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Kern County Superior Court
By Alexandra Valles, Deputy

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF KERN

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

Plaintiff,

v.

HPC INDUSTRIAL SERVICES, LLC; and
DOES 1-100,

Defendants.

Case No. BCV-24-102828

**PLAINTIFF TRAVIS LONGLEY'S PAGA
COMPLAINT**

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 Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements (Cal. Lab. Code § 2698, et. seq.)
7. Violation of PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties (Cal. Lab. Code § 2698, et. seq.)
8. Violation of PAGA for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy (Cal. Lab. Code § 2698, et. seq.)
9. Violation of PAGA for Failure to Pay Employees Two Times Per Month (Cal. Lab. Code § 2698, et. seq.)

DEMAND FOR JURY TRIAL

1 Plaintiff TRAVIS LONGLEY (hereinafter “Plaintiff”), on behalf of himself and all others
2 similarly situated, and on behalf of the general public, files this Complaint against Defendant HPC
3 INDUSTRIAL SERVICES, LLC (hereinafter “Defendant”) and/or DOES 1-100.

4 **I. INTRODUCTION**

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

10 2. This action is brought on behalf of Plaintiff and all other aggrieved employees of Defendant
11 and/or DOES who: worked a shift of at least five (5) hours without receiving a meal period;
12 worked four (4) hours, or a major fraction thereof, without receiving a ten (10) minute net rest
13 break; worked qualifying shifts without receiving second meal periods and second and third
14 rest breaks; were not provided accurate itemized wage statements; were not paid compensation
15 for all time worked at the straight, overtime, or double time rate; were not paid waiting time
16 penalties; were not paid all wages owed twice per month; were not reimbursed for business
17 expenses; and were subject to an unlawful sick leave policy. Plaintiff seeks penalties on behalf
18 of himself and all other aggrieved employees of Defendant and/or DOES as provided
19 herein. This Complaint also seeks attorneys’ fees and costs under the PAGA, Cal. Lab. Code
20 § 2699(g)(1).

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

month; reimbursed for business expenses; and permitted to take lawful paid sick leave.

4. At all times mentioned herein, Defendant and/or DOES controlled the working conditions of Plaintiff and the aggrieved employees including, but not limited to, having the authority to hire and fire Plaintiff and the other aggrieved employees, setting the wages of Plaintiff and the other aggrieved employees, and instructing Plaintiff and the other aggrieved employees when and/or where to work. In addition, Defendant and/or DOES developed, wrote, dictated, approved and/or authorized wage and hour policies and/or practices that Plaintiff and the aggrieved employees labored under. These policies and/or practices included, but were not limited to, policies and/or practices regarding meal periods, straight time, overtime, double time, rest periods, wage statements, paying compensation at time of termination, timing of payment, paid sick leave, and business expense reimbursement. Further, Defendant and/or DOES had the ability to prevent Plaintiff and the other aggrieved employees from working.

II. JURISDICTION AND VENUE

5. Plaintiff is an individual residing in California. Plaintiff was employed by Defendant and/or DOES in California. Plaintiff, and each of the aggrieved employees, were employees of Defendant 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).
6. 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 Kern 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 Kern County. Defendant and/or DOES employ numerous aggrieved employees in California and/or Kern County.
7. Plaintiff brings this action on behalf of himself and the other aggrieved employees of Defendant and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of the

- 1 general public, will and does seek to recover any and all penalties for each and every violation
2 shown to exist or to have occurred during the one (1) year period before Plaintiff filed Notice
3 with the LWDA of his intent to bring this action, in an amount according to proof, as to those
4 penalties that are otherwise only available to public agency enforcement actions. Funds
5 recovered will be distributed in accordance with the PAGA, with at least seventy-five (75)
6 percent of the penalties recovered being reimbursed to the State of California and the LWDA.
- 7 8. There is no federal question at issue as the issues herein are based solely upon California
8 statutes and law, including the *California Labor Code*, *IWC Wage Orders*, *Code of Civil*
9 *Procedure*, and *Civil Code*.
- 10 9. The California Superior Court also has jurisdiction in this matter because the penalties sought
11 exceed the minimum jurisdictional limits of the Superior Court and will be established at trial,
12 according to proof. Defendant and/or DOES either own, maintain offices, transact business,
13 have an agent or agents, have their principal place of business in, and/or otherwise are found
14 within the County of Kern, California.

15 **III. THE PARTIES**

16 **A. Plaintiff**

- 17 10. Plaintiff, a former employee of Defendant and/or DOES, and similar aggrieved employees
18 were and are entitled to statutory meal periods, statutory rest periods, accurate itemized wage
19 statements, compensation for all time worked at the regular, overtime, and doubletime rate,
20 permitted to take lawful paid sick leave, to be paid timely pursuant to California law, to receive
21 timely wages at the time of termination, and to be reimbursed for business expenses.
- 22 11. Plaintiff and similar aggrieved employees were and are employed in the State of California by
23 the Defendant and/or DOES as non-exempt hourly employees during the relevant time period.
24 Plaintiff was employed in a non-exempt capacity.
- 25 12. A notice correspondence showing compliance with *Cal. Lab. Code* § 2699.3 was sent to the
26 LWDA and Defendant on June 10, 2024. This notice demonstrates that Plaintiff is an aggrieved
27 employee and has standing to bring a representative action on behalf of the LWDA and as a
28 private attorney general. No notice of cure by Defendant 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

13. Defendant and/or DOES employed Plaintiff and the aggrieved employees to provide industrial cleaning services to Defendant’s and/or DOES’ customers in the State of California.

14. Defendant’s and/or DOES’ principal place of business was/is in the State of California.

15. Defendant and/or DOES have numerous offices and/or contracts in the State of California.

16. California is the nerve center of Defendant’s and/or DOES’ operations.

17. 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.

18. 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.

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

IV. GENERAL ALLEGATIONS

20. During all, or a portion, of the one (1) year period before Plaintiff filed Notice of his claims with the LWDA, Plaintiff and each of the aggrieved employees were employed by Defendant and/or DOES in the State of California. Plaintiff and the other aggrieved employees are

1 composed of all non-exempt hourly employees of Defendant and/or DOES in the State of
2 California.

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

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

11 23. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift
12 of at least five (5) hours worked per day by Plaintiff and all aggrieved employees, and by
13 failing to provide compensation for these unprovided meal periods, Defendant and/or DOES
14 willfully violated the provisions of *Cal. Lab. Code* § 226.7, IWC Wage Order No. 16-2001,
15 and California Code of Regulations, Section 11070(11). In addition, Defendant and/or DOES
16 failed to provide Plaintiff and the other aggrieved employees another duty-free meal period of
17 not less than thirty (30) minutes for every shift of more than ten (10) hours per day.

18 24. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
19 Plaintiff and the aggrieved employees were entitled to be authorized and/or permitted to take
20 legally compliant rest periods in a timely manner or payment of one hour of pay as additional
21 compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they were
22 not authorized and/or permitted to take a legally compliant rest period.

23 25. By failing to provide paid ten (10) minute rest periods for every four (4) hours or major fraction
24 thereof, worked per day by Plaintiff and all aggrieved employees and by failing to provide
25 compensation for these periods, Defendant and/or DOES willfully violated the provisions of
26 *Cal. Lab. Code* § 226.7, IWC Wage Order No. 16-2001, and California Code of Regulations,
27 Section 11070(12).

28 26. At all times mentioned herein, Defendant and/or DOES failed to pay all wages owed to Plaintiff

and to other terminated or resigned members of the aggrieved employees and failed to timely pay wages during employment.

27. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the aggrieved employees all wages earned twice per month.

28. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to receive complete and accurate pay statements in accordance with California law.

29. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that they were not providing complete and accurate pay statements in accordance with California law to Plaintiff and the aggrieved employees.

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

31. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the other aggrieved employees were entitled to timely wages at the time of termination. Defendant and/or DOES did not pay all timely wages owed, straight-time wages owed, meal period premiums, and/or rest period premiums owed at the time of termination.

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

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

34. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that it should have adopted a paid sick leave policy for Plaintiff and the aggrieved employees

complaint with California law.

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

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

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

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

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

39. Section 1197.1 of the California Labor Code states “[a]ny employer or other person acting individually as an officer, agent, or employee of another person, who pays or causes to be paid 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. Defendant and/or DOES have a continuous policy of not paying Plaintiff and the aggrieved employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and the aggrieved employees are not paid for this time. For example, Defendant and/or DOES instruct Plaintiff and the aggrieved employees to show up

several minutes prior to the start of their shifts. This is because Defendant and/or DOES hold safety meetings immediately at the start of Plaintiff's and the aggrieved employees' shifts, and Defendant and/or DOES expect Plaintiff and the aggrieved employees to be on time for these meetings. However, Defendant and/or DOES fail to pay Plaintiff and the aggrieved employees for this time.

41. Furthermore, when Plaintiff and the aggrieved employees are able to take meal periods, Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Plaintiff and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES, thereby denying them the right to be completely free from employer control under California law. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

42. Plaintiff and the aggrieved employees are informed and believe and thereon allege that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay Plaintiff and similarly aggrieved employees for meal period time when Plaintiff and the aggrieved employees were not relieved of all duties and/or employer control.

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

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

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

46. Plaintiff, as a former non-exempt employee of Defendant and/or DOES who Defendant and/or DOES failed to pay all wages, 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.

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

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

49. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself 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).

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

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

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

52. *Cal. Lab. Code* § 510 dictates that any work in excess of 12 hours in one day shall be

1 compensated at the rate of no less than twice the regular rate of pay for an employee. In
2 addition, any work in excess of eight hours on any seventh day of a workweek shall be
3 compensated at the rate of no less than twice the regular rate of pay of an employee.

4 53. Defendant and/or DOES failed to pay overtime when Plaintiff and the aggrieved employees
5 worked over eight (8) hours per day and when they worked over forty (40) hours per week.

6 54. Plaintiff and the aggrieved employees were deprived of wages for overtime hours worked
7 because Defendant and/or DOES failed to pay them overtime wages for all overtime hours
8 worked. This resulted in Plaintiff and the aggrieved employees not being paid all overtime
9 wages owed to them.

10 55. Defendant and/or DOES also failed to pay Plaintiff and the aggrieved employees for all hours
11 worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week,
12 thus depriving Plaintiff and the aggrieved employees of overtime wages.

13 56. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff
14 and the aggrieved employees for all hours worked. Specifically, Defendant and/or DOES have
15 a continuous and consistent policy of requiring employees to work before clocking in, after
16 clocking out, and during meal periods. Plaintiff and the aggrieved employees are not paid for
17 this time. For example, Defendant and/or DOES instruct Plaintiff and the aggrieved employees
18 to show up several minutes prior to the start of their shifts. This is because Defendant and/or
19 DOES hold safety meetings immediately at the start of Plaintiff's and the aggrieved
20 employees' shifts, and Defendant and/or DOES expect Plaintiff and the aggrieved employees
21 to be on time for these meetings. However, Defendant and/or DOES fail to pay Plaintiff and
22 the aggrieved employees for this time, and when Plaintiff and the aggrieved employees work
23 over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be
24 compensated at an overtime rate.

25 57. Furthermore, when Plaintiff and the aggrieved employees are able to take meal periods,
26 Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control
27 during their meal periods. For example, Plaintiff and the aggrieved employees worked through
28 their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES,

thereby denying them the right to be completely free from employer control under California law. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period. When Plaintiff and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate.

58. Plaintiff and the aggrieved employees are informed and believe and thereon allege that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff and the aggrieved employees by failing to pay Plaintiff and the aggrieved employees for time when Plaintiff and the aggrieved employees were not relieved of all duties and/or employer control. By failing to pay for this time when Plaintiff and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate.

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

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

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

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

63. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself 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 DEFENDANT AND/DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Meal Periods (Cal. Lab. Code §2698 et. seq.).

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

65. Under Cal. Lab. Code § 512, and IWC Wage Order 16-2001, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

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

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

68. Defendant and/or DOES breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, Defendant and/or DOES fail to provide Plaintiff and the aggrieved employees with meal periods, if at all, within the first five (5) continuous hours of work and fails to provide Plaintiff and the aggrieved employees with second meal periods, if at all, within the first ten (10) continuous hours of work.

69. Furthermore, when Plaintiff and the aggrieved employees are able to take meal periods,

1 Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control
2 during their meal periods. For example, Plaintiff and the aggrieved employees worked through
3 their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES,
4 thereby denying them the right to be completely free from employer control under California
5 law.

6 70. In addition, Defendant and/or DOES fail to keep accurate records of meal periods for Plaintiff
7 and the aggrieved employees.

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

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

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

17 74. Plaintiff, as a representative of the people of the State of California, will seek all penalties
18 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
19 each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that Section
20 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7, and 512.

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

26 76. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
27 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
28 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).

FOURTH CAUSE OF ACTION AGAINST DEFENDANT 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. Industrial Welfare Commission Order No. 16-2001 section 11(A) states “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

79. Defendant and/or DOES failed to provide rest periods to Plaintiff and the aggrieved employees.

80. Defendant and/or DOES have a continuous policy and practice that fails to provide Plaintiff and the aggrieved employees with rest periods “at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” Specifically, Defendant and/or DOES do not provide Plaintiff and the aggrieved employees with rest periods consisting of ten (10) minutes net rest time, nor do they provide them with a rest period per four (4) hours worked or major fraction thereof.

81. Furthermore, when Plaintiff and the aggrieved employees are able to take rest periods, Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control during their rest periods. For example, Plaintiff and the aggrieved employees worked through their rest periods to satisfy their demanding work duties imposed by Defendant and/or DOES, thereby denying them the right to be completely free from employer control under California law.

82. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided periods, as alleged above, Defendant and/or DOES willfully violated the provisions of Cal. Lab. Code § 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

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

84. Plaintiff—a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods—is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for violations of Cal. Lab. Code § 226.7.

85. 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.

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

87. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself 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 DEFENDANT 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.).

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

89. Defendant 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

- 1 Defendant's and/or DOES' employ or who were terminated.
- 2 90. Plaintiff and/or the other aggrieved employees who ended their employment with Defendant
- 3 and/or DOES during the last year were entitled to be promptly paid all lawful compensation,
- 4 and other premiums, as required by Cal. Lab. Code §§ 201 through 203.
- 5 91. At all relevant times, Cal. Lab. Code §§ 201 and 202 provide that if an employer discharges
- 6 an employee, the wages earned and unpaid at the time of discharge are due and payable
- 7 immediately, and if an employee quits his or her employment, his or her wages shall become
- 8 due and payable no later than seventy-two (72) hours thereafter, unless the employee has given
- 9 seventy-two (72) hours notice of his or her intention to quit, in which case the employee is
- 10 entitled to his or her wages at the time of quitting.
- 11 92. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to
- 12 pay Plaintiff and the other aggrieved employees who are no longer employed by Defendant
- 13 and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their
- 14 leaving Defendant's and/or DOES' employ.
- 15 93. Defendant and/or DOES also have a continuous policy of not providing all final wages owed
- 16 to employees who are fired at the time of termination or who quit at all, let alone within
- 17 seventy-two (72) hours of their leaving Defendant's and/or DOES' employ.
- 18 94. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff
- 19 and the aggrieved employees for all hours worked. Specifically, Defendant and/or DOES have
- 20 a continuous and consistent policy of requiring employees to work before clocking in, after
- 21 clocking out, and during meal periods. Plaintiff and the aggrieved employees are not paid for
- 22 this time. For example, Defendant and/or DOES instruct Plaintiff and the aggrieved employees
- 23 to show up several minutes prior to the start of their shifts. This is because Defendant and/or
- 24 DOES hold safety meetings immediately at the start of Plaintiff's and the aggrieved
- 25 employees' shifts, and Defendant and/or DOES expect Plaintiff and the aggrieved employees
- 26 to be on time for these meetings. However, Defendant and/or DOES fail to pay Plaintiff and
- 27 the aggrieved employees for this time.
- 28 95. Furthermore, when Plaintiff and the aggrieved employees are able to take meal periods,

1 Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control
2 during their meal periods. For example, Plaintiff and the aggrieved employees worked through
3 their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES,
4 thereby denying them the right to be completely free from employer control under California
5 law. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the aggrieved
6 employees every day they work without a lawful meal period and have time deducted for a
7 meal period.

8 96. Plaintiff and the aggrieved employees are also informed and believe and thereon allege that
9 Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay
10 Plaintiff and similarly aggrieved employees for time when Plaintiff and the aggrieved
11 employees were not relieved of all duties and/or employer control.

12 97. Moreover, Plaintiff and the aggrieved employees are informed and believe and thereon allege
13 that Defendant and/or DOES failed to pay all meal and rest period premium wages owed to the
14 aggrieved employees at the time of their termination.

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

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

23 100. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
24 worked for Defendant and/or DOES in California.

25 101. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed to pay all wages due
26 at termination, is an aggrieved employee with standing to bring an action under the
27 PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to
28 enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code §

2699.5.

102. 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.

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

104. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself 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).

SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Cal. Lab. Code § 2698 et. seq.).

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

106. Cal. Lab. Code § 226 subdivision (a) requires Defendant and/or DOES to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff and the other aggrieved employees. Cal. Lab. Code § 226(a) requires Defendant and/or DOES, at the time of each payment of wages, to “furnish each of his or her employees, either as an detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the

1 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
2 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
3 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
4 dates of the period for which the employee is paid, (7) the name of the employee and only the
5 last four digits of his or her social security number or an employee identification number other
6 than the social security number, (8) the name and address of the legal entity that is the
7 employer...(9) all applicable hourly rates in effect during the pay period and the corresponding
8 number of hours worked at each hourly rate and the corresponding number of hours worked at
9 each hourly rate by the employee....”

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

15 108. *California Labor Code* section 246(i) also requires that, “[a]n employer shall provide an
16 employee with written notice that sets forth the amount of paid sick leave available, or paid
17 time off leave an employer provides in lieu of sick leave, for use on either the employee’s
18 itemized wage statement described in Section 226 or in a separate writing provided on the
19 designated pay date with the employee’s payment of wages.”

20 109. In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in
21 excess of the normal work period shall be paid no later than the payday for the next regular
22 payroll period.” An employer complies with *California Labor Code* section 226(a) “if hours
23 worked in excess of the normal work period during the current pay period are itemized as
24 corrections on the paystub for the next regular pay period. Any corrections set out in a
25 subsequently issued paystub shall state the inclusive dates of the pay period for which the
26 employer is correcting its initial report of hours worked.”

27 110. Defendant and/or DOES have knowingly and intentionally failed to comply with *California*
28 *Labor Code* section 226(a) by failing to include all of the information required by *California*

1 *Labor Code* section 226(a)(1) through (9) on each and every wage statement provided to
2 Plaintiff and the aggrieved employees.

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

9 112. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff
10 and the aggrieved employees for all hours worked. Specifically, Defendant and/or DOES have
11 a continuous and consistent policy of requiring employees to work before clocking in, after
12 clocking out, and during meal periods. Plaintiff and the aggrieved employees are not paid for
13 this time. For example, Defendant and/or DOES instruct Plaintiff and the aggrieved employees
14 to show up several minutes prior to the start of their shifts. This is because Defendant and/or
15 DOES hold safety meetings immediately at the start of Plaintiff's and the aggrieved
16 employees' shifts, and Defendant and/or DOES expect Plaintiff and the aggrieved employees
17 to be on time for these meetings. However, Defendant and/or DOES fail to pay Plaintiff and
18 the aggrieved employees for this time.

19 113. Furthermore, when Plaintiff and the aggrieved employees are able to take meal periods,
20 Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control
21 during their meal periods. For example, Plaintiff and the aggrieved employees worked through
22 their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES,
23 thereby denying them the right to be completely free from employer control under California
24 law. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the aggrieved
25 employees every day they work without a lawful meal period and have time deducted for a
26 meal period.

27 114. Plaintiff and the aggrieved employees are informed and believe and thereon allege that
28 Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay

Plaintiff and similarly aggrieved employees for time when Plaintiff and the aggrieved employees were not relieved of all duties and/or employer control.

115. In addition, Defendant and/or DOES failed to pay all meal and rest period premiums owed to Plaintiff and the aggrieved employees for Defendant's and/or DOES' failure to provide lawful meal and rest periods.

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

117. Further, in addition to any penalties levied upon Defendant and/or DOES for its failure to comply with *Labor Code* section 226 subdivision (a)'s requirement to provide Plaintiff and the aggrieved employees accurate, itemized wage statements, *Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *Labor Code* section 226 subdivision (a) requires Defendant and/or DOES to maintain records that "accurately shows all of the information required by this subdivision." Defendant and/or DOES have violated their statutory duty to maintain records for Plaintiff and the aggrieved employees that contain all of the information under *Labor Code* section 226(a)(1) through (9).

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

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

120. 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 § 2699.3(a)

- 1 applies to any alleged violation of the following provisions: sections 226, 1174, 1199.
- 2 121. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
3 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
4 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
5 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
6 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).
- 7 122. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
8 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
9 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
10 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
11 pursuant to Cal. Lab. Code § 558(a).

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

- 15 123. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
16 as if fully plead.
- 17 124. California Labor Code section 2802 provides: “An employer shall indemnify his or her
18 employees for all necessary expenditures or losses incurred by the employee in direct
19 consequence of the discharge of his or her duties, or of his or her obedience to the directions
20 of the employer...[which includes] all reasonable costs, including, but not limited to, attorneys’
21 fees incurred by the employee enforcing the rights granted by this section.”
- 22 125. Plaintiff and the aggrieved employees incurred expenses necessary for the discharge of their
23 duties without receiving reimbursement from Defendant and/or DOES. Defendant and/or
24 DOES required employees to use to use their personal cell phones for business purposes, but
25 failed to reimburse this expense. For example, Plaintiff and the aggrieved employees were
26 required to use their personal cell phones to access a cell phone application that Defendant
27 and/or DOES mandated Plaintiff and the aggrieved employees use as part of their job duties.
- 28 126. *California Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to

- 1 reimbursement for said necessary expenditures, plus interest and expenses.
- 2 127. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
- 3 worked for Defendant and/or DOES in California.
- 4 128. Plaintiff, as a non-exempt employee who incurred business expenses which Defendant and/or
- 5 DOES failed to reimburse, is an aggrieved employee with standing to bring an action under
- 6 the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general
- 7 public to enforce California's labor laws, and the penalty provisions identified in *Labor Code*
- 8 section 2699.5 for violations of *Labor Code* section 2802.
- 9 129. Pursuant to *Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of
- 10 himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one
- 11 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
- 12 per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved
- 13 employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

14 **EIGHTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**

15 **Private Attorneys General Act of 2004 (PAGA) for Failing to Adopt a Compliant Sick Pay/Paid**

16 **Time Off Policy (California Labor Code §2698 et. seq.)**

- 17 130. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
- 18 as if fully plead.
- 19 131. Section 246(a)(1) of the California Labor Code states: "An employee who, on or after July 1,
- 20 2015, works in California for the same employer for 30 or more days within a year from the
- 21 commencement of employment is entitled to paid sick days as specified in this section."
- 22 132. Section 246(c) of the Labor Code states: "An employee shall be entitled to use accrued paid
- 23 sick days beginning on the 90th day of employment, after which day the employee may use
- 24 paid sick days as they are accrued."
- 25 133. Section 233(c) of the California Labor Code states: "An employer shall not deny an employee
- 26 the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any
- 27 manner discriminate against an employee for using, or attempting to exercise the right to use,
- 28 sick leave to attend to an illness or the preventive care of a family member, or for any other

1 reason specified in subdivision (a) of Section 246.5.”

2 134. Section 233(d) of the California Labor Code provides relief for violations of this section,
3 stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to
4 reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate
5 equitable relief.”

6 135. Section 234 of the California Labor Code further forbids employers from adopting an “absence
7 control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead
8 to or result in discipline, discharge, demotion, or suspension is a per se violation of Section
9 233. An employee working under this policy is entitled to appropriate legal and equitable relief
10 pursuant to Section 233.”

11 136. Defendant and/or DOES operate under an absence control policy that counts sick leave taken
12 pursuant to Section 233. Thus, Defendant’s and/or DOES’ sick pay policy punishes employees
13 for use of protected and appropriate sick leave. Defendant and/or DOES further failed to
14 provide paid sick days for all hours worked in compliance with these sections.

15 137. In addition, Defendant and/or DOES do not provide employees with written notice that sets
16 forth the amount of sick leave available for use, either in employees’ itemized wage statements
17 or in a separate writing provided to employees on the designated pay date.

18 138. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who
19 worked for Defendant and/or DOES in California.

20 139. Plaintiff, as a non-exempt employee subject to Defendant’s and/or DOES’ unlawful sick pay
21 policy, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
22 has satisfied all prerequisites to serve as a representative of the general public to enforce
23 California’s labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for
24 violations of Cal. Lab. Code §§ 233, 234, and 246.

25 140. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
26 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
27 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
28 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per

1 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).
2 141. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
3 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
4 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
5 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
6 pursuant to Cal. Lab. Code § 558(a).

7 **NINTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
8 **Private Attorneys General Act of 2004 (PAGA) for Failing to Pay Employees Twice Per Month**
9 **(Cal. Lab. Code § 2698 *et. seq.*)**

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

12 143. Section 204(a) of the *California Labor Code* requires that all wages earned by any person in
13 any employment are due and payable twice during each calendar month, on days designated in
14 advance by the employer as the regular paydays.

15 144. *Cal. Lab. Code* § 226 subdivision (a) provides “[a]ll wages . . . earned by any person in any
16 employment are due and payable twice during each calendar month, on days designated in
17 advance by the employer as the regular paydays. Labor performed between the 1st and 15th
18 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the
19 month during which the labor was performed, and labor performed between the 16th and the
20 last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the
21 following month.”

22 145. Defendant and/or DOES have a consistent policy and/or practice of failing to pay Plaintiff and
23 the aggrieved employees twice per month. By failing to pay employees twice per month,
24 Defendant and/or DOES willfully violated the provisions of Cal. Lab. Code § 204(a).

25 146. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to
26 pay Plaintiff and the aggrieved employees their wages, that were earned and unpaid, twice
27 during each calendar month.

28 147. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff

1 and the aggrieved employees for all hours worked. Specifically, Defendant and/or DOES have
2 a continuous and consistent policy of requiring employees to work before clocking in, after
3 clocking out, and during meal periods. Plaintiff and the aggrieved employees are not paid for
4 this time. For example, Defendant and/or DOES instruct Plaintiff and the aggrieved employees
5 to show up several minutes prior to the start of their shifts. This is because Defendant and/or
6 DOES hold safety meetings immediately at the start of Plaintiff's and the aggrieved
7 employees' shifts, and Defendant and/or DOES expect Plaintiff and the aggrieved employees
8 to be on time for these meetings. However, Defendant and/or DOES fail to pay Plaintiff and
9 the aggrieved employees for this time.

10 148. Furthermore, when Plaintiff and the aggrieved employees are able to take meal periods,
11 Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control
12 during their meal periods. For example, Plaintiff and the aggrieved employees worked through
13 their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES,
14 thereby denying them the right to be completely free from employer control under California
15 law. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the aggrieved
16 employees every day they work without a lawful meal period and have time deducted for a
17 meal period.

18 149. Plaintiff and the aggrieved employees are informed and believe and thereon allege that
19 Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay
20 Plaintiff and similarly aggrieved employees for time when Plaintiff and the aggrieved
21 employees were not relieved of all duties and/or employer control.

22 150. In addition, Defendant and/or DOES failed to pay all meal and rest period premiums owed to
23 Plaintiff and the aggrieved employees for Defendant's and/or DOES' failure to provide lawful
24 meal and rest periods.

25 151. Defendant and/or DOES failure to pay Plaintiff and the aggrieved employees their wages, that
26 were earned and unpaid, twice during each calendar month, is in violation of Cal. Lab. Code §
27 204.

28 152. These claims are for Plaintiff and all similarly aggrieved hourly, non-exempt employees who

worked for Defendant and/or DOES in California

153. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed pay all wages owed twice per month, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for violations of Cal. Lab. Code § 204.

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

155. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself 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).

V. PRAYER FOR RELIEF

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

- A. For penalties as provided under Cal. Lab. Code § 558(a)(1) and 558(a)(2).
- B. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to provide compliant meal periods;
- C. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for each pay period during which an employee was underpaid due to failure to provide paid meal periods;
- D. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to provide all rest periods;
- E. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*

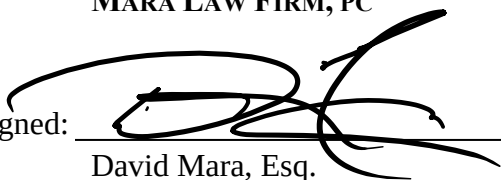
- 1 for each pay period during which an employee was underpaid due to failure to provide paid
2 rest periods;
- 3 F. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
4 for failure to timely pay wages at separation;
- 5 G. For penalties as provided, per each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

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff demands a jury trial.

21 **MARA LAW FIRM, PC**

22
23 Date: August 21, 2024

Signed: 

David Mara, Esq.

Matthew Crawford, Esq.

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