) Failure to Reimburse Necessary Expenses; (7) Knowing and Intentional Failure to Comply with Itemized Wage Statement Provisions; (8) Failure to Keep Accurate Payroll Records; and (9) Violation of the Equal Pay Act.

6. This action is timely because Plaintiff suffered from a violation or numerous violations of the California Labor Code within one year of the date on which a PAGA notice was sent to the LWDA via online submission. More than 65 days have passed, and no response has been received by the LWDA. Plaintiff thereby satisfied the notice requirement under the statute and is permitted to proceed with this action in a representative capacity.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to the California Constitution Article VI §10, which grants the California Superior Court original jurisdiction in all causes except those given by statute to other courts.

8. Further, there is no federal question at issue, as the issues herein are based solely on

1 California statutes and law, including the Labor Code, IWC Wage Orders, the California Code of Civil
2 Procedure, the California Civil Code, and the California Business and Professions Code.

3 9. Venue is proper in this Court because, upon information and belief, Defendant maintains
4 offices, has agents, employ individuals, and/or transact business in the State of California, County of
5 Sacramento. Moreover, many of the acts, events, and violations alleged herein relating to Plaintiff
6 occurred in the State of California, County of Sacramento.

7 **PARTIES**

8 10. Defendant A Bright Future, Inc., is a California Corporation doing business in the state of
9 California. It is based at 3423 Broadway St., Suite D1, American Canyon, CA 94503.

10 11. Upon information and belief, Defendant employs Non-Exempt Employees, like Plaintiff,
11 throughout the State of California.

12 12. Plaintiff Yonatan Ghebreslassie is and during the liability period has been, a resident of
13 California.

14 13. Plaintiff has been employed in hourly, non-exempt position by Defendant A Bright
15 Future, Inc. during the relevant time period.

16 14. Plaintiff and the members of the aggrieved group were employed, directly or indirectly,
17 by Defendant as non-exempt employees in the State of California from one year prior to the filing of the
18 PAGA notice to the conclusion of this action.

19 15. Whenever in the Complaint reference is made to any act, deed, or conduct of Defendant,
20 the allegation means that Defendant engaged in the act, deed, or conduct by or through one or more of
21 Defendant's officers, directors, agents, employees, or representatives, who was actively engaged in the
22 management, direction, control, or transaction of the ordinary business and affairs of Defendant.

23 16. The true names and capacities of Defendants, whether individual, corporate, associate, or
24 otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who
25 therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will
26 seek leave of court to amend the Complaint to reflect the true names and capacities of the Defendants
27 designated hereinafter as DOES when such identities become known.

28 17. Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants are the
partners, agents, or principals and co-conspirators of Defendants and of each other; that Defendants and

1 the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the
2 performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and
3 conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendants
4 as alleged herein.

5 18. Plaintiff is further informed and believes, and thereon alleges, that at all times material
6 herein, each Defendant was completely dominated and controlled by its co-Defendants and each was the
7 alter ego of the other. Whenever and wherever reference is made in the Complaint to any conduct by
8 Defendant or Defendants, such allegations and references shall also be deemed to mean the conduct of
9 each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is
10 made to individuals who are not named as Defendants in this complaint, but were employees and/or
11 agents of Defendants, such individuals, at all relevant times acted on behalf of Defendants named in the
12 Complaint within the scope of their respective employments.

13 **FACTUAL ALLEGATIONS**

14 19. During the relevant time frame, Defendant A Bright Future, Inc. compensated Plaintiff
15 and the Non-Exempt Employees based upon an hourly wage.

16 20. Plaintiff and the Aggrieved Employees were, and at all times pertinent hereto, have been
17 non-exempt employees within the meaning of the California Labor Code, and the implementing rules
18 and regulations of the IWC California Wage Orders. They are subject to the protections of the IWC
19 Wage Orders and the Labor Code.

20 21. Plaintiff is informed and believes, and thereon alleges, that Defendant is and was advised
21 by skilled lawyers and other professionals, employees, and advisors with knowledge of the requirements
22 of California's wage and employment laws.

23 22. During the relevant time, Plaintiff has been employed by Defendant A Bright Future, Inc.
24 in an hourly, non-exempt position from approximately June 1, 2020 through the present day.
25 Specifically, he has been employed in the position of Community Living Instructor ("CLI"). He has
26 usually worked approximately 7 days per week and 14-24 hours per day, often over 100 plus hours per
27 week.

28 23. In his position, Plaintiff has provided in-home care, support and services to clients with
intellectual disabilities to teach them how to live independently. He has also assisted these individuals

1 with cooking, cleaning, and with taking their medication.

2 24. All Aggrieved Employees are similarly situated in that they are all subject to Defendant's
3 uniform policies and systemic practices as specified herein.

4 25. Plaintiff and the Aggrieved Employees clock in at the beginning of their shifts and out at
5 the end of their shifts.

6 26. However, Plaintiff and the Aggrieved Employees have not been paid for all hours worked
7 because they have been required to work off the clock such that they have not been paid for all hours
8 worked. Plaintiff and the Aggrieved Employees are required to engage in pre-shift and post-shift work,
9 and work during purported meal periods, while off the clock, including without limitation to wait for
10 coverage/relief. In addition, Plaintiff and the Aggrieved Employees are required to commute between
11 locations to perform services and were not paid for said commute time.

12 27. By way of example, Plaintiff has been required to remain on duty after clocking out
13 because he must wait with his client until his relief arrives, which often takes up to an additional hour off
14 the clock more than once every week.

15 28. Moreover, Plaintiff has not been compensated for the time he has spent driving between
16 his home and his various clients' private homes, which takes 20-30 minutes each way. This also applies
17 to the time spent commuting between the private homes of different clients during the workday.

18 29. Plaintiff and the Aggrieved Employees were regularly required to work shifts in excess of
19 five hours without being provided a lawful meal period and, often, over ten hours in a day without being
20 provided a second lawful meal period as required by law. Despite the above-mentioned meal period
21 violations, Defendant failed to compensate Plaintiff, and on information and belief, failed to compensate
22 Aggrieved Employees, one additional hour of pay at their regular rate as required by California law when
23 meal periods were not timely or lawfully provided in a compliant manner.

24 30. Indeed, during the relevant time, as a consequence of Defendant's scheduling practices,
25 work demands, coverage requirements, and Defendant's policies and practices, Defendant frequently
26 failed to provide Plaintiff and the Aggrieved Employees timely, legally complaint uninterrupted 30-
27 minute meal periods as required by law. Not only were Plaintiff's and the Aggrieved Employees' first
28 meal breaks frequently not provided, untimely or short, but also Plaintiff and the Aggrieved Employees
were not provided a second meal period when working shifts in excess of 10 hours and in excess of 12

1 hours.

2 31. On information and belief, Plaintiff and Aggrieved Employees did not waive their rights
3 to a second meal period.

4 32. Plaintiff is informed and believes, and thereon alleges, that Defendant know, should know,
5 knew, and/or should have known that Plaintiff and the other Aggrieved Employees were entitled to
6 receive accurate premium wages under Labor Code §226.7 but were not receiving accurately calculated
7 compensation.

8 33. In addition, during the relevant time frame, Plaintiff and the Aggrieved Employees were
9 systematically not authorized and permitted to take one net ten-minute paid, rest period for every four
10 hours worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.

11 34. Defendant maintained and enforced scheduling practices, policies, and imposed work
12 demands that frequently required Plaintiff and the Aggrieved Employees to forego their lawful, paid rest
13 periods of a net ten minutes for every four hours worked or major fraction thereof. Such requisite rest
14 periods were not timely authorized and permitted.

15 35. Moreover, Plaintiff and the Aggrieved Employees were not permitted to leave the
16 premises during rest periods. Defendant's failure to relinquish control over employees during rest periods
17 constitutes a violation of the Labor Code.

18 36. Despite the above-mentioned rest period violations, Defendant did not compensate
19 Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of pay at
20 their regular rate as required by California law, including Labor Code section 226.7 and the applicable
21 IWC wage order, for each day on which lawful rest periods were not authorized and permitted.

22 37. Moreover, Plaintiff and the Aggrieved Employees have been required to incur necessary
23 expenses in the discharge of their duties but have not been reimbursed for such costs.

24 38. By way of example, Plaintiff and the Aggrieved Employees have been required to use
25 cellular phones in the discharge of their duties, including calling to clock in and out of work every day.

26 39. Moreover, Plaintiff has not been reimbursed for all time spent and mileage, which often
27 exceeded over 1,000 miles per month, required to use his own vehicle to drive to, from, and between
28 clients' homes.

40. Defendant also failed to provide accurate, lawful itemized wage statements to Plaintiff

1 and the Aggrieved Employees in part because of the above specified violations. In addition, upon
2 information and belief, Defendant omitted an accurate itemization of total hours worked, the applicable
3 hourly rates, the number of hours worked at each rate, the name and address of the legal entity that is the
4 employer, gross pay and net pay figures from Plaintiff, and the Aggrieved Employees' wage statements.
5 Such actions were and continue to be in violation of the California Labor Code and applicable IWC Wage
6 Orders.

7 41. Defendant has also made it difficult to determine applicable hourly rates of pay, total hours
8 worked, and account with precision for the unlawfully withheld wages and deductions due to be paid to
9 Non-Exempt Employees, including Plaintiff, during the liability period because it did not implement and
10 preserve a lawful record-keeping method to record all hours worked, meal periods, and non-provided rest
11 and meal periods owed to employees as required for non-exempt employees by 29 U.S.C. section 211(c),
12 California Labor Code section 226, and applicable California Wage Orders.

13 42. Plaintiff is of African ancestry and national origin and is proficient in English.

14 43. Plaintiff and other employees of African ancestry and national origin who have performed
15 job duties that are substantially similar to those performed by employees of non-African ancestry and
16 national origin, have been treated worse and received lower wages for performing substantially similar
17 work.

18 44. Plaintiff and other employees of African ancestry and national origin have performed
19 work requiring substantially similar skill, effort, and responsibility, and their work has been performed
20 under the same working conditions as the employees of non-African ancestry and national origin.

21 45. Despite Plaintiff's and other employees of African ancestry and national origin's
22 qualifications and job performance, Defendant have treated them worse and have paid them less than the
23 employees of non-African ancestry and national origin.

24 46. Plaintiff is informed and believes that Defendant's discriminatory conduct is motivated in
25 whole or in part by Plaintiff's and the other employees' African ancestry and national origin.

26 47. Plaintiff and the Aggrieved Employees are covered by applicable California IWC Wage
27 Orders and corresponding applicable provisions of the California Code of Regulations, Title 8, section
28 11000 *et seq.*

FAILURE TO PAY MINIMUM WAGES

48. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

49. Labor Code section 204 establishes the fundamental right of all employees in the State of California to be paid wages, including minimum wage, straight time and overtime, in a timely fashion for their work.

50. Labor Code section 1194(a) provides that notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

51. Labor Code section 1197 provides: The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.

52. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer than the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage Order(s).

53. The applicable wage orders and California Labor Code sections 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law.

54. During all relevant periods, the California Labor Code and wage orders required that Defendant fully and timely pay its non-exempt, hourly employees all wages earned and due for all hours worked.

55. The IWC Wage Orders define “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

56. At all times relevant, Plaintiff and Aggrieved Employees consistently worked hours for which they were not paid because Defendant frequently required Plaintiff and the Aggrieved Employees to work off the clock.

1 57. Plaintiff is informed and believes that Defendant was aware that Plaintiff and Aggrieved
2 Employees were working off the clock and that they should have been paid for this time.

3 58. Defendant's policy and practice of not paying all minimum wages violates California
4 Labor Code sections 204, 210, 216, 558, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 1454, and the
5 applicable wage orders 4-2001, 5-2001, and 15-2001.

6 ***FAILURE TO PAY OVERTIME OWED***

7 59. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs
8 as if fully set forth herein.

9 60. During all relevant periods, Defendant required Plaintiff and the Aggrieved Employees to
10 work shifts in excess of eight (8) hours per workday and/or to work in excess of forty (40) hours per
11 workweek.

12 61. During all relevant periods, both the California Labor Code sections 1194, 1197, 510,
13 1198, and the pertinent wage orders required that all work performed by an employee in excess of eight
14 (8) hours in any workday, on the seventh day of work in any workweek, or in excess of forty (40) hours
15 in any workweek be compensated at one and one-half (1.5) times the employee's regular rate of pay.
16 Any work in excess of twelve (12) hours in one (1) day is required to be compensated at the rate of no
17 less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours
18 on any seventh (7th) day of a workweek is required to be compensated at the rate of no less than twice
19 the regular rate of pay of an employee.

20 62. During all relevant periods, Defendant had a uniform policy of requiring Plaintiff and the
21 Aggrieved Employees to work in excess of eight (8) hours in a workday and/or in excess of forty (40)
22 hours in a workweek without compensating them at a rate of one and one-half (1.5) times their regular
23 rate of pay. Upon information and belief, Defendant also failed to properly compensate Plaintiff and the
24 Aggrieved Employees for hours worked in excess of twelve (12) hours in one (1) day, or eight (8) hours
25 on the seventh (7th) day of a workweek.

26 63. The IWC Wage Orders define "hours worked" as "the time during which an employee is
27 subject to the control of an employer, and includes all the time the employee is suffered or permitted to
28 work, whether or not required to do so."

 64. Plaintiff is informed and believe that Defendant was aware that Plaintiff and the

Aggrieved Employees were working off the clock and that they should have been paid for this time.

65. As a result, Defendant failed to pay Plaintiff and the Aggrieved Employees earned overtime wages and such employees suffered damages as a result.

66. In addition, upon information and belief, Defendant failed to incorporate all forms of compensation, including without limitation bonuses, (shift) differentials, and incentives, into the regular rate for overtime purposes.

67. As a result, Defendant failed to pay Plaintiff and the Aggrieved Employees earned overtime wages and violated the law including 204, 210, 216, 510, 558, 1182.12, 1194, 1197, 1197.1, 1198, 1454, and the applicable Wage Orders 4-2001, 5-2001, and 15-2001.

68. Defendant knew or should have known Plaintiff and the Aggrieved Employees were undercompensated as a result of these practices.

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

69. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

70. Pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee.

71. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than ten (10) hours without providing a second meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal break may only be waived by mutual consent, and if the employee did not waive his or her first meal period, and the employee's work day will not exceed twelve hours.

72. Indeed, during the relevant time, as a consequence of Defendant's staffing and scheduling practices, lack of coverage, work demands, and Defendant's policies and practices, Plaintiff and the Aggrieved Employees were not provided with legally required meal periods.

73. On information and belief, Plaintiff and Aggrieved Employees did not waive their rights to meal periods under the law.

1 74. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-duty meal
2 periods.

3 75. Plaintiff and the Aggrieved Employees were not relieved of all duty, were not allowed to
4 leave the premises during meal periods, and/or were required to carry communications devices and
5 remain on-call during purported meal periods.

6 76. Plaintiff and the Aggrieved Employees were not paid one hour of pay at their regular rate
7 for each day that a first or second meal period was not lawfully provided.

8 77. As a proximate result of the aforementioned violations, Plaintiff and the Aggrieved
9 Employees have been damaged in an amount according to proof at time of trial.

10 78. Pursuant to Labor Code § 226.7, Plaintiff and Aggrieved Employees are entitled to recover
11 one (1) hour of premium pay at the regular rate for each day in which a meal period violation occurred.
12 They are also entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

13 79. As a result of the unlawful acts of Defendant, Defendant violated Labor Code section 512,
14 226.7, 1198, and the Wage Orders.

15 ***FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS***

16 80. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs
17 as if fully set forth herein.

18 81. Pursuant to the IWC wage orders applicable to Plaintiff's and the Aggrieved Employees'
19 employment by Defendant, "Every employer shall authorize and permit all employees to take rest
20 periods, which insofar as practicable shall be in the middle of each work period.... [The] authorized rest
21 period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per
22 four (4) hours worked or major fraction thereof.... Authorized rest period time shall be counted as hours
23 worked, for which there shall be no deduction from wages."

24 82. Labor Code §226.7(a) prohibits an employer from requiring any employee to work during
25 any rest period mandated by an applicable order of the IWC.

26 83. Defendant was required to authorize and permit employees such as Plaintiff and
27 Aggrieved Employees to take rest periods during shifts in excess of 3.5 hours, based upon the total hours
28 worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof, with no
deduction from wages.

1 84. Despite said requirements of the IWC wage orders applicable to Plaintiff's and the
2 Aggrieved Employees' employment with Defendant, Defendant failed and refused to authorize and
3 permit Plaintiff and Aggrieved Employees to take lawful, net ten (10) minute rest periods for every four
4 (4) hours worked, or major fraction thereof.

5 85. Plaintiff and the Aggrieved Employees were not relieved of all duty, were not allowed to
6 leave the premises during rest periods, and/or were required to carry communications devices and remain
7 on-call during purported rest periods.

8 86. Defendant did not pay Plaintiff one additional hour of pay at his regular rate of pay for
9 each day that a rest period violation occurred. On information and belief, other Aggrieved Employees
10 endured similar violations as a result of Defendant's rest period policies and practices and Defendant did
11 not pay said Aggrieved Employees premium pay as required by law.

12 87. By their failure to authorize and permit Plaintiff and the Aggrieved Employees to take a
13 lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction thereof
14 worked, including failure to provide two (2) total rest periods on six to ten hour shifts and three (3) total
15 ten (10) minute rest periods on days on which Plaintiff and the other Aggrieved Employees work(ed)
16 work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide compensation
17 for such unprovided rest periods as alleged herein, Defendant willfully violated the provisions of Labor
18 Code sections 226.7 and the applicable IWC Wage Order(s).

19 88. As a result of the unlawful acts of Defendant, Defendant violated Labor Code sections
20 226.7, 512, 1198, and the applicable IWC Wage Orders.

21 ***FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING EMPLOYMENT***

22 89. Plaintiff incorporates by reference and realleges each and every allegation contained
23 above, as though fully set forth herein.

24 90. Labor Code section 204 requires that all wages are due and payable twice in each calendar
25 month.

26 91. The wages required by Wage Order 15-2001 and Labor Code §§ 226.7, 510, 1194, 1454
27 and other sections became due and payable to each employee in each month that he or she was not paid
28 minimum wage, straight or overtime wages to which he or she was entitled.

1 92. Defendant violated Labor Code § 204 by systematically refusing to pay wages due under
2 the Labor Code and applicable wage orders.

3 93. Labor Code section 210 (a) provides that “In addition to, and entirely independent and
4 apart from, any other penalty provided in this article, every person who fails to pay the wages of each
5 employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall
6 be subject to a penalty as follow:

7 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each
8 employee.

9 (2) For each subsequent violation, or any willful or intentional violation, two hundred
10 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount
11 unlawfully withheld.”

12 94. Plaintiff and the Aggrieved Group are entitled to civil penalties, attorneys fees, and costs.

13 ***FAILURE TO REIMBURSE NECESSARY EXPENSES***

14 95. Plaintiff incorporates by reference and realleges each and every allegation contained
15 above, as though fully set forth herein.

16 96. Labor Code § 2802 requires Defendant to indemnify Plaintiff and Aggrieved Employees
17 for necessary expenditures incurred in direct consequence of the discharge of his or her duties.

18 97. Plaintiff and the Aggrieved Employees were required to incur expenses in the
19 performance of their assigned job duties, including, but not limited to, cellular phone usage and
20 applications.

21 98. Plaintiff and the Aggrieved Employees were also required to incur expenses, including
22 gas, for all time spent and mileage required to use their vehicles to drive to, from, and between clients’
23 homes.

24 99. Upon information and belief, the Defendant did not reimburse Plaintiff or the Aggrieved
25 Employees for such expenses.

26 100. As a result of the unlawful acts of Defendant, Defendant violated Labor Code §2800 and
27 2802.

28 ///

///

***KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE
WAGE STATEMENT PROVISIONS***

101. Plaintiff repeats and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

102. Labor Code section 226(a) reads in pertinent part: “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a 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... (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 each the pay period and the corresponding number of hours worked at each hourly rate by the employee....”.

103. Further, the IWC Wage Orders require in pertinent part: Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rates of pay....”

104. Labor Code section 1174 of the California also requires Defendant to maintain and preserve, in a centralized location, among other items, records showing the names and addresses of all employees employed and payroll records showing the hours worked daily by, and the wages paid to, its employees. On information and belief and based thereon, Defendant has knowingly and intentionally failed to comply with Labor Code section 1174, including by implementing the policies and procedures and committing the violations alleged in the preceding causes of action and herein. Defendant’s failure to comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

105. Defendant has failed to record many of the items delineated in applicable Industrial Wage Orders and Labor Code section 226, and required under Labor Code section 1174, including by virtue of the fact that each wage statement which failed to accurately compensate Plaintiff and Aggrieved

1 Employees for all hours worked and for missed and non-provided meal and rest periods, or which failed
2 to include compensation for all minimum wages earned or overtime hours worked, was an inaccurate
3 wage statement. In addition, the wage statements inaccurately stated totals hours worked and hours
4 worked at each hourly wage rate.

5 106. On information and belief, Defendant failed to implement and preserve a lawful record-
6 keeping method to record all non-provided meal and rest periods owed to employees or all hours worked,
7 as required for Aggrieved Employees under California Labor Code section 226 and applicable California
8 Wage Orders. In order to determine if they had been paid the correct amount and rate for all hours
9 worked, Plaintiff and Aggrieved Employees have been, would have been, and are compelled to try to
10 discover the required information missing from their wage statements and to perform complex
11 calculations in light of the inaccuracies and incompleteness of the wage statements Defendant provided
12 to them.

13 107. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC Wage
14 Orders, Defendant did not and still do not furnish each Aggrieved Employee with an accurate itemized
15 statement in writing accurately reflecting all of the required information. Here, Plaintiff asserts the
16 Defendant omitted required information, failed to accurately include all applicable hourly rates on the
17 wage statements and the corresponding number of hours worked at such rates or hours paid at such rates.
18 In addition, Defendant has failed to provide accurate itemized wage statements as a consequence of the
19 above-specified violations for failure to accurately pay all wages owed, accurately record all hours
20 worked, and failure to pay meal and rest period premiums as required by law.

21 108. Moreover, upon information and belief, as a pattern and practice, in violation of Labor
22 Code section 226(a) and the IWC Wage Orders, Defendant did not and do not maintain accurate records
23 pertaining to the total hours worked for Defendant by the Aggrieved Employees, including but not limited
24 to, beginning and ending of each work period, meal period and split shift interval, the total daily hours
25 worked, and the total hours worked per pay period and applicable rates of pay.

26 ***FAILURE TO KEEP ACCURATE RECORDS***

27 109. Plaintiff repeats and incorporates herein by reference each and every allegation set forth
28 above, as though fully set forth herein.

110. The IWC Wage Orders, Labor Code Sections 226(a), 1174, and 1174.5 require that

1 Defendant keeps accurate payroll and timekeeping information.

2 111. The IWC Wage Orders required in pertinent part: Every employer shall keep accurate
3 information with respect to each employee including the following: (3) Time records showing when the
4 employee begins and ends each work period. Meal Periods, split shift intervals, and total daily hours
5 worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rate of pay...”

6 112. Labor Code section 1174 also requires Defendant to maintain and preserve, in a
7 centralized location, among other items, records showing the names and addresses of all employees
8 employed and payroll records showing the hours worked daily by and the wages paid to, its employees.

9 113. On information and believe and based thereon, Defendant has knowingly and intentionally
10 failed to comply with Labor Code section 1174, including by implementing the policies and procedures
11 and committing the violations alleged above, including without limitation failing to keep records of meal
12 periods and all wages earned at the proper rates. Defendant’s failures to comply with Labor Code section
13 1174 is unlawful pursuant to Labor Code section 1175.

14 ***VIOLATION OF EQUAL PAY ACT***

15 114. Plaintiff incorporates by reference and realleges each and every allegation contained
16 above, as though fully set forth herein.

17 115. Labor Code § 1197.5 requires Defendant to pay its employees at wages equal to the rates
18 of employees of another race or ethnicity for substantially similar work, when viewed as a composite of
19 skill, effort, and responsibility, and performed under similar working conditions.

20 116. Defendant has violated Labor Code § 1197.5 by paying Plaintiff and the Aggrieved
21 Employees less than employees of non-African ancestry and national origin for substantially similar
22 work.

23 117. As a direct and proximate result of Defendant’s unlawful conduct, Plaintiff and the
24 Aggrieved Employees have suffered and continue to suffer substantial losses in earnings and other
25 employment benefits.

26 118. As a result of its unlawful acts, Defendant violated Labor Code § 1197.5.

27 ///

28 ///

///

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **PENALTIES UNDER THE PRIVATE ATTORNEYS' GENERAL ACT, LABOR CODE**

4 **SECTION 2698 ET SEQ.**

5 119. Plaintiff incorporates by reference each and every paragraph above, and realleges each
6 and every allegation contained above as though fully set forth herein.

7 120. Plaintiff gave timely written notice by online submission to the LWDA and by certified
8 mail to Defendant of Defendant's violations of numerous provisions of the California Labor Code and
9 the IWC Wage Orders as alleged in this complaint. All fees were paid as required by statute.

10 121. Plaintiff is an "aggrieved employee" as defined in Labor Code Section 2699(A), as he was
11 employed by Defendant during the statutory period and suffered one or more of the Labor Code violations
12 set forth herein. He seeks to recover for himself and all other current and former aggrieved employees
13 of Defendant the civil penalties provided by PAGA, plus reasonable attorneys' fees and costs.

14 122. 65 days have passed, and no response has been received from the LWDA. Accordingly,
15 the LWAD has permitted Plaintiff to proceed in a representative capacity.

16 123. Plaintiff has exhausted all administrative procedures required of them under the Labor
17 Code §§2698, 2699, 2699.3, and as a result, is justified as a matter of right in bringing forward this cause
18 of action.

19 124. Pursuant to Labor Code section 2699(a) Plaintiff seeks to recover civil penalties for which
20 Defendant is liable due to numerous Labor Code violations as set forth in this Complaint.

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

24 126. Pursuant to Labor Code section 2698 et seq. and 2699(a), Plaintiff seeks to recover civil
25 penalties for which Defendant is liable due to numerous Labor Code and Wage Order violations as set
26 forth in this Complaint.

27 127. Specifically, Plaintiff, on behalf of himself and the Aggrieved Employees, seeks penalties
28 under Labor Code §2699, for, without limitation, the claims set forth herein, including:

- a. Defendant's failure to comply with the requirement of Labor Code §1182.12, 1194, 1197, 1198, and Wage Orders to pay at least minimum wage for every hour worked;
- b. Defendant's failure to comply with the requirement of Labor Code §510, 1194, 1197, 1198, and Wage Orders to accurately pay all wages earned, including overtime and reporting wages;
- c. Defendant's failure to comply with the requirement of Labor Code §216 to pay wages after demand was made;
- d. Defendant's failure to comply with the requirement of Labor Code §§204 and 210 to pay, without condition and within the time set by the applicable article, all wages, or parts thereof;
- e. Defendant's failure to comply with the requirement of Labor Code §225.5 to pay wages due;
- f. Defendant's failure to comply with the requirement of Labor Code §§201 and 202 to pay wages due to former employees;
- g. Defendant's failure to comply with the requirement of Labor Code §203 to pay waiting time penalties to former employees;
- h. Defendant's failure to comply with the requirement of Labor Code §226.7, 512, 1198, and IWC Wage Orders to provide timely, uninterrupted 30 minute off-duty meal periods;
- i. Defendant's failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Orders to pay one hour of premium pay at the regular rate for each lawful meal break that was not provided;
- j. Defendant's failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Orders to authorize and permit ten (10) minute rest breaks;
- k. Defendant's failure to comply with the requirement of Labor Code §§226.7, 1198, and IWC Wage Orders to pay one hour of premium pay at the regular rate for each statutorily required rest break that was not lawfully authorized and permitted;
- l. Defendant's failure to reimburse necessary expenses in violation of Labor Code § 2802;

- m. Defendant's failure to provide accurate compliant wage statements under Labor Code section 226;
- n. Defendants' failure to maintain required records in violation of Labor Code §226, 1174, and Wage Orders.
- o. Defendant's failure to pay Plaintiff and the Aggrieved Employees equal to employees of non-African ancestry and national origin for substantially similar work.

128. Plaintiff seeks civil penalties for Defendant's violation of Labor Code provisions for which a civil penalty is specifically provided, including but not limited to the following:

- a. Pursuant to Labor Code §210, for violations of Labor Code §204, Defendant is subject to a civil penalty in the amount of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred (\$200) per employee for violations in subsequent pay periods plus 25% of the amount unlawfully withheld.
- b. Pursuant to Labor Code §226.3, for violations of Labor Code §226 (a) Defendant is subject to a civil penalty in the amount of two hundred and fifty dollars (\$250) per aggrieved employee for the initial pay period where a violation occurs and one thousand dollars (\$1,000) per aggrieved employee for violations in subsequent pay period.
- c. Pursuant to Labor Code §558(a), "[a]ny employer or other person acting on behalf of an employer who violated, or causes to be violated, a section of this chapter or any provisions regulating hours and days of work in any order of the Industrial Welfare Commission," including Labor Code §§510 and 512, shall be subject to a civil penalty, in addition to any other penalty provided by law, of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid and one hundred dollars (\$100) for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid.
- d. Pursuant to Labor Code §1174.5, for violations of Labor Code §1174(d), Defendant is subject to a civil penalty of five hundred dollars (\$500).
- e. Pursuant to Labor Code §1197.1, an employer who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission, shall be subject to a civil penalty as follows: for any initial violation that is intentionally

committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid; and for each subsequent violation of the same offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation was intentionally committed.

129. Further, as a result of the acts alleged hereinabove, Plaintiff seeks penalties under Labor Code §§2698 et seq. and 2699 because of Defendant's violation of numerous provisions of the California Labor Code and IWC Wage Orders.

130. Under Labor Code §2699, Plaintiff and Aggrieved Employees are entitled to \$100 for any initial violation and \$200 for all subsequent violations of the above-mentioned provisions of the California Labor Code.

131. Under Labor Code §2699, Plaintiff and Aggrieved Employees should be awarded twenty-five percent (25%) of all penalties due under California Law, interest, attorneys' fees and costs.

132. Under Labor Code §2699, the State of California should we awarded seventy-five percent (75%) of the penalties due under California Law.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendant as follows:

1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq. for the violations specified above;
2. For penalties under Labor Code sections 210, 226.3, 1174.5, 1197.1, and 2699(a) and (f);
3. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-judgment interest;
4. For reasonable attorneys' fees, expenses, and costs under Labor Code §§1194, 226, 2699, and/or Code of Civil Procedure §1021.5, and/or any other applicable provisions providing for attorneys' fees and costs; and
5. For such other and further relief as the Court deems proper.

Respectfully submitted,

Dated: September 11, 2024



EMPLAW, LLP

Christina M. Lucio, Esq.

Mitchell J. Murray, Esq.

Nicholas W. Schieffelin, Esq.

Attorneys for YONATAN GHEBRESLASSIE, on behalf of
himself and all others similarly situated