

BROCK & GONZALES, LLP

6701 CENTER DRIVE WEST, SUITE 610

LOS ANGELES, CA 90045

Tel: (310) 294-9595

Fax: (310) 961-3673

D. AARON BROCK, STATE BAR NO. 241919

ab@brockgonzales.com

JOSEPH D. PARSONS, STATE BAR NO. 340074

jp@brockgonzales.com

Attorneys for Plaintiff

OCTAVIO LOPEZ

Assigned for All Purposes

Judge William Cluster

CX-101

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

30-2025-01464199-CU-OE-CXC

OCTAVIO LOPEZ, as an aggrieved
employee pursuant to the Private
Attorneys General Act ("PAGA"), on
behalf of the State of California and
other aggrieved employees,

Plaintiff,

vs.

NEW PATRIOT HOLDINGS, INC., a
California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.:

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Octavio Lopez, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on July 5, 2024, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
23 in this action given that the State of California, as the real party in interest in this action, is not
24 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
25 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
26 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
27 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the
28 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court, because Defendants employ persons within the County of San Bernardino, and have violated the requirements of the California Labor Code and applicable Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and the applicable Wage Order in at least one location within the County of Orange, including Defendants' location in Santa Ana (3843 S Bristol St., #607, Santa Ana, California). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Orange County and Plaintiff could bring an action filed under PAGA in any county in which an aggrieved employee worked and Labor Code violations occurred, venue is proper. *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal. App. 5th 1069 (2021).

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Octavio Lopez is a resident of Santa Ana, in Orange County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately January 29, 2024 to March 7, 2024. Plaintiff worked for Defendants as a Lab Technician—Biomass Processor at Defendants' cannabis processing facility in Santa Ana, California. Plaintiff typically worked ten (10) or more hours per day, four (4) days per week, from about 5 a.m. – 4 p.m. or about 3 p.m. – 2 a.m. At the time Plaintiff's employment with Defendants ended, he was compensated approximately \$20-\$22 per hour. As a Lab Technician—Biomass Processor, his job duties included, without limitation, manually transporting pallets of cannabis, operating a hopper and centrifuge, changing the centrifuge filter, and assisting in the distillation process to refine cannabis oil.

7. On information and belief, Defendants required some employees, including

1 Plaintiff, to execute an arbitration agreement at the time of their hire or during their
2 employment. On further information and belief, Defendants' arbitration agreement was and is
3 both procedurally and substantively unconscionable. Specifically, Defendants presented
4 employees with an "Agreement to Arbitrate (Binding Arbitration)" (hereinafter referred to as
5 "Arbitration Agreement") which had to be reviewed and signed immediately, even going so
6 far as to condition employment upon the signing of the Arbitration Agreement. Also,
7 employees did not have a meaningful opportunity to negotiate the terms of the Arbitration
8 Agreement. Rather, it was provided to Defendants' employees for them to sign on a take-it or
9 leave-it basis, along with all of the other on-boarding documents, including an unlawful non-
10 compete agreement, as discussed below.

11 8. NEW PATRIOT HOLDINGS, INC. was and is, upon information and belief, a
12 California corporation, and at all times hereinafter mentioned, an employer whose employees
13 are engaged throughout this county and the State of California.

14 9. Plaintiff is unaware of the true names or capacities of the Defendants sued
15 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
16 amend the complaint and serve such fictitiously named Defendants once their names and
17 capacities become known.

18 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
19 were the partners, agents, owners, or managers of NEW PATRIOT HOLDINGS, INC. at all
20 relevant times.

21 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
22 acts and omissions alleged herein was performed by, or is attributable to, NEW PATRIOT
23 HOLDINGS, INC.; and/or DOES 1 through 10 (collectively, "Defendants" or "NEW
24 PATRIOT"), each acting as the agent, employee, alter ego, and/or joint venturer of, or
25 working in concert with, each of the other co-Defendants and was acting within the course and
26 scope of such agency, employment, joint venture, or concerted activity with legal authority to
27 act on the others' behalf. The acts of any and all Defendants were in accordance with, and
28 represent, the official policy of Defendants.

1 12. At all relevant times, Defendants, and each of them, ratified each and every act
2 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
3 and abetted the acts and omissions of each and all the other Defendants in proximately causing
4 the damages herein alleged.

5 13. Plaintiff is informed and believes, and thereon alleges, that each of said
6 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
7 omissions, occurrences, and transactions alleged herein.

8 14. Under California law, Defendants are jointly and severally liable as employers
9 for the violations alleged herein because they have each exercised sufficient control over the
10 wages, hours, working conditions, and employment status of Plaintiff and other non-party
11 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
12 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
13 of employment, determined their rate of pay, and maintained their employment records.
14 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
15 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
16 common-law employment relationship. As joint employers of Plaintiff and other non-party
17 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
18 available to Plaintiff and other non-party Aggrieved Employees under the law.

19 15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
20 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
21 non-party Aggrieved Employees because Defendants have:

- 22 (a) jointly exercised meaningful control over the work performed by
23 Plaintiff and other non-party Aggrieved Employees;
24 (b) jointly exercised meaningful control over Plaintiff’s and other non-party
25 Aggrieved Employees’ wages, hours, and working conditions, including
26 the quantity, quality standards, speed, scheduling, and operative details
27 of the tasks performed by Plaintiff and other non-party Aggrieved
28 Employees;

- 1 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
2 perform work which is an integral part of Defendants' businesses; and
3 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
4 Employees as a matter of economic reality in that Plaintiff and other
5 non-party Aggrieved Employees were dependent on Defendants, who
6 shared the power to set the wages of Plaintiff and other non-party
7 Aggrieved Employees and determined their working conditions, and
8 who jointly reaped the benefits from the underpayment of their wages
9 and noncompliance with other statutory provisions governing their
10 employment.

11 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
12 there has existed a unity of interest and ownership between Defendants such that any
13 individuality and separateness between the entities has ceased.

14 17. NEW PATRIOT HOLDINGS, INC.; and DOES 1 through 10 are therefore
15 alter egos of each other.

16 18. Adherence to the fiction of the separate existence of Defendants would permit
17 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
18 from liability for the wrongful acts committed by them.

19 **PAGA REPRESENTATIVE ALLEGATIONS**

20 19. Defendants own and operate a 200-acre cannabis farm and manufacture cannabis
21 products. Upon information and belief, Defendants maintain a single, centralized Human
22 Resources (HR) department at their corporate headquarters in Irvine, California, for all non-
23 exempt, hourly paid employees working for Defendants in California, which is responsible for
24 the recruiting and hiring of new employees, and communicating and implementing
25 Defendants' company-wide policies, including timekeeping policies and meal and rest period
26 policies, to employees throughout California.

27 20. In particular, Plaintiff and other non-party Aggrieved Employees, on
28 information and belief, received the same standardized documents and/or written policies.

1 Upon information and belief, the usage of standardized documents and/or written policies,
2 including new-hire documents, indicate that Defendants dictated policies at the corporate level
3 and implemented them company-wide, regardless of their employees' assigned locations or
4 positions. Upon information and belief, Defendants set forth uniform policies and procedures
5 in several documents provided at an employee's time of hire.

6 21. Upon information and belief, Defendants maintain a centralized Payroll
7 department at their corporate headquarters in Irvine, California, which processes payroll for
8 all non-exempt, hourly paid employees working for Defendants at their various project
9 locations in California, including Plaintiff and other non-party Aggrieved Employees.
10 Further, Defendants issue the same formatted wage statements in the same manner for all non-
11 exempt, hourly paid employees working in California, including Plaintiff and other non-party
12 Aggrieved Employees, irrespective of their location, position, or manner in which each
13 employee's employment ended. In other words, Defendants utilized the same methods and
14 formulas when calculating wages due to Plaintiff and other non-party Aggrieved Employees in
15 California.

16 22. Defendants continue to employ non-exempt or hourly paid employees in
17 California.

18 23. Plaintiff is informed and believes, and thereon alleges, that at all times herein
19 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
20 and advisors knowledgeable about California labor and wage law, employment and personnel
21 practices, and about the requirements of California law.

22 24. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
23 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
24 were not recorded.

25 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
27 receive certain wages for overtime compensation and that they were not receiving certain
28 wages for overtime compensation.

1 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that other non-party Aggrieved Employees were entitled to be paid at a
3 regular rate of pay, and corresponding overtime rates of pay, that included as eligible income
4 all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of
5 compensation, but failed to incorporate all forms of remuneration in calculating the regular
6 rate of pay for other non-party Aggrieved Employees.

7 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
9 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
10 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
11 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
12 other non-party Aggrieved Employees were not provided with all meal periods or payment of
13 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
14 uninterrupted, thirty (30) minute meal period.

15 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
17 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
18 payment of one (1) additional hour of pay at their regular rates of pay when they were not
19 authorized and permitted to take a compliant rest period. In violation of the California Labor
20 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted
21 to take compliant rest periods, nor did Defendants provide Plaintiff and other non-party
22 Aggrieved Employees with payment of one (1) additional hour of pay at their regular rates of
23 pay when they were not authorized and permitted to take a compliant rest period.

24 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
26 receive complete and accurate wage statements in accordance with California law. In
27 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
28 were not provided complete and accurate wage statements.

1 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that they had a duty to maintain accurate and complete payroll records in
3 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
4 and intentionally failed to do so.

5 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
7 timely payment of all wages earned upon termination of employment. In violation of the
8 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
9 payment of all wages due, including, but not limited to, overtime wages and meal and rest
10 period premiums; and/or reporting time pay within permissible time periods.

11 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
13 timely payment of wages during their employment. In violation of the California Labor Code,
14 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
15 including, but not limited to, overtime wages and meal and rest period premiums; and/or
16 reporting time pay within permissible time periods.

17 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
19 receive reimbursement for all business-related expenses and costs they incurred during the
20 course and scope of their employment and that they did not receive reimbursement of
21 applicable business-related expenses and costs incurred.

22 34. Plaintiff is informed and believes, and thereon alleges, that Defendants required
23 Plaintiff and other non-party Aggrieved Employees to enter into unlawful noncompete
24 agreements as a condition of employment. Further, on information and belief, Defendants
25 failed, on a company-wide basis, to notify employees by February 14, 2024 that their
26 noncompete agreements were void.

27 35. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants knew or should have known that they had a duty to compensate

1 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
2 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
3 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
4 that they were properly denied wages, all in order to increase Defendants' profits.

5 36. At all times herein set forth, PAGA provides that any provision of law under
6 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
7 assessed and collected by the LWDA for violations of the California Labor Code and
8 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
9 civil action brought on behalf of themselves and other current or former employees pursuant
10 to procedures outlined in California Labor Code section 2699.3.

11 37. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
12 person who was employed by the alleged violator and against whom one or more of the
13 alleged violations was committed."

14 38. Plaintiff and other current and former employees of Defendants are "aggrieved
15 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
16 or former employees and one or more of the alleged violations were committed against them.

17 39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
18 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
19 following requirements have been met:

- 20 (a) The aggrieved employee shall give written notice by online filing
21 (hereinafter "Employee's Notice") to the LWDA and by certified mail
22 to the employer of the specific provisions of the California Labor Code
23 alleged to have been violated, including the facts and theories to support
24 the alleged violations.
- 25 (b) An aggrieved employee's notice filed with the LWDA pursuant to
26 2699.3(a) and any employer response to that notice shall be
27 accompanied by a filing fee of seventy-five dollars (\$75).
- 28 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the

1 employer and the aggrieved employee by certified mail that it does not
2 intend to investigate the alleged violation within sixty (60) calendar
3 days of the postmark date of the Employee's Notice. Upon receipt of
4 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
5 five (65) calendar days of the postmark date of the Employee's Notice,
6 the aggrieved employee may commence a civil action pursuant to
7 California Labor Code section 2699 to recover civil penalties in addition
8 to any other penalties to which the employee may be entitled.

9 40. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
10 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
11 provision other than those listed in Section 2699.5 after the following requirements have been
12 met:

- 13 (a) The aggrieved employee or representative shall give written notice by
14 online filing to the LWDA and by certified mail to the employer of the
15 specific provisions of the California Labor Code alleged to have been
16 violated (other than those listed in Section 2699.5), including the facts
17 and theories to support the alleged violation.
- 18 (b) An aggrieved employee's notice filed with the LWDA pursuant to
19 2699.3(c) and any employer response to that notice shall be
20 accompanied by a filing fee of seventy-five dollars (\$75).
- 21 (c) The employer may cure the alleged violation within thirty-three (33)
22 calendar days of the postmark date of the notice. The employer shall
23 give written notice by certified mail within that period of time to the
24 aggrieved employee or representative and the agency if the alleged
25 violation is cured, including a description of actions taken, and no civil
26 action pursuant to Section 2699 may commence. If the alleged violation
27 is not cured within the 33-day period, the employee may commence a
28 civil action pursuant to Section 2699.

1 41. On July 5, 2024, Plaintiff provided written notice by online filing to the LWDA
2 and by certified mail to Defendants of the specific provisions of the California Labor Code
3 alleged to have been violated, including facts and theories to support the alleged violations, in
4 accordance with California Labor Code section 2699.3. Plaintiff's written notice was
5 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
6 Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA
7 Case Number LWDA-CM-1037986-24. A true and correct copy of Plaintiff's written notice
8 to the LWDA and Defendants dated July 5, 2024, is attached hereto as "Exhibit 1."

9 42. As of the filing date of this complaint, over 65 days have passed since Plaintiff
10 sent the written notice described above, and the LWDA has not responded that it intends to
11 investigate Plaintiff's claims, and Defendants have not cured the violations.

12 43. Thus, Plaintiff has satisfied the administrative prerequisites under California
13 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
14 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 432.5, 510,
15 512(a), 516, 1174(d), 1198, 2800, and 2802.

16 44. Labor Code section 558(a) provides "[a]ny employer or other person acting on
17 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
18 provision regulating hours and days of work in any order of the Industrial Welfare
19 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
20 dollars (\$50) for each underpaid employee for each pay period for which the employee was
21 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
22 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
23 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
24 to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest
25 as a private attorney general, seeks assessment and collection of civil penalties under Labor
26 Code section 558 for himself, all other non-party Aggrieved Employees, and the State of
27 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198,
28 and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private

1 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
2 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the
3 applicable IWC Wage Order.

4 45. Defendants, at all times relevant to this complaint, were employers or persons
5 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved
6 Employees' rights by violating various sections of the California Labor Code as set forth
7 above.

8 46. As set forth below, Defendants have violated numerous provisions of both the
9 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
10 Order.

11 47. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
12 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
13 private attorney general, seeks assessment and collection of civil penalties for himself, all
14 other non-party Aggrieved Employees, and the State of California against Defendants for
15 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 432.5, 510,
16 512(a), 516, 1174(d), 1198, 2800, and 2802 .

17 **FIRST CAUSE OF ACTION**

18 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

19 **(Against all Defendants)**

20 48. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 49. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
23 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
24 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
25 226.7, 432.5, 510, 512(a), 1174(d), 1198, 2800, and 2802. Labor Code section 2699.3(c)
26 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
27 those Labor Code sections not found in section 2699.5, including section 516.

28 50. Defendants' conduct, as alleged herein, violates numerous sections of the

1 California Labor Code, including, but not limited to, the following:

- 2 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
3 Wage Order for Defendants' failure to compensate Plaintiff and other
4 non-party Aggrieved Employees with all required overtime pay and
5 failure to properly calculate the overtime rates paid to other non-party
6 Aggrieved Employees, as set forth below;
- 7 (b) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
8 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
9 and other non-party Aggrieved Employees with meal periods, as set
10 forth below;
- 11 (c) Violation of Labor Code sections 226.7, 516, and 1198, and the
12 applicable IWC Wage Order for Defendants' failure to authorize and
13 permit Plaintiff and other non-party Aggrieved Employees to take rest
14 periods, as set forth below;
- 15 (d) Violation of Labor Code sections 226(a) and 1198, and the applicable
16 IWC Wage Order for failure to provide accurate and complete wage
17 statements to Plaintiff and other non-party Aggrieved Employees, as set
18 forth below;
- 19 (e) Violation of Labor Code sections 1174(d) and 1198, and the applicable
20 IWC Wage Order for failure to maintain payroll records, as set forth
21 below;
- 22 (f) Violation of Labor Code section 204 for failure to pay all earned wages
23 during employment, as set forth below;
- 24 (g) Violation of Labor Code sections 201 and 202 for failure to pay all
25 earned wages upon termination, as set forth below;
- 26 (h) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
27 and other non-party Aggrieved Employees for all business expenses
28 necessarily incurred, as set forth below; and

1 (i) Violation of Labor Code section 432.5 as Defendants required Plaintiff
2 and other non-party Aggrieved Employees to enter into unlawful
3 noncompete agreements as a condition of employment. Further, on
4 information and belief, Defendants failed, on a company-wide basis, to
5 notify employees by February 14, 2024 that their noncompete
6 agreements were void.

7 **FAILURE TO PAY OVERTIME**

8 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

9 51. Labor Code section 1198 makes it illegal to employ an employee under
10 conditions of labor that are prohibited by the applicable wage order. California Labor Code
11 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
12 be the . . . standard conditions of labor for employees. The employment of any employee . . .
13 under conditions of labor prohibited by the order is unlawful.”

14 52. California Labor Code section 1198 and the applicable IWC Wage Order
15 provide that it is unlawful to employ persons without compensating them at a rate of pay
16 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
17 number of hours worked by the person on a daily or weekly basis.

18 53. Specifically, the applicable IWC Wage Order provides that Defendants are and
19 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
20 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
21 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
22 (40) hours in a workweek.

23 54. The applicable IWC Wage Order further provides that Defendants are and were
24 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
25 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
26 An employee’s regular rate of pay includes all remuneration for employment paid to, or on
27 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

28 55. California Labor Code section 510 codifies the right to overtime compensation

1 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
2 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
3 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
4 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
5 in a day on the seventh (7th) day of work.

6 56. First, during the relevant time period, Defendants failed to pay Plaintiff and other
7 non-party Aggrieved Employees the correct overtime rate for the recorded overtime hours that
8 they generated. In addition to an hourly wage, Defendants paid Plaintiff and other non-party
9 Aggrieved Employees incentive pay, nondiscretionary bonuses, shift differentials, holiday
10 premium pay, and/or other forms of remuneration. However, in violation of the California
11 Labor Code, Defendants failed to incorporate all compensation into the calculation of the
12 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times
13 when Plaintiffs and class members worked overtime and received these other forms of pay,
14 Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

15 57. Second, under information and belief, during the relevant time period,
16 Defendants failed to pay Plaintiff and other non-party Aggrieved Employees at the overtime rate
17 for all hours worked in excess of eight (8) per shift. For example, Plaintiff was typically
18 scheduled to work ten (10) hours per shift, but was not compensated at one-and-a-half times his
19 regular rate for hours worked in excess of eight (8). Under information and belief, Defendants
20 and Aggrieved Employees never agreed to an alternative workweek schedule pursuant to the
21 applicable IWC wage order.

22 58. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
23 the balance of overtime compensation as required by California law, violates the provisions of
24 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
25 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
26 558 and/or 2699(a), (f), and (g).

27 ///

28 ///

FAILURE TO PROVIDE AND RECORD MEAL PERIODS
VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198

59. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and non-party Aggrieved Employees' employment by Defendants.

60. At all relevant times herein set forth, California Labor Code section 512(a) provides that 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 a 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. 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 (2012).

61. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

62. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order also require employers to provide a second meal period 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.

63. During the relevant period, Defendants failed to pay Plaintiff and other non-party Aggrieved Employees meal period premiums at the regular rate of pay. Defendants paid Plaintiff and other non-party Aggrieved Employees incentive pay, nondiscretionary bonuses, shift differentials, holiday premium pay, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all compensation into the calculation of the regular rate of pay for purposes of calculating meal period premiums.

64. Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS
VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198

65. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other non-party Aggrieved Employees' employment by Defendants.

66. At all relevant times, 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 (3 ½) hours.

67. At all relevant times, 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. To comply with its obligation to authorize and permit 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 v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

68. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

69. Under information and belief, during the relevant period, Defendants failed to

1 pay Plaintiff and other non-party Aggrieved Employees rest period premiums at the regular rate
2 of pay. Defendants paid Plaintiff and other non-party Aggrieved Employees incentive pay,
3 nondiscretionary bonuses, shift differentials, holiday premium pay, and/or other forms of
4 remuneration. However, under information and belief, in violation of the California Labor
5 Code, Defendants failed to incorporate all compensation into the calculation of the regular rate
6 of pay for purposes of calculating rest period premiums.

7 70. Accordingly, Defendants failed to authorize and permit all rest periods in
8 violation of California Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-
9 party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor
10 Code sections 558 and/or 2699(a), (f), and (g).

11 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
12 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

13 71. At all relevant times herein, California Labor Code section 226(a) provides that
14 every employer shall furnish each of his or her employees an accurate and complete itemized
15 wage statement in writing, including, but not limited to, the name and address of the legal
16 entity that is the employer, the inclusive dates of the pay period, total hours worked, and all
17 applicable rates of pay.

18 72. During the relevant time period, Defendants have knowingly and intentionally
19 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
20 inaccurate wage statements. For example, Defendants issued uniform wage statements to
21 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
22 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
23 the pay period, including rates of pay for overtime wages and/or meal or rest period premiums,
24 and the corresponding number of hours worked at each hourly rate. Specifically, Defendants
25 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

26 73. Because Defendants failed to pay overtime and meal and rest premiums at the
27 correct rate, Defendants did not list the correct amount of gross wages and net wages earned
28 by Plaintiff and other non-party Aggrieved Employees in compliance with sections 226(a)(1)

1 and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of
2 hours worked by Plaintiff and Subclass members, in violation of section 226(a)(2), and failed
3 to list the applicable hourly rates of pay in effect during the pay period and the corresponding
4 accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

5 74. The wage statement deficiencies also include, among other things, failing to list
6 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
7 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
8 for which employees were paid; failing to list the name of the employee and only the last four
9 digits of his or her social security number or an employee identification number other than a
10 social security number; failing to list the name and address of the legal entity that is the
11 employer; and/or failing to state all hours worked as a result of not recording or stating hours
12 worked off-the-clock.

13 75. California Labor Code section 1174(d) provides that “[e]very person employing
14 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
15 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
16 plants or establishments at which employees are employed, payroll records showing the hours
17 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
18 applicable piece rate paid to, employees employed at the respective plants or
19 establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500
20 civil penalty if they fail to maintain accurate and complete records as required by section
21 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
22 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-
23 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto
24 as a result of failing to record the off-the-clock hours that they worked.

25 76. California Labor Code section 1198 provides that the maximum hours of work
26 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
27 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
28 employment of any employees for longer hours than those fixed by the order or under

1 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
2 Wage Order, employers are required to keep accurate time records showing when the
3 employee begins and ends each work period and meal period. During the relevant time
4 period, as stated, Defendants engaged in a company-wide practice and/or policy of failing to
5 record actual hours worked, and thereby failed to keep accurate records of work period and meal
6 period start and stop times for Plaintiff and other non-party Aggrieved Employees, in violation
7 of section 1198.

8 77. Defendants’ conduct violates California Labor Code 226(a), 1174(d), and 1198.
9 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
10 penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

11 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

12 **VIOLATION OF LABOR CODE SECTION 204**

13 78. At all relevant times herein set forth, California Labor Code section 204
14 requires that all wages earned by any person in any employment between the first (1st) and the
15 fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon
16 termination of an employee, are due and payable between the sixteenth (16th) and the twenty-
17 sixth (26th) day of the month during which the labor was performed. Labor Code section 204
18 further provides that all wages earned by any person in any employment between the sixteenth
19 (16th) and the last day, inclusive, of any calendar month, other than those wages due upon
20 termination of an employee, are due and payable between the first (1st) and the tenth (10th)
21 day of the following month.

22 79. At all relevant times herein, California Labor Code section 204 also requires
23 that all wages earned for labor in excess of the normal work period shall be paid no later than
24 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
25 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
26 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
27 more than seven (7) calendar days following the close of the payroll period.

28 80. During the relevant time period, Defendants willfully failed to pay Plaintiff and

1 other non-party Aggrieved Employees all wages due to them within any time period specified
2 by California Labor Code section 204 including, but not limited to, overtime wages and meal
3 and rest period premiums.

4 81. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
5 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

6 **FAILURE TO PAY WAGES UPON TERMINATION**

7 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

8 82. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
9 that if an employer discharges an employee, the wages earned and unpaid at the time of
10 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
11 her employment, his or her wages shall become due and payable not later than seventy-two
12 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
13 his or her intention to quit, in which case the employee is entitled to his or her wages at the
14 time of quitting.

15 83. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
16 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
17 above, including but not limited to, overtime wages and/or meal and rest period premiums,
18 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants'
19 employ.

20 84. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
21 who are no longer employed by Defendants their wages earned and unpaid at the time of
22 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
23 Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are
24 therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or
25 2699(a), (f), and (g).

26 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

27 **VIOLATION OF LABOR CODE SECTION 2802**

28 85. At all times herein set forth, California Labor Code section 2802 provides that

1 an employer must reimburse employees for all necessary expenditures and losses incurred by
2 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
3 to prevent employers from passing off their cost of doing business and operating expenses on
4 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
5 (2014). The applicable wage order, IWC Wage Order No. 16-2001, provides that: “[w]hen the
6 employer requires the use of tools or equipment or they are necessary to the performance of a
7 job, such tools and equipment shall be provided and maintained by the employer, except that
8 an employee whose wages are at least two (2) times the minimum wage may provide and
9 maintain hand tools and equipment customarily required by the particular trade or craft.”

10 86. During the relevant time period, Defendants, on a company-wide basis,
11 required Plaintiff and other non-party Aggrieved Employees to use their personal mobile
12 devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job
13 duties but failed to reimburse them for the costs of their work-related mobile device and/or
14 mobile data expenses. For example, Plaintiff was required to use his personal cellular phone
15 and mobile data to communicate with Defendants’ management via the Discord app. Plaintiff
16 complained to his team lead about the fact that he was not receiving a stipend for this work-
17 related expense, but Defendants failed to reimburse Plaintiff and other non-party Aggrieved
18 Employees for the costs of business-related cellular phone usage.

19 87. Defendants could have reimbursed Plaintiff and other non-party Aggrieved
20 Employees for the costs of business-related cellular phone usage. Instead, Defendants passed
21 these costs off onto Plaintiff and other non-party Aggrieved Employees.

22 88. Defendants’ company-wide policy and/or practice of passing on their operating
23 costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code
24 section 2802. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
25 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

26 **UNLAWFUL CONDITION OF EMPLOYMENT**

27 **VIOLATION OF LABOR CODE SECTION 432.5**

28 89. California Business & Professions Code section 16600(a) provides, “Except as

provided in this chapter, every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void.” Further, section 16600.1(b)(1) provides, “For current employees, and for former employees who were employed after January 1, 2022, whose contracts include a noncompete clause, or who were required to enter a noncompete agreement, that does not satisfy an exception to this chapter, the employer shall, by February 14, 2024, notify the employee that the noncompete clause or noncompete agreement is void.”

90. At all times herein set forth, California Labor Code section 432.5 provides, “No employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

91. During the relevant time period, Defendants, on a company-wide basis, required employees to sign unlawful noncompete agreements. As a condition of employment with Defendants, these agreements prohibited, inter alia, Plaintiff and other non-party Aggrieved Employees from seeking employment or “engag[ing] or participat[ing] in any business that is in competition in any manner whatsoever” with Defendants for a period of five (5) years and within 200 miles. Even after Business and Professions Code section 16600 went into effect on January 1, 2024, Defendants were still requiring employees to sign such agreements as a condition of employment. For example, Plaintiff signed an unlawful noncompete agreement on about January 25, 2024, as a mandatory condition of his employment with Defendants. On information and belief, Defendants never notified Plaintiff and other non-party Aggrieved Employees by February 14, 2024 that these noncompete agreements were void.

92. Defendants’ company-wide policy and/or practice of conditioning employment on employees signing unlawful noncompete agreements violates Labor Code section 432.5. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

1 **REQUEST FOR JURY TRIAL**

2 Plaintiff requests a trial by jury.

3 **PRAYER FOR RELIEF**

4 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
5 judgment against Defendants, jointly and severally, as follows:

6 1. For civil penalties and attorneys' fees in excess of thirty-five thousand dollars
7 (\$35,000). Plaintiff reserves the right to amend his prayer for relief to seek a different
8 amount.

9 **As to the First Cause of Action**

10 2. That the Court declare, adjudge and decree that Defendants violated the
11 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
12 Employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 512(a), 516,
13 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
14 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
15 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
16 earned wages upon termination); 204 (by failing to timely pay all earned wages during
17 employment); 2802 (by failing to reimburse business expenses); and 432.5 (unlawful
18 condition of employment);

19 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
20 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
21 203, 204, 226(a), 226.7, 432.5, 510, 512(a), 516, 1174(d), 1198, 2800, and 2802;

22 4. For attorneys' fees and costs pursuant to California Labor Code section
23 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
24 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1198, 2800,
25 and 2802;

26 5. For pre-judgment and post-judgment interest as provided by law; and

27 6. For such other and further relief as the Court may deem equitable and
28 appropriate.

1 Dated: February 27, 2025

Respectfully submitted,

2 **BROCK & GONZALES, LLP**

3
4 By: 
5 D. Aaron Brock
6 Joseph D. Parsons

7 Attorneys for Plaintiff Octavio Lopez

EXHIBIT 1

D. Aaron Brock
ab@brockgonzales.com

Erica A. Gonzales
eg@brockgonzales.com

Lindsay L. Bowden
lb@brockgonzales.com

Christopher P. Brandes
cb@brockgonzales.com

Lee A. Cirsch
lc@brockgonzales.com

Bianca M. Dulgheru
bd@brockgonzales.com

Danielle L. GruppChang
dg@brockgonzales.com

Douglas B. Hayes
dh@brockgonzales.com

Paul H. Hirsch
ph@brockgonzales.com



MAIN OFFICE

6701 CENTER DRIVE WEST, SUITE 610
LOS ANGELES, CA 90045
Tel: (310) 294-9595
Fax: (310) 961-3673
www.brockgonzales.com

for the employee, for the injured, for California

Cory H. Hurwitz
ch@brockgonzales.com

Christina R. Kerner
ck@brockgonzales.com

N. Alex Lopez
al@brockgonzales.com

Brigid A. O'Reilly
bor@brockgonzales.com

Elizabeth A. Siruno
es@brockgonzales.com

Jesse S. Stratos
js@brockgonzales.com

Robert P. Biegler
of counsel

Douglas A. Linde
of counsel

Joseph E. Richards
of counsel

Ventura County Office
3011 Townsgate Rd.
Suite 250
Westlake Village, CA
91361

Inland Empire Office
1101 California Ave.
#120
Corona, CA 92881

Sacramento Office
725 University Ave.
Sacramento, CA 95825

Bay Area Office
180 Grand Ave.
Suite 1500
Oakland, CA 94610

July 5, 2024

BY FILING ON THE CALIFORNIA LABOR & WORKFORCE DEVELOPMENT AGENCY'S ONLINE PAGA FILING SYSTEM

California Labor & Workforce Development Agency

Re: NEW PATRIOT HOLDINGS, INC.

Dear Representative:

We, the law firm of Brock & Gonzales LLP, have been retained by Octavio Lopez to represent him against New Patriot Holdings, Inc. (including its affiliates, subsidiaries, and parents, and their shareholders, officers, directors, and employees) (collectively referred to as "New Patriot") for violations of California wage-and-hour laws. New Patriot has employed Mr. Lopez as a non-exempt, hourly-paid employee in the position of Cultivator from approximately January 2024 to approximately March 7, 2024 in the State of California. This letter is sent pursuant to California Labor Code section 2699.3.

Mr. Lopez seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code sections 2698, et seq., the Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA, on behalf of the State of California and all current and former hourly-paid, non-exempt employees who worked for New Patriot within the State of California ("aggrieved employees").

Relevant Facts

New Patriot required employees to perform work off-the-clock before and after their scheduled workdays and during their meal and rest breaks and as a result New Patriot failed to properly

compensate aggrieved employees for all time worked, for example donning and doffing their lab coats and protective gear. New Patriot also did not provide compliant, timely, or uninterrupted meal and/or rest periods, and required them to perform work-related tasks during their meal and rest breaks, and as a result, New Patriot failed to properly compensate aggrieved employees for all time worked, resulting in interrupted or missed breaks. In instances where New Patriot paid overtime and/or meal period premiums, they failed to correctly calculate applicable regular rate, taking into consideration shift differentials and other forms of non-discretionary compensation. New Patriot also subjected employees to unlawful non-compete clauses and failed to provide the required notice thereon by February 14, 2024.

New Patriot has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, Business and Professions Code sections 16600, et al., and IWC Wage Orders.

Violated Provisions of California Labor Code

California Labor Code sections 510 and 1198 require employers to pay overtime wages to employees for all hours worked longer than eight hours in one day, over forty (40) hours in one week, and/or more than six (6) consecutive days in one week. During the relevant time period, Mr. Lopez and other aggrieved employees often worked in excess of eight (8) hours in a day and forty (40) hours in a week. However, Mr. Lopez and other aggrieved employees were not paid all of the applicable overtime wages that they were entitled to receive, in part because New Patriot failed to calculate the correct regular rate based on which overtime wages were to be paid by failing to take into consideration other forms of non-discretionary compensation. New Patriot failed to compensate aggrieved employees at one-and-one-half times their regular rate of pay for hours worked in excess of 8 hours in a day, 40 hours in a week, and/or 6 days in a workweek.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each non-compliant meal or rest period they endure. During the relevant time period, New Patriot required Mr. Lopez and other aggrieved employees to work during meal and rest periods and failed to compensate them for every non-compliant meal and rest period (i.e., short, late, interrupted, and missed meal and rest periods) they endured. New Patriot assigned heavy workloads to aggrieved employees which required aggrieved employees to remain working through meal and rest breaks and New Patriot failed to relieve aggrieved employees of all duties and relinquish control over how they spent their meal and rest breaks; and therefore New Patriot failed to provide compliant meal and rest periods.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees and that the payment of any lesser wage is unlawful. During the relevant time period, New Patriot did not provide Mr. Lopez and other aggrieved employees with the minimum wages they were entitled for work performed "off-the-clock." For example, New Patriot paid a rate of zero dollars per hour for time Mr. Lopez and the other aggrieved employees spent off-the-clock donning and doffing their required uniforms, which resulted in an underpayment of minimum wages to Mr. Lopez and other aggrieved employees.

California Labor Code sections 201 and 202 provide that if an employer terminates 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 after he or she gave notice, unless the employee gave seventy-two (72) hours or more notice of their intention to quit, in which case, the employee is entitled to his or her wages at the time of quitting. During the relevant time period, New Patriot failed to pay Mr. Lopez and other aggrieved employees all wages due to them within the time periods specified by California Labor Code sections 201 and 202. California Labor Code section 203 provides that if an employer willfully fails to pay the wages of a termed employee, the wages of the employee will continue as a penalty from the day the wages are due until they are paid or until an action is commenced. During the relevant time period, New Patriot willfully failed to pay all wages due and the corresponding accrued penalties to Mr. Lopez and other applicable aggrieved employees. Specifically, Mr. Lopez and other aggrieved employees were not paid all wages earned throughout their employment, including but not limited to, minimum and overtime wages, for meal and rest period premium payments, and unreimbursed business expenses, when their employment with New Patriot was termed.

California Labor Code section 204 provides that all wages earned by any employee between the 1st and the 15th days of any calendar month are due and payable between the 16th and the 26th day of that month, and that all wages earned by any person in any employment between the 16th and the last day of any calendar month are due and payable between the 1st and the 10th day of the following month, excluding those wages due upon termination of an employee. During the relevant time period, New Patriot failed to pay Mr. Lopez and other aggrieved employees all earned wages due to them within the appropriate time periods. Mr. Lopez and other aggrieved employees were not timely paid wages, including but not limited to, minimum and overtime wages, for meal and rest period premium payments, and for unreimbursed business expenses, during their employment.

California Labor Code section 226 requires employers to create, maintain, and provide to employees complete, accurate, and compliant itemized wage statements. During the relevant time period, New Patriot failed to provide Mr. Lopez and other aggrieved employees with wage statements which included the total hours worked by Mr. Lopez and other aggrieved employees in violation of California Labor Code section 226. New Patriot failed to account for and compensate for all time aggrieved employees worked, as well as during their meal and rest periods, and as a result, it failed to provide complete and accurate wage statements.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. During the relevant time period, New Patriot failed to keep accurate and complete payroll records containing the actual total number of hours worked daily to Mr. Lopez and other aggrieved employees. For example, New Patriot failed to account for and compensate for all time worked “off-the-clock,” and as a result, it failed to keep accurate and complete payroll records.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary business expenses incurred by its employees in direct consequence of the discharge

of his or her job duties or at the directions of the employer. During the relevant time period, Mr. Lopez and other aggrieved employees incurred necessary business-related expenses and costs, such as the costs associated with the maintenance of required uniforms and use of their personal cell phones and were not reimbursed by New Patriot.

Therefore, pursuant to PAGA, Mr. Lopez seeks, on behalf of all aggrieved employees, all applicable penalties arising out of the wage, hour, payroll, and employment practices and facts set forth herein, which could be assessed and collected by the Labor and Workforce Development Agency for violation of the California Labor Code.

Please contact us at the above-listed contact information with any questions or inquiries.

With kind regards,

A handwritten signature in cursive script that reads "Danielle L. GruppChang". The signature is written in dark ink and is positioned above the printed name.

Danielle L. GruppChang, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

New Patriot Holdings, Inc.
3843 S. Bristol St. #607
Santa Ana, California