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\$1,000 PAID

Attorneys for Plaintiff KUAN CHEN, on
behalf of herself and all others similarly situated
and on behalf of the general public

\$435 PAID

\$150 PAID

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF STANISLAUS

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

Case No. CV-24-008649

Plaintiff,

**PLAINTIFF KUAN CHEN'S PAGA
COMPLAINT**

v.

PACIFIC SOUTHWEST CONTAINER,
LLC; PACIFIC SOUTHWEST
CONTAINER, INC.; and DOES 1-100,

Defendants.

1. Violation of the Private Attorney General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages for All Work Performed (Cal. Lab. Code § 2698, et. seq.)
2. Violation of the PAGA for Failure to Pay All Overtime Wages (Cal. Lab. Code § 2698, et. seq.)
3. Violation of PAGA for Failure to Provide Meal Periods (Cal. Lab. Code § 2698, et. seq.)
4. Violation of PAGA for Failure to Provide Rest Periods (Cal. Lab. Code § 2698, et. seq.)
5. Violation of PAGA for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code § 2698, et. seq.)
6. Violation of PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties (Cal. Lab. Code § 2698, et. seq.)

DEMAND FOR JURY TRIAL

1 Plaintiff KUAN CHEN (hereinafter “Plaintiff”), on behalf herself and all other similarly
2 aggrieved employees (hereinafter “aggrieved employees”), files this Complaint against Defendants
3 PACIFIC SOUTHWEST CONTAINER, LLC and PACIFIC SOUTHWEST CONTAINER, INC.
4 (hereinafter “Defendants”), 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 Attorney General Act of 2004 (PAGA), California Labor Code § 2698 *et. seq.*, against
8 Defendants and/or DOES 1-100. The PAGA permits an “aggrieved employee” to bring a
9 lawsuit on behalf of herself and other current and former employees to address an employer’s
10 violations of the *California Labor Code*.

11 2. This action is brought on behalf of Plaintiff and all other aggrieved employees of Defendants
12 and/or DOES who: worked a shift of at least five (5) hours without receiving a meal period;
13 worked four (4) hours, or a major fraction thereof, without receiving a ten (10) minute net rest
14 break; worked qualifying shifts without receiving second meal periods and second and third
15 rest breaks; were not paid compensation for all time worked at the straight, overtime, or double
16 time rate; were not paid waiting time penalties; and were not reimbursed for business expenses.
17 Plaintiff seeks penalties on behalf of herself and all other aggrieved employees of Defendants
18 and/or DOES as provided herein. This Complaint also seeks attorneys’ fees and costs under
19 the PAGA, Cal. Lab. Code § 2699(g)(1).

20 3. At all times mentioned herein, Plaintiff and the other aggrieved employees were not classified
21 as “Exempt” or primarily employed in an executive, professional, or administrative capacity.
22 Thus, under California law, Plaintiff and the aggrieved employees should be: provided meal
23 periods; authorized and permitted to take rest periods; paid one hour of premium pay for all
24 unprovided meal periods; paid one hour of premium pay for all rest periods that were not
25 authorized and/or permitted; paid compensation for all time worked at the regular, overtime or
26 double time rate; paid penalties for not being paid timely at the time of termination; and
27 reimbursed for business expenses.

28 4. At all times mentioned herein, Defendants and/or DOES controlled the working conditions of

1 Plaintiff and the aggrieved employees including, but not limited to, having the authority to hire
2 and fire Plaintiff and the other aggrieved employees, setting the wages of Plaintiff and the other
3 aggrieved employees, and instructing Plaintiff and the other aggrieved employees when and/or
4 where to work. In addition, Defendants and/or DOES developed, wrote, dictated, approved
5 and/or authorized wage and hour policies and/or practices that Plaintiff and the aggrieved
6 employees labored under. These policies and/or practices included, but were not limited to,
7 policies and/or practices regarding meal periods, straight time, overtime, double time, rest
8 periods, wage statements, paying compensation at time of termination, timing of payment; and
9 business expense reimbursement. Further, Defendants and/or DOES had the ability to prevent
10 Plaintiff and the other aggrieved employees from working.

11 5. Upon information and belief, Defendants and/or DOES maintain a single, centralized Human
12 Resources (HR) department for all non-exempt, hourly-paid employees working in California,
13 including Plaintiff and other aggrieved employees.

14 6. At all relevant times, Defendants and/or DOES issued and maintained uniform, standardized
15 scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid
16 employees in California, including Plaintiff and other aggrieved employees, regardless of their
17 location or position.

18 7. Upon information and belief, Defendants and/or DOES maintain a centralized Payroll
19 department which processes payroll for all non-exempt, hourly-paid employees working in
20 California, including Plaintiff and other aggrieved employees. Further, Defendants and/or
21 DOES issue the same formatted wage statements in the same manner for all non-exempt,
22 hourly-paid employees working in California, including Plaintiff and other aggrieved
23 employees, irrespective of their location, position, or manner in which each employee's
24 employment ended. In other words, Defendants and/or DOES utilized the same methods and
25 formulas when calculating wages due to Plaintiff and other aggrieved employees in California
26 wherein liability and exposure will be substantial.

27 **II. JURISDICTION AND VENUE**

28 8. Plaintiff is an individual residing in California. Plaintiff was employed by Defendants and/or

DOES in California. Plaintiff, and each of the aggrieved employees, were employees of Defendants and/or DOES, and/or its operating divisions and subsidiaries, within the State of California. Plaintiff and each of the aggrieved employees were subject to the unlawful policies beginning one (1) year prior to the date Plaintiff sent Notice to the State of California Labor and Workforce Development Agency (LWDA).

9. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant and/or DOE operates facilities, employs hourly employees, conducts business, and commits *California Labor Code* violations within Stanislaus County and California. Each Defendant and/or DOE is within the jurisdiction of this Court for service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and the other aggrieved employees situated within the State of California and within Stanislaus County. Defendants and/or DOES employ numerous aggrieved employees in California and/or Stanislaus County.

10. Plaintiff brings this action on behalf of herself and the other aggrieved employees of Defendants and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the one (1) year period before Plaintiff filed Notice with the LWDA of her intent to bring this action, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least sixty-five (65) percent of the penalties recovered being reimbursed to the State of California and the LWDA.

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

12. The California Superior Court also has jurisdiction in this matter because the penalties sought exceed the minimum jurisdictional limits of the Superior Court and will be established at trial, according to proof. Defendants and/or DOES either own, maintain offices, transact business, have an agent or agents, have their principal place of business in, and/or otherwise are found within the County of Stanislaus, California.

III. THE PARTIES

A. Plaintiff

13. Defendants and/or DOES employed Plaintiff as an hourly, non-exempt Manufacturing Assistant from June 6, 2022, to April 12, 2024. Throughout her term of employment, Plaintiff was a non-exempt, hourly employee. Plaintiff typically worked Monday to Friday from 7:40 am to 05:40 pm. Plaintiff's regular rate of pay was \$23.40 per hour.

14. Plaintiff, a former employee of Defendants and/or DOES, and similar aggrieved employees were and are entitled to statutory meal periods, statutory rest periods, compensation for all time worked at the regular, overtime, and doubletime rate, to receive timely wages at the time of termination, and to be reimbursed for business expenses.

15. Plaintiff and similar aggrieved employees were and are employed in the State of California by the Defendants and/or DOES as non-exempt hourly employees during the relevant time period. Plaintiff was employed in a non-exempt capacity.

16. A notice correspondence showing compliance with *Cal. Lab. Code* § 2699.3 was sent to the LWDA and Defendant on June 27, 2024. This notice demonstrates that Plaintiff is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. No notice of cure by Defendants and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notice of the action. Accordingly, Plaintiff files this action as a "Representative Action" as authorized by *Cal. Lab. Code* § 2699.3(a)(2)(C).

B. Defendant

17. Defendants and/or DOES are packaging companies operating facilities throughout the State of California, employing Plaintiff and the aggrieved employees to provide packaging services to Defendants' and/or DOES' customers.

18. Defendants' and/or DOES' principal place of business was/is in the State of California.

19. Defendants and/or DOES have numerous offices and/or contracts in the State of California.

20. California is the nerve center of Defendants' and/or DOES' operations.

21. 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.

22. 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.

23. 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

24. During all, or a portion, of the one (1) year period before Plaintiff filed Notice of her claims with the LWDA, Plaintiff and each of the aggrieved employees were employed by Defendants and/or DOES in the State of California. Plaintiff and the other aggrieved employees are composed of all non-exempt hourly employees of Defendants and/or DOES in the State of California.

25. At all times mentioned herein, Defendants and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be paid for all hours worked at the minimum, regular, overtime, and/or doubletime rate of pay.

26. At all times mentioned herein, Defendants and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be provided legally compliant meal periods in a timely manner or payment of one hour of pay as additional compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.

1 27. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift
2 of at least five (5) hours worked per day by Plaintiff and all aggrieved employees, and by
3 failing to provide compensation for these unprovided meal periods, Defendants and/or DOES
4 willfully violated the provisions of *Cal. Lab. Code* § 226.7, the applicable IWC Wage Order,
5 and California Code of Regulations, Section 11070(11). In addition, Defendants and/or DOES
6 failed to provide Plaintiff and the other aggrieved employees another duty-free meal period of
7 not less than thirty (30) minutes for every shift of more than ten (10) hours per day.

8 28. At all times mentioned herein, Defendants and/or DOES knew and/or should have known that
9 Plaintiff and the aggrieved employees were entitled to be authorized and/or permitted to take
10 legally compliant rest periods in a timely manner or payment of one hour of pay as additional
11 compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they were
12 not authorized and/or permitted to take a legally compliant rest period.

13 29. By failing to provide paid ten (10) minute rest periods for every four (4) hours or major fraction
14 thereof, worked per day by Plaintiff and all aggrieved employees and by failing to provide
15 compensation for these periods, Defendants and/or DOES willfully violated the provisions of
16 *Cal. Lab. Code* § 226.7, the applicable IWC Wage Order, and California Code of Regulations,
17 Section 11070(12).

18 30. At all times mentioned herein, Defendants and/or DOES failed to pay all wages owed to
19 Plaintiff and to other terminated or resigned members of the aggrieved employees and failed
20 to timely pay wages during employment.

21 31. At all times mentioned herein, Defendants and/or DOES knew and/or should have known that
22 they had a duty to compensate Plaintiff and the other aggrieved employees in accordance with
23 California law, and that Defendants and DOES had the ability to pay such compensation, but
24 willfully and intentionally failed to do so, and Defendants and DOES falsely represented to
25 Plaintiff and the other aggrieved employees that they were properly compensating Plaintiff and
26 the other aggrieved employees.

27 32. At all times mentioned herein, Defendants and/or DOES knew and/or should have known that
28 Plaintiff and the other aggrieved employees were entitled to timely wages at the time of

1 termination. Defendants and/or DOES did not pay all timely wages owed, straight-time wages
2 owed, meal period premiums, and/or rest period premiums owed at the time of termination.

3 33. At all times mentioned herein, Defendants and/or DOES failed to pay Plaintiff and the other
4 aggrieved employees a sum certain at the time of termination or within seventy-two (72) hours
5 of their resignation, and have failed to pay those sums for thirty (30) days thereafter.

6 34. At all times mentioned herein, Defendants and/or DOES knew and/or should have known that
7 Plaintiff and the aggrieved employees were entitled to be reimbursed for business expenses in
8 accordance with California law.

9 35. Plaintiff brings this action on behalf of herself and all other aggrieved employees defined as
10 all non-exempt hourly employees of Defendants and/or DOES in California, employed
11 beginning one year prior to the date Plaintiff sent Notice to the LWDA.

12 36. Plaintiff reserves the right to amend or modify the definition of aggrieved employees with
13 respect to the issues or in any other way.

14 **FIRST CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of the**
15 **Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages**
16 **for All Work Performed (Cal. Lab. Code §2698 et. seq.).**

17 37. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
18 as if fully plead.

19 38. It is fundamental that an employer must pay its employees for the time worked. Cal. Lab.
20 Code § 222 prohibits the withholding on part of a wage. Cal. Lab. Code § 223 prohibits the
21 pay of less than a statutory or contractual wage scale. Cal. Lab. Code §§ 1194-1197.1 prohibits
22 the payment of less than the minimum wage. Cal. Lab. Code § 224 only permits deductions
23 from wages when the employer is required or empowered to do so by state or federal law or
24 when the deduction is expressly authorized in writing by the employee for specified purposes
25 that do not in effect reduce the agreed upon wage.

26 39. Section 1197.1 of the California Labor Code states “[a]ny employer or other person acting
27 individually as an officer, agent, or employee of another person, who pays or causes to be paid
28 to any employee a wage less than the minimum fixed by an applicable state or local law, or by

an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties pursuant to Section 203.”

40. California law prohibits employers from requiring employees to “work off-the-clock” without compensation. “Work off the clock” is work that an employee does without pay. See *Adoma v. University of Phoenix, Inc.* (E.D. Cal. 2010) 270 F.R.D. 543, 548.

41. Specifically, California law requires that an employer pay for all hours that it “engage[s], suffer[s], or permit[s]” an employee to work. *Morillion v. Royal Packing Co.*, (2000) 22 Cal.4th 575, 586 (quoting a California Wage Order). This definition is equivalent to the FLSA obligation to pay for work the employer “knows or has reason to believe” the employee performs. *Id.* at 585 (quoting 29 C.F.R. § 785.11 (1998)).

42. Defendants and/or DOES neglected their obligations to provide meal breaks to Plaintiff and the aggrieved employees, by either not permitting its employees to take meal breaks in the first instance, or alternatively, by requiring them to continue to perform one or more job duties throughout the time allotted for their meal breaks whether or not they were on or off the clock. Plaintiff and the aggrieved employees are owed unpaid wages for the time spent working during their unpaid meal periods.

43. Plaintiff and the aggrieved employees would usually work off the clock for 20-30 minutes each day answering questions from their supervisors or finishing work tasks while clocked out. Defendants and/or DOES failed to pay Plaintiff and the aggrieved employees all wages due, at their regular rate during employment and/or upon termination.

44. Defendants and/or DOES committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the aggrieved employees. Defendants and/or DOES acted with malice or in conscious disregard of Plaintiff’s and the aggrieved employees’ rights.

45. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

46. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who worked for Defendants and/or DOES in California.

1 47. Plaintiff, as a former non-exempt employee of Defendants and/or DOES who Defendants
2 sand/or DOES failed to pay all wages, is an aggrieved employee with standing to bring an
3 action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the
4 general public to enforce California's labor laws, and the penalty provisions identified in *Cal.*
5 *Lab. Code* § 2699.5.

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

11 49. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
12 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
13 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Cal.*
14 *Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
15 pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

16 50. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved
17 employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this
18 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
19 Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
20 pursuant to *Cal. Lab. Code* § 558(a).

21 **SECOND CAUSE OF ACTION AGAINST DEFENDANTS AND/DOES: Violation of the**
22 **Private Attorneys General Act of 2004 (PAGA) for Failure to Pay All Overtime and Double time**
23 **Wages Owed**

24 51. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
25 as if fully plead.

26 52. *Cal. Lab. Code* § 510 states that eight hours of labor constitutes a day's work. Any work in
27 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek
28 and the first eight hours worked on the seventh day of work in any one workweek shall be

1 compensated at the rate of no less than one and one-half times the regular rate of pay for an
2 employee.

3 53. Cal. Lab. Code § 510 dictates that any work in excess of 12 hours in one day shall be
4 compensated at the rate of no less than twice the regular rate of pay for an employee. In
5 addition, any work in excess of eight hours on any seventh day of a workweek shall be
6 compensated at the rate of no less than twice the regular rate of pay of an employee.

7 54. An employee's regular rate of pay includes all remuneration for employment paid to, or on
8 behalf of, the employee, including non-discretionary bonuses and incentive pay.

9 55. Defendants and/or DOES willfully failed to pay all overtime wages owed to Plaintiff and the
10 aggrieved employees. During the relevant time period, Plaintiff and the aggrieved employees
11 were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours
12 in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week,
13 because all hours that they worked were not recorded.

14 56. Plaintiff and the aggrieved employees sometimes worked shifts of eight (8) hours a day or
15 more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
16 premium pay. However, Plaintiff and the aggrieved employees were not paid overtime wages
17 for all of the overtime hours they worked. Instead Plaintiff and the aggrieved employees were
18 merely paid at their regular rate of pay for these overtime hours.

19 57. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid
20 wages, and lost interest on such wages, and expenses.

21 58. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
22 worked for Defendants and/or DOES in California.

23 59. Plaintiff, as a representative of the people of the State of California, will seek any and all
24 penalties otherwise capable of being collected by the Labor commission and/or the Department
25 of Labor Standards Enforcement (DLSE) for violations of Cal. Lab. Code § 510.

26 60. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
27 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
28 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.

Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

61. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

THIRD CAUSE OF ACTION AGAINST DEFENDANTS AND/DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Meal Periods (Cal. Lab. Code §2698 et. seq.).

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

63. Pursuant to Labor Code Sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

64. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code Sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

65. Under Cal. Lab. Code § 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

1 pay at the employee's regular rate of compensation for each workday that the meal period is
2 not provided.

3 66. Defendants and/or DOES in California maintained a company-wide, unlawful written meal
4 break policy insofar as it fails to state the timing of when meal breaks must occur. Under
5 California law, first meal periods must start after no more than five hours of work and
6 employees must be permitted to complete their meal breaks without interruption. *Brinker*, 53
7 Cal. 4th at 1041-1042. Defendants' and/or DOES' in California written meal break policy is
8 facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the
9 applicable IWC Wage Order because it fails to so specify the proper timing of breaks and
10 provide that meal breaks are to be completed in an uninterrupted fashion.

11 67. Alternatively, Defendants and/or DOES in California failed to sufficiently promulgate
12 compliant meal break policies or fail to reasonably adhere to those written policies. As a result
13 of Defendants' and/or DOES' in California company-wide non-compliant meal period policy,
14 Plaintiff and the aggrieved employees were denied timely meal periods within the first five (5)
15 hours of work.

16 68. Defendants and/or DOES in California had, and continues to have, a company-wide policy
17 and/or practice of neglecting its obligations to provide Plaintiff and the aggrieved employees
18 with timely, uninterrupted meal periods to which they were entitled. Defendants and/or DOES
19 in California discouraged and impeded Plaintiff and the aggrieved employees from taking
20 timely meal breaks. As a result of Defendants' and/or DOES' in California practices and/or
21 policies and the resultant failure to adhere to a meal period schedule, Plaintiff and the aggrieved
22 employees missed their meal periods altogether, had to have their meal periods interrupted to
23 return to work, and/or waited extended periods of time before taking meal periods.

24 69. Defendants and/or DOES in California neglected their obligation to provide meal breaks to
25 Plaintiff and the aggrieved employees, by either not permitting their employees to take meal
26 breaks in the first instance, or alternatively, by requiring them to continue to perform one or
27 more job duties throughout the time allotted for their meal breaks whether or not they were on
28 or off the clock.

1 70. On information and belief, Defendants and/or DOES in California did not pay Plaintiff and the
2 aggrieved employees meal period premium wages when they were missed, late, short, and/or
3 interrupted.

4 71. By failing to provide statutory first and/or second meal periods, and by failing to provide
5 compensation for unprovided meal periods, as alleged above, Defendants and/or DOES
6 willfully violated the provisions of the Cal. Lab. Code §§ 226.7 and 512.

7 72. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
8 worked for Defendants and/or DOES in California.

9 73. Plaintiff, as a non-exempt employee who unlawfully was deprived of first and second meal
10 periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
11 has satisfied all prerequisites to serve as a representative of the general public to enforce
12 California's labor laws, and the penalty provisions identified in *Cal. Lab. Code* § 2699.5.

13 74. Plaintiff, as a representative of the people of the State of California, will seek all penalties
14 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
15 each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that Section
16 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7, and 512.

17 75. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
18 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
19 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
20 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
21 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

22 76. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved
23 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
24 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
25 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
26 pursuant to Cal. Lab. Code § 558(a).

27 \\
28 \\
29

FOURTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Rest Periods (Cal. Lab. Code §2698 et. seq.).

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

78. California Labor Code Section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[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 period” and that the “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” unless the total daily work time is less than three and one-half (3½) hours.

79. To comply with its obligation to provide rest periods under California Labor Code Section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time and relieve their employees of all duties — including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

80. Defendants and/or DOES maintained a company-wide, unlawful written rest break policy insofar as it fails to state the timing of when rest breaks must occur. As a result, Plaintiff and the aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all ten (10) minute rest periods to which they were entitled. Defendants’ and/or DOES’ written rest break policy is facially non-compliant and in violation of Labor Code sections 226.7 and 512 and the applicable IWC Wage Order because it fails to so specify the proper timing of breaks and provide that rest breaks are to be completed in an uninterrupted fashion.

81. Alternatively, Defendants and/or DOES failed to sufficiently promulgate compliant rest break policies or fail to reasonably adhere to those written policies. As a result of Defendants’ and/or DOES’ company-wide non-compliant rest period policy, Plaintiff and the aggrieved

- 1 employees were denied timely rest periods as required by California law.
- 2 82. Defendants and/or DOES had, and continues to have, a company-wide policy and/or practice
- 3 of neglecting their obligations to provide Plaintiff and the aggrieved employees with timely,
- 4 uninterrupted rest periods to which they were entitled. Defendants and/or DOES discouraged
- 5 and impeded Plaintiff and the aggrieved employees from taking timely rest breaks. As a result
- 6 of Defendants' and/or DOES' practices and/or policies and the resultant failure to adhere to a
- 7 rest period schedule, Plaintiff and the aggrieved employees missed their rest periods altogether,
- 8 had to have their rest periods interrupted to return to work, and/or waited extended periods of
- 9 time before taking rest periods.
- 10 83. Defendants and/or DOES neglected their obligation to provide rest breaks to Plaintiff and the
- 11 aggrieved employees, by either not permitting their employees to take rest breaks in the first
- 12 instance, or alternatively, by requiring them to continue to perform one or more job duties
- 13 throughout their shifts without any rest periods being provided where they were relieved of all
- 14 duties.
- 15 84. On information and belief, Defendants and/or DOES did not pay Plaintiff and the aggrieved
- 16 employees rest period premium wages when they were missed, late, short, and/or interrupted.
- 17 85. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per
- 18 day by non-exempt employees, and by failing to provide compensation for these unprovided
- 19 periods, as alleged above, Defendant and/or DOES willfully violated the provisions of Cal.
- 20 Lab. Code § 226.7 and the applicable IWC Wage Order.
- 21 86. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
- 22 worked for Defendant and/or DOES in California.
- 23 87. Plaintiff—a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest
- 24 periods—is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
- 25 has satisfied all prerequisites to serve as a representative of the general public to enforce
- 26 California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for
- 27 violations of Cal. Lab. Code § 226.7.
- 28 88. Plaintiff, as a 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 *Cal. Lab. Code* § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: section 226.7.

89. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself 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 *Cal. Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

90. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to *Cal. Lab. Code* § 558(a).

FIFTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code §2698 et. seq.).

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

92. Defendants and/or DOES and/or their officers and/or managing agents willfully failed to pay, in a timely manner, wages owed to Plaintiff and the other aggrieved employees who left Defendants' and/or DOES' employ or who were terminated.

93. Plaintiff and/or the other aggrieved employees who ended their employment with Defendants and/or DOES during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *Cal. Lab. Code* §§ 201 through 203.

94. At all relevant times, *Cal. Lab. Code* §§ 201 and 202 provide that if an employer 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.

95. Defendant and/or DOES willfully failed to pay Plaintiff and the aggrieved employees who are no longer employed by Defendant and/or DOES all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' and/or DOES' employ in violation of California Labor Code Sections 201, 202, and 203.

96. Defendants' and/or DOES' failure to pay Plaintiff and the aggrieved employees who are no longer employed by Defendants and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Defendants' and/or DOES' employ, is in violation of Cal. Lab. Code §§ 201 and 202.

97. Cal. Lab. Code § 203 provides that when an employer willfully fails to pay wages owed, in accordance with 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.

98. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who worked for Defendants and/or DOES in California.

99. Plaintiff, as a non-exempt employee who Defendants and/or DOES failed to pay all wages due at termination, 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 Cal. Lab. Code § 2699.5.

100. Plaintiff, as a representative of the people of the State of California, seeks 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 Cal. Lab. Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 201 through 203.

1 101. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
2 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
3 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
4 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
5 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

6 102. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved
7 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
8 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
9 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
10 pursuant to Cal. Lab. Code § 558(a).

11 **SIXTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of the**
12 **Private Attorneys General Act of 2004 (PAGA) for Failing to Reimburse Employees for Business**
13 **Expenses (California Labor Code §2698 et. seq.)**

14 103. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
15 as if fully plead.

16 104. California Labor Code section 2802 provides: “An employer shall indemnify his or her
17 employees for all necessary expenditures or losses incurred by the employee in direct
18 consequence of the discharge of his or her duties, or of his or her obedience to the directions
19 of the employer...[which includes] all reasonable costs, including, but not limited to, attorneys’
20 fees incurred by the employee enforcing the rights granted by this section.”

21 105. California Labor Code Section 2802 requires employers to pay for all necessary expenditures
22 and losses incurred by the employee in the performance of his or her job. The purpose of Labor
23 Code Section 2802 is to prevent employers from passing off their cost of doing business and
24 operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal.
25 App. 4th 1137, 1144 (2014). The IWC Wage Orders provide that: “[w]hen tools or equipment
26 are required by the employer or are necessary to the performance of a job, such tools and
27 equipment shall be provided and maintained by the employer, except that an employee whose
28 wages are at least two (2) times the minimum wage provided herein may be required to provide

1 and maintain hand tools and equipment customarily required by the trade or craft.”

2 106. During the relevant time period, Defendants and/or DOES, on a company-wide basis, required
3 that Plaintiff and the aggrieved employees utilize their own personal cellular phones and/or
4 cellular phone data to carry out their job duties, but failed to reimburse them for the costs of
5 their cellular phone and/or data plans. Although Defendants and/or DOES required Plaintiff
6 and the aggrieved employees to regularly utilize their personal cellular phones to carry out
7 work-related responsibilities, such as communications to and from management, contacting
8 vendors, and ordering materials. Defendants and/or DOES failed to reimburse this cost.

9 107. Defendants and/or DOES could have provided Plaintiff and the aggrieved employees with the
10 vehicles, communication and/or internet devices and tools required for use on the job,
11 including company phones, and could have promptly reimbursed them for all other direct or
12 indirect expenditures made by them on Defendants’ and/or DOES’ behalf. Instead, Defendants
13 and/or DOES passed these operating costs off onto Plaintiff and the aggrieved employees.
14 Thus, Defendants and/or DOES had and continues to have, a company-wide policy and/or
15 practice of not reimbursing employees for expenses necessarily incurred.

16 108. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
17 worked for Defendants and/or DOES in California.

18 109. Plaintiff, as a non-exempt employee who incurred business expenses which Defendants and/or
19 DOES failed to reimburse, is an aggrieved employee with standing to bring an action under
20 the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general
21 public to enforce California’s labor laws, and the penalty provisions identified in *Labor Code*
22 section 2699.5 for violations of *Labor Code* section 2802.

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

1 **V. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
3 for relief and judgment against Defendants and/or DOES, jointly and severally, as follows:

- 4 A. For penalties as provided under Cal. Lab. Code § 558(a)(1) and 558(a)(2).
5 B. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for
6 failure to provide compliant meal periods;
7 C. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
8 for each pay period during which an employee was underpaid due to failure to provide paid
9 meal periods;
10 D. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
11 for failure to provide all rest periods;
12 E. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
13 for each pay period during which an employee was underpaid due to failure to provide paid
14 rest periods;
15 F. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
16 for failure to timely pay wages at separation;
17 G. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
18 for failure to provide compensation at the regular, overtime, and double time rate for all time
19 worked;
20 H. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
21 for failure to provide compensation at the minimum wage;
22 I. For penalties as provided, per each violation, by the PAGA, *Labor Code* section 2699, *et. seq.*
23 for failure to reimburse business expenses; and
24 J. For reasonable attorneys' fees and costs under the PAGA, Cal. Lab. Code § 2699(g)(1).

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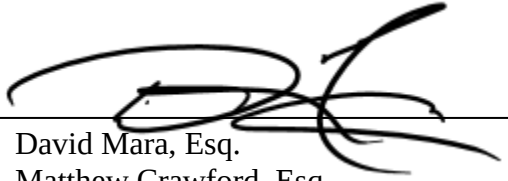
DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial.

MARA LAW FIRM, PC

Date: October 28, 2024

Signed: _____


David Mara, Esq.
Matthew Crawford, Esq.
Attorneys for Plaintiff KUAN CHEN, on
behalf of herself and all others similarly
situated, and on behalf of the general public