

**KINGSLEY SZAMET & LY**  
ERIC B. KINGSLEY, Esq. (SBN 185123)  
eric@kingsleylawyers.com  
LIANE KATZENSTEIN LY, Esq., (SBN 259230)  
liane@kingsleylawyers.com  
JESSICA BULAON, Esq., (SBN 340749)  
jessi@kingsleylawyers.com  
16133 Ventura Blvd., Suite 1200  
Encino, CA 91436  
Tel: (818) 990-8300, Fax (818) 990-2903

Edgar I. Aguila-socho, Esq. (SBN 285567)  
Mario Martinez, Esq. (SBN 200721)  
**MARTINEZ AGUILASOCHO LAW, INC.**  
P.O. Box 1998  
Bakersfield, California 93303  
eaguila-socho@farmworkerlaw.com  
mmartinez@farmworkerlaw.com  
Telephone: (661) 859-1 174  
Facsimile: (661) 840-6154

Attorneys for Plaintiffs and the proposed class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SANTA BARBARA (NORTH COUNTY)**

JULIAN LOPEZ CAMARILLO;  
ANTONINO HERRERA SANTOS; MARIA  
NICOLAS MARTINEZ; as individuals, on  
behalf of themselves and others similarly  
situated,

PLAINTIFFS,

v.

AGRO-JAL FARMING ENTERPRISES;  
BERRY BUDDYS, INC. ; and DOES 1 thru  
50, inclusive,

DEFENDANTS.

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
9/6/2024 12:26 PM  
By: M. Gutierrez , Deputy

CASE NO. 24CV03681

[Case Assigned for All Purposes to Hon. Judge  
James F. Rigali in Dept. SM-2]

[Amended as a matter of right, pursuant to  
Labor Code § 2699.3(a)(2)(C)]

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT**

1. Failure to Pay Wages and/or Overtime  
Under Labor Code §§ 510, 1194, and  
1199
2. Failure to Provide Meal Breaks Pursuant  
to Labor Code §§ 226.7 and 512
3. Failure to Reimburse Expenses Pursuant  
to Labor Code § 2802
4. Violation of Labor Code § 226(a)
5. Penalties Pursuant to Labor Code § 203
6. Violation of Business & Professions Code  
§ 17200
7. Penalties Pursuant to Labor Code §2699,  
et seq.

1 Plaintiffs JULIAN LOPEZ CAMARILLO, ANTONINO HERRERA SANTOS; MARIA  
2 NICOLAS MARTINEZ; as individuals, on behalf of themselves, all others similarly situated, and  
3 on behalf of the people of the State of California and as “aggrieved employees” under Labor Code  
4 Private Attorneys General Act of 2004, § 2699, *et seq.* (hereafter “PAGA”), complains of  
5 Defendants AGRO-JAL FARMING ENTERPRISES; BERRY BUDDYS, INC. (collectively,  
6 “Defendants”) and each of them, as follows:

7 **I.**

8 **INTRODUCTION**

9 1. This is a Class and Representative Action, pursuant to Code of Civil Procedure §  
10 382, on behalf of Plaintiffs and a Proposed Class defined as:

11 All persons who are employed or have been employed as a field  
12 worker by AGRO-JAL FARMING ENTERPRISES; BERRY  
13 BUDDYS, INC. in the State of California who worked one or more  
14 pay periods since four (4) years prior to the filing of this action  
15 continuing to the present plus any additional time during which the  
16 statutes of limitation for the causes of action herein were tolled  
17 pursuant to Emergency Rule 9 of the California Rules of Court, the  
18 ‘Emergency Rules Related to COVID-19’. (“Proposed Class”)

19 2. Any limitations period referenced in this complaint is extended pursuant to  
20 Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the  
21 California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of  
22 limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020  
23 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action  
24 that exceed 180 days are tolled from April 6, 2020, until October 16 1, 2020.”] Any reference to  
25 the relevant time period or statute of limitations referenced in this complaint is extended into the  
26 past by the number of days in which this tolling was in effect.

27 3. Plaintiffs and the Proposed Class worked for Defendants, either directly or through  
28 various Farm Labor Contractors (“FLC”), in or near Santa Barbara County, California as seasonal  
agricultural workers. Plaintiffs and the Proposed Class worked in the cultivation and harvest of  
strawberries, and doing other agricultural work, on land owned, leased, managed, and/or operated,  
harvested, or otherwise made productive by Defendants. Plaintiffs and the Proposed Class were

1 paid on an hourly basis and also earned a piece rate for work picking crops.

2 4. From at least four (4) years prior to the filing of this action continuing to the present,  
3 Defendants have had a consistent policy of failing to pay wages and/or overtime to all Proposed  
4 Class Members at the appropriate rate as follows:

5 a. Plaintiffs and the Proposed Class were not properly compensated for all  
6 hours worked, because Defendants failed to pay Plaintiffs and the Proposed Class for each and  
7 every hour worked. Plaintiffs and the Proposed Class routinely worked “off the clock” and  
8 performed compensable activities before, during, and after each working shift for which no pay  
9 was provided.

10 b. With regard to pre-shift work, Plaintiffs and the Proposed Class are required  
11 to report to work prior to their scheduled shift and perform work but are routinely told by  
12 Defendants to wait before Plaintiffs and the Proposed Class can begin their scheduled shifts.  
13 Plaintiffs and the Proposed Class are instructed by the foreman to arrive around 15 to 30 minutes  
14 before the official clock in time every day. Plaintiffs and the Proposed Class are required to walk  
15 8 to 20 minutes every day walking to the field and prepping material for the day of work, including  
16 bringing the necessary tools required to do the job. Plaintiffs and the Proposed Class are not  
17 allowed to park close to the field where they will be harvesting crops, so they are required to arrive  
18 early to walk to the field. During the 15 to 30 minutes before the official clock-in time, Plaintiffs  
19 and the Proposed Class are required to prepare all the equipment and tools for the day, and set up  
20 their harvest carts. Additionally, Plaintiffs and the Proposed Class meet with the foreman at least  
21 once a week prior to the official clock-in time for a meeting regarding fruit quality, work  
22 performance, and other topics related to the harvesting of strawberries. Defendants also maintain  
23 an attendance system that prevents Plaintiffs and the Proposed Class from receiving any  
24 compensation for work performed prior to the official clock-in time. A batch card is punched by  
25 the driver of the workers to the fields every day, and this punch in time does not usually correlate  
26 with the time that Plaintiffs and the Proposed Class actually begin performing compensable  
27 activities. Additionally, the foreman maintains an attendance list that Plaintiffs and the Proposed  
28 Class are required to sign, and after two weeks, Plaintiffs and the Proposed Class are allowed to

1 check their time sheets, containing names, boxes worked, hours and breaks, however it is too late  
2 for Plaintiffs and the Proposed Class to make any changes to this sheet once they are allowed to  
3 view it. During the rainy season, foreman would force the crew to begin working without necessary  
4 protection despite the weather conditions, but Plaintiffs and the Proposed Class would not be paid  
5 for any additional time in excess of eight hours in one workday. This waiting time and work  
6 performed prior to Plaintiffs' and the Proposed Class members' scheduled shift occurs daily and  
7 Plaintiffs and the Proposed Class are not compensated for this wait time or work performed. These  
8 activities and time are compensable, but Defendants fail to pay Plaintiffs and the Proposed Class  
9 for this time worked.

10 c. In the middle of Plaintiffs' and the Proposed Class shifts, Defendants  
11 required Plaintiffs and the Proposed Class to travel between fields once they are done picking at  
12 one field. Plaintiffs and the Proposed Class use their own vehicle(s) to travel to between fields per  
13 shift at least one or twice per year at least, during their lunch breaks. Plaintiffs and the Proposed  
14 Class are not compensated for this travel time, nor are they reimbursed for use of their personal  
15 vehicle to perform required work. This travel time usually takes 15 minutes to go from field to  
16 field.

17 d. With regard to post-shift work, at the end of each working shift, Plaintiffs  
18 and the takes at least 20 minutes after their shift is over. The foreman would require Plaintiffs and  
19 the Proposed Class to finish the row they were working on and prevent them from leaving until  
20 the row is finished. Plaintiffs and the Proposed Class are required to complete the row they are  
21 working on once they have started, as they cannot leave the row partially cut. This time spent  
22 finishing their row was performed after being "clocked out" and as such, Plaintiffs and the  
23 Proposed Class are not compensated for this time worked even though this time is compensable.  
24 Additionally, Plaintiffs and the Proposed Class are required to return their badges to the driver or  
25 docker and they will punch out all of the workers. Plaintiffs and the Proposed Class are not allowed  
26 to "clock out" themselves, and did not sign off on their hours worked at the end of each shift.  
27 Everyday after Plaintiffs and the Proposed Class finish their rows, there is an additional 7 to 10  
28 minutes that the employees are required to line up in front of the trailer, drop off their boxes, and

1 wait until the driver marks the boxes with the employee's name. Plaintiffs and the Proposed Class  
2 have to walk back to their cars which are parked 8 to 10 minutes away from the field. This time  
3 spent waiting to get their boxes marked and walking back to their cars is performed after being  
4 "clocked out" and as such, Plaintiffs and the Proposed Class are not compensated for this time  
5 worked even though this time is compensable.

6 e. Additionally, Defendants have had a consistent policy of failing to pay  
7 wages and/or overtime to Plaintiffs and all Proposed Class at the appropriate rate of pay. Plaintiffs  
8 and other Proposed Class were not properly compensated for all hours worked over eight (8) hours  
9 in one day or forty (40) hours in one week. Plaintiffs and the Proposed Class were not properly  
10 compensated for overtime worked because Defendants failed to pay Plaintiffs and the Proposed  
11 Class for all hours worked over 8 hours per day or 40 hours per week. As such, Plaintiffs and the  
12 Proposed Class were not paid overtime pay despite working over eight (8) hours in one day or  
13 forty (40) hours in one week. Plaintiffs and the Proposed Class were paid overtime, usually during  
14 the peak of the season, however it was paid at the *regular rate of pay* instead of the overtime rate.

15 f. Finally, Defendants failed to pay Plaintiffs and the Proposed Class  
16 accurately on their piece rate pay. Plaintiffs and the Proposed Class frequently found that they  
17 were not paid or compensated correctly for piece rate work. Plaintiffs and the Proposed Class were  
18 paid on a piece-rate basis for boxes of strawberries harvested, and Defendants failed to pay  
19 Plaintiffs and the Proposed Class for all boxes of strawberries.

20 5. From at least four (4) years prior to the filing of this action and continuing to the  
21 present, Defendants have had a consistent policy of failing to inform Proposed Class Members of  
22 their right to take meal periods by way of a lawful policy and failing to provide Plaintiffs and the  
23 Proposed Class members compliant meal periods, required Plaintiffs and the Proposed Class to  
24 work shifts over ten (10) hours without providing a second meal period of thirty minutes in length  
25 altogether, and failing to pay such employees one (1) hour of pay at the employees' regular rate of  
26 compensation for each workday that the meal period is not provided or provided after five (5)  
27 hours, as required by California state wage and hour laws. Additionally, Defendants have had a  
28 consistent policy of failing to pay meal period premiums in compliance with California law.

1           6.       For at least four (4) years prior to the filing of this action and continuing to the  
2 present, Defendants have failed to reimburse Plaintiffs and the Proposed Class for their tools and  
3 mileage necessary to perform their job duties. The work performed by Plaintiffs and the Proposed  
4 Class necessitated the use of special tools. Plaintiffs and the Proposed Class are required to work  
5 without being reimbursed for their business expenses. The work performed by Plaintiffs and the  
6 Proposed Class necessitated the use of tools such as, but not limited to, gloves, harvest carts,  
7 scissors, knives, protective clothing, and various other tools. Defendants fail to reimburse Plaintiffs  
8 and the Proposed Class for the costs associated with purchasing and using these tools.

9           a.       When employees first begin performing work for Defendants, they are  
10 provided gloves and various used tools. However, these tools are of poor quality and are required  
11 to be returned every day after finishing work. Additionally, Defendants do not provide enough  
12 gloves so Plaintiffs and the Proposed Class are required to purchase their own gloves. The tools  
13 provided by Defendants do not allow Plaintiffs and the Proposed Class to perform their work  
14 adequately.

15           b.       Plaintiffs and the Proposed Class are required to purchase a variety of  
16 specialized tools in order to perform their work adequately. These tools/equipment include gloves,  
17 harvest carts, scissors, knives, protective clothing. Defendants do not provide these tools and fails  
18 to reimburse Plaintiffs and the Proposed Class for the costs associated with purchasing and using  
19 these tools/equipment.

20           c.       Defendants also required Plaintiffs and all Proposed Class members to  
21 travel between fields to perform work tasks. Because Defendant did not provide buses or other  
22 transportation to workers so that they could travel from field to field in the middle of their shifts,  
23 Plaintiffs and the Proposed Class used their own vehicles to travel from field to field. Defendants  
24 did not reimburse Plaintiffs and the Proposed Class for their vehicle use for travel between  
25 Defendants' job sites during the course of a work shift, in violation of California law.

26           7.       For at least one (1) year prior to the filing of this action continuing to the present,  
27 Defendants have failed to comply with Industrial Welfare Commission ("IWC") Wage Order 14-  
28 2001 and Labor Code § 226(a) by failing issue accurate itemized wage statements reporting all

1 applicable hourly rates in effect during the pay period, and the corresponding number of hours  
2 worked at each hourly rate by the employee.

3 8. For at least three (3) years prior to the filing of this action continuing to the present,  
4 Defendants have failed to pay all wages due at the time of termination or resignation to Plaintiffs  
5 and the Proposed Class.

6 9. Plaintiffs, on behalf of themselves and all Proposed Class Members bring this  
7 action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and  
8 2802; Wage Order 14-2001; and California Code of Regulations, Title 8, Section 11140, seeking  
9 unpaid wages/overtime, meal period penalties, unreimbursed expenses, accurate itemized wage  
10 statements, other penalties, injunctive and other equitable relief, and reasonable attorneys' fees  
11 and costs.

12 10. Plaintiffs, on behalf of themselves and all Proposed Class Members, pursuant to  
13 Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and  
14 disgorgement of all benefits Defendants enjoyed from its unlawful conduct as described herein.

15 11. For at least one (1) year prior to the date of the letter sent to the Labor Workforce  
16 and Development Agency ("LWDA") and Defendant giving notice of the claims pursuant to  
17 PAGA, Defendants have violated Labor Code provisions, as detailed below, giving rise to a claim  
18 pursuant to PAGA. Plaintiffs, on behalf of themselves and all aggrieved employees presently or  
19 formerly employed by Defendant during the liability period as defined in their PAGA notice letter  
20 (*see* Exhibit "1"), brings this representative action pursuant to Labor Code § 2699, *et seq.* seeking  
21 penalties for Defendant's violations of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512,  
22 1194, 1194.2, 1199, and 2802.

## 23 **II.**

### 24 **JURISDICTION AND VENUE**

25 12. This Court has subject matter jurisdiction over all causes of action asserted herein  
26 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure  
27 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive  
28 of interest, exceeds \$35,000, and because each cause of action asserted arises under the laws of the

1 State of California or is subject to adjudication in the courts of the State of California.

2 13. This Court has personal jurisdiction over Defendants because Defendants have  
3 caused injuries in the County of Santa Barbara and the State of California through their acts, and  
4 by their violation of the California Labor Code, California state common law, and California  
5 Business & Professions Code § 17200, *et seq.*

6 14. Venue as to each Defendant is proper in this judicial district, pursuant to Code of  
7 Civil Procedure § 395. Defendants operate within California and does business within Santa  
8 Barbara County. The unlawful acts alleged herein have a direct effect on Plaintiffs and all  
9 Proposed Class Members within the State of California and the county of Santa Barbara.

10 15. This case should be classified as complex according to Rule 3.400 of the California  
11 Rules of Court, and assigned to a complex litigation judge and department, as it will involve  
12 substantial documentary evidence, a large number of witnesses, and is likely to involve extensive  
13 motion practice raising difficult or novel issues that will be time-consuming to resolve and would  
14 require substantial post judgment judicial supervision.

15 16. Plaintiffs file this amended complaint adding a claim for penalties pursuant to  
16 Labor Code § 2699, *et seq.* as a matter of right, pursuant to Labor Code § 2699.3(a)(2)(C).

### 17 III.

### 18 PARTIES

#### 19 A. PLAINTIFFS

20 17. Plaintiffs JULIAN LOPEZ CAMARILLO, ANTONINO HERRERA SANTOS,  
21 AND MARIA NICOLAS MARTINEZ are residents of California.

22 18. Plaintiffs and all Proposed Class Members, were regularly required to:  
23 a. Work without being paid for all hours worked;  
24 b. Work without being paid for all hours at the appropriate overtime rate;  
25 c. Work without being provided compliant meal periods;  
26 d. Work without being reimbursed for their out of pocket expenses for  
27 necessary tools and equipment and using personal vehicles for work related purposes;  
28 e. Work without Defendants providing accurate itemized wage statements;

1           19. Defendants willfully failed to compensate Plaintiffs and all Proposed Class  
2 Members for wages at the termination of their employment with Defendants.

3           20. As a result of this conduct, Defendants have engaged in unfair competition and  
4 unlawful business practices.

5           21. Plaintiffs and all aggrieved employees as defined in their notice letter to the LWDA  
6 are “aggrieved employees” within the meaning of Labor Code § 2699, *et seq.* (see Labor Code §  
7 2699(c).)

8           **B. DEFENDANTS**

9           22. Defendant AGRO-JAL FARMING ENTERPRISES is believed to be a California  
10 corporation operating within the State of California. Defendant’s corporate address is believed to  
11 be 257 Kathleen Ct., Santa Maria, CA 93458. Upon information and belief, Defendant employed  
12 Plaintiffs and similarly situated persons as hourly employees within California. Defendant has  
13 done and does business throughout the State of California.

14           23. Defendant BERRY BUDDYS, INC. is believed to be a California corporation  
15 operating within the State of California. Defendant’s corporate address is believed to be 257  
16 Kathleen Ct., Santa Maria, CA 93458. Upon information and belief, Defendant employed  
17 Plaintiffs and similarly situated persons as hourly employees within California. Defendant has  
18 done and does business throughout the State of California.

19           24. The true names and capacities, whether individual, corporate, associate, or  
20 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to  
21 Plaintiffs, who therefore sues Defendants by such fictitious names under Code of Civil Procedure  
22 § 474. Plaintiffs are informed and believes, and based thereon alleges, that each of the Defendants  
23 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred  
24 to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and  
25 capacities of the Defendants designated hereinafter as DOES when such identities become known.

26           25. Plaintiffs are informed and believes, and based thereon alleges, that each Defendant  
27 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint  
28 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are

1 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the  
2 employer and/or joint employer of Plaintiffs and the Proposed Class Members.

3 26. Furthermore, Defendants acted in all respects as the employers or joint employers  
4 of the Proposed Class. Defendants, and each of them, exercised control over the wages, hours or  
5 working conditions of the Proposed Class, or suffered or permitted the Proposed Class to work, or  
6 engaged, thereby creating a common law employment relationship, with the Proposed Class.  
7 Therefore, Defendants, and each of them, employed or jointly employed the Proposed Class.

8 27. Defendants are engaged in the operation of agricultural fields for production of  
9 strawberries, as described above. Defendants also own and operate packing facilities in or near  
10 Santa Barbara County, California, to sort, grade, package, and distribute crops harvested by  
11 Plaintiffs. At all times mentioned herein, Defendants employed Plaintiffs and members of the  
12 Proposed Class as non-exempt employees in Defendants' agricultural field operations.

13 28. Defendants are issued or cause to be issued, or employed FLCs that issue, during  
14 the relevant period, payroll checks to Plaintiffs and members of the Proposed Class for agricultural  
15 work performed by Defendants.

16 29. Defendants are, and during the relevant period, have been, engaged in the business  
17 of cultivating, harvesting and packing crops as described above.

18 30. With respect to the events at issue in this case, Defendants acted as employer of  
19 Plaintiffs and members of the Proposed Class. Defendants are liable for the wage violations alleged  
20 herein, pursuant to California law, including but not limited to California Labor Code section  
21 2810.3.

22 31. As the employer of Plaintiffs and the Proposed Class, Defendants are liable for the  
23 violations of law described in this Complaint. See Cal. Labor Code section 2810.3.

24 32. Plaintiffs have complied with Cal. Labor Code section 2810.3, because more than  
25 thirty (30) days prior to filing of the complaint, Plaintiffs notified Defendants of the violations  
26 alleged in this complaint.

27 **IV.**

28 **FACTUAL BACKGROUND**

1           33.     Plaintiffs and the Proposed Class are, and at all times pertinent hereto, have been  
2 classified as non-exempt employees by Defendants. Plaintiffs and the Proposed Class were paid  
3 on an hourly basis and also earned a piece rate for work picking crops.

4           34.     Upon information and belief, Plaintiffs and the Proposed Class are covered by  
5 California Industrial Welfare Commission Occupational Wage Order No. 14-2001 (Title 8 Cal.  
6 Code of Regs. § 11140).

7           35.     On a regular and consistent basis, Defendants have had a consistent policy of failing  
8 to pay wages and/or overtime to all Proposed Class Members at the appropriate rate as follows:

9               a.     Plaintiffs and the Proposed Class were not properly compensated for all  
10 hours worked, because Defendants failed to pay Plaintiffs and the Proposed Class for each and  
11 every hour worked. Plaintiffs and the Proposed Class routinely worked “off the clock” and  
12 performed compensable activities before, during, and after each working shift for which no pay  
13 was provided.

14               b.     With regard to pre-shift work, Plaintiffs and the Proposed Class are required  
15 to report to work prior to their scheduled shift and perform work but are routinely told by  
16 Defendants to wait at least 25 minutes before Plaintiffs and the Proposed Class can begin their  
17 scheduled shifts. Plaintiffs and the Proposed Class are instructed by the foreman to arrive around  
18 15 to 30 minutes before the official clock in time every day. Plaintiffs and the Proposed Class are  
19 required to walk 8 to 20 minutes every day walking to the field and prepping material for the day  
20 of work, including bringing the necessary tools required to do the job. Plaintiffs and the Proposed  
21 Class are not allowed to park close to the field where they will be harvesting crops, so they are  
22 required to arrive early to walk to the field. During the 15 to 30 minutes before the official clock-  
23 in time, Plaintiffs and the Proposed Class are required to prepare all the equipment and tools for  
24 the day, and set up their harvest carts. Additionally, Plaintiffs and the Proposed Class meet with  
25 the foreman at least once a week prior to the official clock-in time for a meeting regarding fruit  
26 quality, work performance, and other topics related to the harvesting of strawberries. Defendants  
27 also maintain an attendance system that prevents Plaintiffs and the Proposed Class from receiving  
28 any compensation for work performed prior to the official clock-in time. A batch card is punched

1 by the driver of the workers to the fields every day, and this punch in time does not usually correlate  
2 with the time that Plaintiffs and the Proposed Class actually begin performing compensable  
3 activities. Additionally, the foreman maintains an attendance list that Plaintiffs and the Proposed  
4 Class are required to sign, and after two weeks, Plaintiffs and the Proposed Class are allowed to  
5 check their time sheets, containing names, boxes worked, hours and breaks, however it is too late  
6 for Plaintiffs and the Proposed Class to make any changes to this sheet once they are allowed to  
7 view it. During the rainy season, foreman would force the crew to begin working without necessary  
8 protection despite the weather conditions, but Plaintiffs and the Proposed Class would not be paid  
9 for any additional time in excess of eight hours in one workday. This waiting time and work  
10 performed prior to Plaintiffs' and the Proposed Class members' scheduled shift occurs daily and  
11 Plaintiffs and the Proposed Class are not compensated for this wait time or work performed. These  
12 activities and time are compensable, but Defendants fail to pay Plaintiffs and the Proposed Class  
13 for this time worked.

14 c. In the middle of Plaintiffs' and the Proposed Class shifts, Defendants  
15 required Plaintiffs and the Proposed Class to travel between fields once they are done picking at  
16 one field. Plaintiffs and the Proposed Class use their own vehicle(s) to travel to between fields per  
17 shift at least one or twice per year at least, during their lunch breaks. Plaintiffs and the Proposed  
18 Class are not compensated for this travel time, nor are they reimbursed for use of their personal  
19 vehicle to perform required work. This travel time usually takes 15 minutes to go from field to  
20 field.

21 d. With regard to post-shift work, at the end of each working shift, Plaintiffs  
22 and the takes at least 20 minutes after their shift is over. The foreman would require Plaintiffs and  
23 the Proposed Class to finish the row they were working on and prevent them from leaving until  
24 the row is finished. Plaintiffs and the Proposed Class are required to complete the row they are  
25 working on once they have started, as they cannot leave the row partially cut. This time spent  
26 finishing their row was performed after being "clocked out" and as such, Plaintiffs and the  
27 Proposed Class are not compensated for this time worked even though this time is compensable.  
28 Additionally, Plaintiffs and the Proposed Class are required to return their badges to the driver or

1   docked and they will punch out all of the workers. Plaintiffs and the Proposed Class are not allowed  
2   to “clock out” themselves, and did not sign off on their hours worked at the end of each shift.  
3   Everyday after Plaintiffs and the Proposed Class finish their rows, there is an additional 7 to 10  
4   minutes that the employees are required to line up in front of the trailer, drop off their boxes, and  
5   wait until the driver marks the boxes with the employee’s name. Plaintiffs and the Proposed Class  
6   have to walk back to their cars which are parked 8 to 10 minutes away from the field. This time  
7   spent waiting to get their boxes marked and walking back to their cars is performed after being  
8   “clocked out” and as such, Plaintiffs and the Proposed Class are not compensated for this time  
9   worked even though this time is compensable.

10           e.       Additionally, Defendants have had a consistent policy of failing to pay  
11   wages and/or overtime to Plaintiffs and all Proposed Class at the appropriate rate of pay. Plaintiffs  
12   and other Proposed Class were not properly compensated for all hours worked over eight (8) hours  
13   in one day or forty (40) hours in one week. Plaintiffs and the Proposed Class were not properly  
14   compensated for overtime worked because Defendants failed to pay Plaintiffs and the Proposed  
15   Class for all hours worked over 8 hours per day or 40 hours per week. As such, Plaintiffs and the  
16   Proposed Class were not paid overtime pay despite working over eight (8) hours in one day or  
17   forty (40) hours in one week. Plaintiffs and the Proposed Class were paid overtime, usually during  
18   the peak of the season, however it was paid at the *regular rate of pay* instead of the overtime rate.

19           f.       Finally, Defendants failed to pay Plaintiffs and the Proposed Class  
20   accurately on their piece rate pay. Plaintiffs and the Proposed Class frequently found that they  
21   were not paid or compensated correctly for piece rate work. Plaintiffs and the Proposed Class were  
22   paid on a piece-rate basis for boxes of strawberries harvested, and Defendants failed to pay  
23   Plaintiffs and the Proposed Class for all boxes of strawberries.

24           36.     On a regular and consistent basis, Defendants have had a consistent policy of failing  
25   to inform Proposed Class Members of their right to take meal periods by way of a lawful policy  
26   and (1) failing to provide Plaintiffs and the Proposed Class compliant meal periods; (2) required  
27   Plaintiffs and the Proposed Class to work shifts over ten (10) hours without providing a second  
28   meal period of thirty minutes in length altogether; (3) failed to pay such employees one (1) hour

1 of pay at the employees regular rate of compensation for each workday that the first meal period  
2 was not provided within the first (5) hours of the shift or that a second meal period was not  
3 provided. Plaintiffs and the Proposed Class worked shifts over ten (10) hours without being  
4 provided a second meal period of thirty minutes in length altogether. Additionally, Defendants  
5 have had a consistent policy of failing to pay meal period premiums in compliance with California  
6 law.

7         37. On a regular and consistent basis, Defendants have failed to reimburse Plaintiffs  
8 and the Proposed Class for their tools and mileage necessary to perform their job duties. The work  
9 performed by Plaintiffs and the Proposed Class necessitated the use of special tools. Plaintiffs and  
10 the Proposed Class are required to work without being reimbursed for their business expenses. The  
11 work performed by Plaintiffs and the Proposed Class necessitated the use of tools such as, but not  
12 limited to, gloves, harvest carts, scissors, knives, protective clothing, and various other tools.  
13 Defendants fail to reimburse Plaintiffs and the Proposed Class for the costs associated with  
14 purchasing and using these tools.

15             a. When employees first begin performing work for Defendants, they are  
16 provided gloves and various used tools. However, these tools are of poor quality and are required  
17 to be returned every day after finishing work. Additionally, Defendants do not provide enough  
18 gloves so Plaintiffs and the Proposed Class are required to purchase their own gloves. The tools  
19 provided by Defendants do not allow Plaintiffs and the Proposed Class to perform their work  
20 adequately.

21             b. Plaintiffs and the Proposed Class are required to purchase a variety of  
22 specialized tools in order to perform their work adequately. These tools/equipment include gloves,  
23 harvest carts, scissors, knives, protective clothing. Defendants do not provide these tools and fails  
24 to reimburse Plaintiffs and the Proposed Class for the costs associated with purchasing and using  
25 these tools/equipment.

26             c. Defendants also required Plaintiffs and all Proposed Class members to  
27 travel between fields to perform work tasks. Because Defendant did not provide buses or other  
28 transportation to workers so that they could travel from field to field in the middle of their shifts,

1 Plaintiffs and the Proposed Class used their own vehicles to travel from field to field. Defendants  
2 did not reimburse Plaintiffs and the Proposed Class for their vehicle use for travel between  
3 Defendants' job sites during the course of a work shift, in violation of California law.

4 38. For at least one (1) year prior to the filing of this action continuing to the present,  
5 Defendants have failed to comply with Industrial Welfare Commission ("IWC") Wage Order 14-  
6 2001 and Labor Code § 226(a) by failing issue accurate itemized wage statements reporting all  
7 applicable hourly rates in effect during the pay period, and the corresponding number of hours  
8 worked at each hourly rate by the employee.

9 39. Defendants willfully failed to pay wages and compensation, when Plaintiffs and all  
10 Proposed Class Members quit or were discharged. This failure was willful, without legal  
11 justification, and interfered with Plaintiffs' and Class Members' rights.

12 40. As a result of the acts alleged herein, Defendants violated Labor Code § 2699, *et*  
13 *seq.*

## 14 V.

### 15 CLASS ACTION ALLEGATIONS

16 41. Plaintiffs bring this action on behalf of themselves and all others similarly situated  
17 as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiffs seek to represent a  
18 proposed class composed of and defined as follows:

19 All persons who are employed or have been employed as a field  
20 worker by AGRO-JAL FARMING ENTERPRISES; BERRY  
21 BUDDYS, INC. in the State of California who worked one or more  
22 pay periods since four (4) years prior to the filing of this action  
23 continuing to the present plus any additional time during which the  
24 statutes of limitation for the causes of action herein were tolled  
25 pursuant to Emergency Rule 9 of the California Rules of Court, the  
26 'Emergency Rules Related to COVID-19'. ("Proposed Class")

27 42. Plaintiffs reserve the right under Rule 3.765(b) of the California Rules of Court to  
28 amend or modify the class description with greater specificity, by division into subclasses, or by  
limitation to particular issues.

43. This action has been brought and may properly be maintained as a class action  
under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined

community of interest in the litigation and the Proposed Classes are easily ascertainable.

**A. NUMEROSITY**

44. The potential members of the Proposed Class as defined are so numerous that joinder of all the members of the Proposed Class is impracticable. While the precise number of proposed Class Members has not been determined at this time, Plaintiffs are informed and believes that Defendant currently employ, and during the relevant time periods employed over 50 members of the Proposed Class.

45. Plaintiffs allege that Defendants' employment records would provide information as to the number and location of all Proposed Class Members. Joinder of all members of the Proposed Class is not practicable.

**B. COMMONALITY**

46. There are questions of law and fact common to the Proposed Class that predominate over any questions affecting only individual Proposed Class Members. These common questions of law and fact include, without limitation:

a. Whether Defendants failed to pay wages and/or overtime compensation as required by the Labor Code and Wage Orders under Labor Code §§ 510, 1194, 1194.2, and 1199;

b. Whether Defendants violated Labor Code § 226.7 and IWC Wage Order 14-2001 or other applicable IWC Wage Orders, by failing to inform Plaintiffs and the Proposed Class of their right to take meal periods and by failing to provide compliant meal periods throughout the term of employment and failing to compensate said employees one (1) hours wages in lieu of meal periods;

c. Whether Defendants violated Labor Code § 2802 and/or Wage Order 14-2001 or other applicable IWC Wage Orders by failing to reimburse out of pocket expenses for the cost of tools and using their own vehicles to perform required work;

d. Whether Defendants violated Labor Code § 226(a) and Wage Order 14-2001 or other applicable IWC Wage Orders, and Cal. Code Regs., Title 8, Section 11140 by failing to provide accurate itemized wage statements that accurately report the total hours worked and the applicable rates, for Plaintiffs and the members of the Proposed Class;

1 e. Whether Defendants violated §§ 201-203 of the Labor Code by failing to  
2 pay compensation due and owing at the time that any Proposed Class Member's employment with  
3 Defendant terminated;

4 f. Whether Defendants violated § 17200, *et seq.* of the Business & Professions  
5 Code by engaging in the acts previously alleged; and

6 g. Whether Plaintiffs and the members of the Proposed Class are entitled to  
7 equitable relief pursuant to Business & Professions Code § 17200, *et seq.*

8 h. Whether Defendants violated Labor Code § 2699, *et seq.* by engaging in the  
9 acts alleged herein.

10 **C. TYPICALITY**

11 47. The claims of Plaintiffs are typical of the claims of the Proposed Class. Plaintiffs  
12 and all members of the Proposed Class sustained injuries and damages arising out of and caused  
13 by Defendants' common course of conduct in violation of laws, regulations that have the force and  
14 effect of law, and statutes as alleged herein.

15 **D. ADEQUACY OF REPRESENTATION**

16 48. Plaintiffs will fairly and adequately represent and protect the interests of the  
17 members of the proposed Class.

18 49. Counsel who represent Plaintiffs and the Proposed Class are competent and  
19 experienced in litigating large employment class actions.

20 **E. SUPERIORITY OF CLASS ACTION**

21 50. A class action is superior to other available means for the fair and efficient  
22 adjudication of this controversy. Individual joinder of all Proposed Class Members is not  
23 practicable, and questions of law and fact common to the Proposed Class predominate over any  
24 questions affecting only individual members of the Proposed Class. Each member of the Proposed  
25 Class has been damaged and is entitled to recovery by reason of Defendants' illegal policy and/or  
26 practice of failing to pay all wages due, failing to provide meal periods, failing to reimburse  
27 expenses, failing to provide accurate itemized wage statements, and failing to pay all wages upon  
28 resignation or termination.

51. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI.

**FIRST CAUSE OF ACTION**

**PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

## **FAILURE TO PAY WAGES AND/OR OVERTIME UNDER**

**LABOR CODE §§ 510, 1194, AND 1199**

52. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate by reference all previous paragraphs.

53. Labor Code §§ 510, 1194 and 1199 require an employer to compensate its employees at the rate of no less than one and one-half times the regular rate of pay for any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek.

54. Defendants have violated Labor Code §§ 510, 1194, 1194.2 and 1199. These statutes require an employer to compensate its employees at the minimum wage rate for all hours worked and at a rate of no less than one and one-half times the *regular rate of pay* for any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the *regular rate of pay*. California law also requires that any compensation must be included in the regular rate of pay for the purposes of determining correct overtime rates.

55. Here, Plaintiffs and the Proposed Class were not properly compensated for all hours worked, because Defendants failed to pay Plaintiffs and the Proposed Class for each and every hour worked. Plaintiffs and the Proposed Class routinely worked “off the clock” and performed compensable activities before, during, and after each working shift for which no pay was provided.

56. With regard to pre-shift work, Plaintiffs and the Proposed Class are required to report to work prior to their scheduled shift and perform work but are routinely told by Defendants to wait before Plaintiffs and the Proposed Class can begin their scheduled shifts. Plaintiffs and the

1 Proposed Class are instructed by the foreman to arrive around 15 to 30 minutes before the official  
2 clock in time every day. Plaintiffs and the Proposed Class are required to walk 8 to 20 minutes  
3 every day walking to the field and prepping material for the day of work, including bringing the  
4 necessary tools required to do the job. Plaintiffs and the Proposed Class are not allowed to park  
5 close to the field where they will be harvesting crops, so they are required to arrive early to walk  
6 to the field. During the 15 to 30 minutes before the official clock-in time, Plaintiffs and the  
7 Proposed Class are required to prepare all the equipment and tools for the day, and set up their  
8 harvest carts. Additionally, Plaintiffs and the Proposed Class meet with the foreman at least once  
9 a week prior to the official clock-in time for a meeting regarding fruit quality, work performance,  
10 and other topics related to the harvesting of strawberries. Defendants also maintain an attendance  
11 system that prevents Plaintiffs and the Proposed Class from receiving any compensation for work  
12 performed prior to the official clock-in time. A batch card is punched by the driver of the workers  
13 to the fields every day, and this punch in time does not usually correlate with the time that Plaintiffs  
14 and the Proposed Class actually begin performing compensable activities. Additionally, the  
15 foreman maintains an attendance list that Plaintiffs and the Proposed Class are required to sign,  
16 and after two weeks, Plaintiffs and the Proposed Class are allowed to check their time sheets,  
17 containing names, boxes worked, hours and breaks, however it is too late for Plaintiffs and the  
18 Proposed Class to make any changes to this sheet once they are allowed to view it. During the  
19 rainy season, foreman would force the crew to begin working without necessary protection despite  
20 the weather conditions, but Plaintiffs and the Proposed Class would not be paid for any additional  
21 time in excess of eight hours in one workday. This waiting time and work performed prior to  
22 Plaintiffs' and the Proposed Class members' scheduled shift occurs daily and Plaintiffs and the  
23 Proposed Class are not compensated for this wait time or work performed. These activities and  
24 time are compensable, but Defendants fail to pay Plaintiffs and the Proposed Class for this time  
25 worked.

26 57. In the middle of Plaintiffs' and the Proposed Class shifts, Defendants required  
27 Plaintiffs and the Proposed Class to travel between fields once they are done picking at one field.  
28 Plaintiffs and the Proposed Class use their own vehicle(s) to travel to between fields per shift at

1 least one or twice per year at least, during their lunch breaks. Plaintiffs and the Proposed Class are  
2 not compensated for this travel time, nor are they reimbursed for use of their personal vehicle to  
3 perform required work. This travel time usually takes 15 minutes to go from field to field.

4 58. With regard to post-shift work, at the end of each working shift, Plaintiffs and the  
5 takes at least 20 minutes after their shift is over. The foreman would require Plaintiffs and the  
6 Proposed Class to finish the row they were working on and prevent them from leaving until the  
7 row is finished. Plaintiffs and the Proposed Class are required to complete the row they are working  
8 on once they have started, as they cannot leave the row partially cut. This time spent finishing their  
9 row was performed after being “clocked out” and as such, Plaintiffs and the Proposed Class are  
10 not compensated for this time worked even though this time is compensable. Additionally,  
11 Plaintiffs and the Proposed Class are required to return their badges to the driver or docker and  
12 they will punch out all of the workers. Plaintiffs and the Proposed Class are not allowed to “clock  
13 out” themselves, and did not sign off on their hours worked at the end of each shift. Everyday after  
14 Plaintiffs and the Proposed Class finish their rows, there is an additional 7 to 10 minutes that the  
15 employees are required to line up in front of the trailer, drop off their boxes, and wait until the  
16 driver marks the boxes with the employee’s name. Plaintiffs and the Proposed Class have to walk  
17 back to their cars which are parked 8 to 10 minutes away from the field. This time spent waiting  
18 to get their boxes marked and walking back to their cars is performed after being “clocked out”  
19 and as such, Plaintiffs and the Proposed Class are not compensated for this time worked even  
20 though this time is compensable.

21 59. Additionally, Defendants have had a consistent policy of failing to pay wages  
22 and/or overtime to Plaintiffs and all Proposed Class at the appropriate rate of pay. Plaintiffs and  
23 other Proposed Class were not properly compensated for all hours worked over eight (8) hours in  
24 one day or forty (40) hours in one week. Plaintiffs and the Proposed Class were not properly  
25 compensated for overtime worked because Defendants failed to pay Plaintiffs and the Proposed  
26 Class for all hours worked over 8 hours per day or 40 hours per week. As such, Plaintiffs and the  
27 Proposed Class were not paid overtime pay despite working over eight (8) hours in one day or  
28 forty (40) hours in one week. Plaintiffs and the Proposed Class were paid overtime, usually during

1 the peak of the season, however it was paid at the *regular rate of pay* instead of the overtime rate.

2 60. Finally, Defendants failed to pay Plaintiffs and the Proposed Class accurately on  
3 their piece rate pay. Plaintiffs and the Proposed Class frequently found that they were not paid or  
4 compensated correctly for piece rate work. Plaintiffs and the Proposed Class were paid on a piece-  
5 rate basis for boxes of strawberries harvested, and Defendants failed to pay Plaintiffs and the  
6 Proposed Class for all boxes of strawberries.

7 61. Defendants failed to pay travel time, include work performed off-the-clock, and  
8 failed to compensate Plaintiffs and the Proposed Class for all hours worked, and failed to  
9 compensate Plaintiffs and the Proposed Class overtime at the appropriate rate of pay.

10 62. By their policy of requiring Plaintiffs and members of the Proposed Class to work  
11 in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without  
12 compensating them at the rate of one-half (1 ½) their regular rate of pay, Defendants willfully  
13 violated the provisions of Labor Code §§ 510, 1194 and 1199.

14 63. As a result of the unlawful acts of Defendants, Plaintiffs and the Proposed Class  
15 Members have been deprived of wages and/or overtime in amounts to be determined at trial, and  
16 are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and  
17 costs.

## 18 VII.

### 19 SECOND CAUSE OF ACTION

#### 20 PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS

#### 21 FAILURE TO PROVIDE MEAL PERIODS PURSUANT TO

#### 22 LABOR CODE § 226.7 AND LABOR CODE § 512

23 64. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate  
24 by reference all previous paragraphs.

25 65. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of  
26 compensation for each meal period the employer fails to provide. Employees are entitled to a first  
27 meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the  
28 first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts

1 over ten (10) hours. If an employee is entitled to a second meal period, it must be provided after  
2 no more than ten (10) hours of work. Defendants failed to maintain a policy informing Plaintiffs  
3 and the Proposed Class of these rights.

4 66. Plaintiffs and the Proposed Class consistently worked shifts over five (5) hours.  
5 Defendant failed to provide Plaintiffs and the Proposed Class with proper meal periods of not less  
6 than thirty (30) minutes as required by the Labor Code during the relevant time period.

7 67. Defendants failed to apprise Plaintiffs and the Proposed Class of their rights  
8 associated with meal periods and failed to provide timely meal periods. Defendants have had a  
9 consistent policy of: (1) failing to provide Plaintiffs and the Proposed Class compliant meal  
10 periods; (2) required Plaintiffs and the Proposed Class to work shifts over ten (10) hours without  
11 providing a second meal period of thirty minutes in length altogether; (3) failed to pay such  
12 employees one (1) hour of pay at the employees regular rate of compensation for each workday  
13 that the first meal period was not provided within the first (5) hours of the shift or that a second  
14 meal period was not provided. Plaintiffs and the Proposed Class that worked during the high peak  
15 of the season worked shifts over ten (10) hours without being provided a second meal period of  
16 thirty minutes in length altogether.

17 68. During 2022-2023, Plaintiffs and the Proposed Class were not provided with a  
18 second meal break, despite working shifts over ten (10) hours. Additionally, Plaintiffs and the  
19 Proposed Class would be interrupted at least twice a week during their meal break in order to view  
20 the attendance list provided by the foreman that contained time worked by the employees, number  
21 of boxes, and hours and breaks from the previous two weeks. The foreman only allowed Plaintiffs  
22 and the Proposed Class to view this list during their meal breaks. Also, Plaintiffs and the Proposed  
23 Class would have their meal break interrupted when Defendants required the employees to travel  
24 to another field during their break, which occurred at least twice per year.

25 69. Defendants have had a consistent policy of failing to pay Plaintiffs and the Proposed  
26 Class one (1) hour of pay at the employees' regular rate of compensation for each workday that al  
27 required meal periods were not provided, as required by California state wage and hour laws. Very  
28 recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court

1 set forth the formula for calculating the one extra hour of premium pay that employees are owed  
2 if an Employer fails to provide a compliant meal period or rest break. Specifically, the Court held  
3 that those premium payments must include the hourly value of any nondiscretionary earnings (such  
4 as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate.  
5 Defendants have had a consistent policy of failing to pay meal period premiums in compliance  
6 with California law.

7 70. Pursuant to Labor Code § 226.7, Plaintiffs and the Proposed Class are entitled to  
8 damages in an amount equal to one (1) hour of wages per missed meal break, per day in a sum to  
9 be proven at trial.

### 10 **VIII.**

### 11 **THIRD CAUSE OF ACTION**

### 12 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

### 13 **FAILURE TO REIMBURSE EXPENSES PURSUANT TO**

### 14 **LABOR CODE § 2802**

15 71. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate  
16 by reference all previous paragraphs.

17 72. Labor Code § 2802 requires employers to indemnify employees for all necessary  
18 expenditures incurred by employees in the discharge of their duties.

19 73. Plaintiffs and the Proposed Class are entitled to reimbursement of all business-  
20 related expenses they incurred throughout the duration of their employment. Specifically,  
21 Defendants have failed to reimburse Plaintiffs and the Proposed Class the cost of using their  
22 personal tools and vehicles for business related purposes.

23 74. Defendants have failed to reimburse Plaintiffs and Proposed Class the cost of using  
24 their personal tools for business related purposes.

25 75. When employees first begin performing work for Defendants, they are provided  
26 gloves and various used tools. However, these tools are of poor quality and are required to be  
27 returned every day after finishing work. Additionally, Defendants do not provide enough gloves  
28 so Plaintiffs and the Proposed Class are required to purchase their own gloves. The tools provided

by Defendants do not allow Plaintiffs and the Proposed Class to perform their work adequately.

76. Defendants also require Plaintiffs and the Proposed Class to purchase a variety of tools in order to perform their work adequately. These tools/equipment included: (1) a harvest cart for the “Marqueta”, \$45.00 per season; (2) a separate harvest cart for the “Cañeria”, \$45.00 per season; (3) tires for the harvest cart, \$30.00, with two needed per season; (4) box of 100 blue gloves, \$25.00, which needed to be replaced every week; (5) boots, \$40.00 per season; (6) glasses, \$6.00 per season; (7) a “chamarra” or jacket, for protective covering, \$40.00 per season; (8) specialized scissors for cutting strawberries, \$12.00 per season; (9) a specialized knife for harvesting strawberries, \$15.00 per season. Defendants fail to reimburse Plaintiffs and the Proposed Class for the costs associated with purchasing and using these tools/equipment.

77. Defendants also required Plaintiff and all Proposed Class to travel between fields to perform work tasks. Because Defendants did not provide buses or other transportation to workers so that they could travel from field to field in the middle of their shifts, Plaintiffs and the Proposed Class used their own vehicles to travel from field to field. Defendants did not reimburse Plaintiffs and the Proposed Class for their vehicle use for travel between Defendants’ job sites during the course of a work shift, in violation of California law.

78. As a result of the unlawful acts of Defendants, Plaintiffs and the Proposed Class have been deprived of reimbursement in the amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs.

## **IX.**

### **FOURTH CAUSE OF ACTION**

#### **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

##### **VIOLATION OF LABOR CODE § 226(A)**

79. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate by reference all previous paragraphs.

80. California Labor Code § 226(a) requires employers to issue wage statements that accurately report total hours worked, accurately report appropriate rates of pay and the corresponding number of hours worked at each hourly rate. (Labor Code §§ 226(a)(2) and (9).)

1           81. As a result of Defendants' failure to pay wages as described above, Defendants  
2 have failed to include the appropriate rates of pay and the accurate hours worked on itemized wage  
3 statements for Plaintiffs and the Proposed Class.

4           82. IWC Wage Orders 14-2001(7), 14-2000(7), 14-1998(7) require defendants to  
5 maintain time records showing, among others, when the employee begins and ends each work  
6 period, meal periods, split shift intervals and total daily hours worked in an itemized wage  
7 statements, and must show all deductions from payment of wages, the number of piece-rate units  
8 earned and any applicable piece rate if the employee is paid on a piece-rate, and accurately report  
9 total hours worked by Plaintiffs and the members of the proposed Class. Defendants failed to keep  
10 accurate records of the total daily hours worked.

11           83. Labor Code § 226(a)(2) requires that every employer shall semimonthly or at the  
12 time of each payment of wages, furnish each of his or her employees, an accurate itemized  
13 statement in writing showing the total hours worked by the employee. Plaintiffs and the Proposed  
14 Class are issued wage statements that do not include the total hours worked by the employee.

15           84. Labor Code § 226(a)(9) requires that every employer shall semimonthly or at the  
16 time of each payment of wages, furnish each of his or her employees, an accurate itemized  
17 statement in writing showing all applicable hourly rates in effect during the pay period and the  
18 corresponding number of hours worked at each hourly rate by the employee. Plaintiffs and the  
19 Proposed Class are issued wage statements that do not include all applicable hourly rates in effect  
20 during the pay period and the corresponding number of hours worked at a each hourly rate by the  
21 employee.

22           85. Defendants' failure to provide accurate itemized wages statements according to  
23 Labor Code § 226(a) was all done on a regular and consistent basis.

24           86. An employee suffering injury as a result of a knowing and intentional failure by an  
25 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual  
26 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred  
27 dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an  
28 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and

1 reasonable attorneys' fees.

2 **X.**

3 **FIFTH CAUSE OF ACTION**

4 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

5 **WAITING TIME PENALTIES UNDER LABOR CODE § 203**

6 87. Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate  
7 by reference all previous paragraphs.

8 88. Numerous members of the Proposed Class including the Plaintiffs are no longer  
9 employed by Defendants. They were either fired or quit Defendants' employ.

10 89. Defendants' failure to pay wages, as alleged above was willful in that Defendants  
11 knew wages to be due but failed to pay them, thus entitling Plaintiffs and the Proposed Class to  
12 penalties under Labor Code § 203, which provides that an employee's wages shall continue as a  
13 penalty until paid for a period of up to thirty (30) days from the time they were due.

14 90. As such, Defendants failed to pay Plaintiffs and all Proposed Class members all  
15 wages due at the time of termination or within seventy-two (72) hours of their resignation, and  
16 have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §§201, 202,  
17 and 203. (See *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754, reh'g  
18 denied (June 13, 2018), review denied (Aug. 8, 2018), allowing named Plaintiffs to pursue PAGA  
19 penalties for violations not personally suffered.

20 91. Defendants have failed to pay Plaintiffs and others a sum certain at the time of  
21 termination or within seventy-two (72) hours of their resignation, and have failed to pay those  
22 sums for thirty (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiffs and  
23 the Proposed Class are entitled to a penalty in the amount of Plaintiffs' and the Proposed Class  
24 Members' daily wage multiplied by thirty (30) days.

25 **XI.**

26 **SIXTH CAUSE OF ACTION**

27 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

28 **UNFAIR COMPETITION PURSUANT TO BUSINESS & PROFESSIONS CODE § 17200**

1           92.     Plaintiffs, on behalf of themselves and the Proposed Class, reallege and incorporate  
2 by reference all previous paragraphs.

3           93.     This is a Class Action for Unfair Business Practices. Plaintiffs, on behalf of  
4 themselves, on behalf of the general public, and on behalf of the Proposed Class, bring this claim  
5 pursuant to Business & Professions Code § 17200, *et seq.* The conduct of Defendants as alleged  
6 in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiffs, the  
7 general public, and the Proposed Class. Plaintiffs seeks to enforce important rights affecting the  
8 public interest within the meaning of Code of Civil Procedure § 1021.5.

9           94.     Plaintiffs are each a “person” within the meaning of Business & Professions Code  
10 § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution,  
11 and other appropriate equitable relief.

12           95.     Business & Profession Code § 17200, *et seq.* prohibits unlawful and unfair business  
13 practices.

14           96.     California’s wage and hour laws express fundamental public policies. Providing  
15 employees with proper wages and compensation are fundamental public policies of this State and  
16 of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce  
17 vigorously minimum labor standards, to ensure that employees are not required or permitted to  
18 work under substandard and unlawful conditions, and to protect law-abiding employers and their  
19 employees from competitors who lower their costs by failing to comply with minimum labor  
20 standards.

21           97.     Defendants have violated statutes and public policies as alleged herein. Through  
22 the conduct alleged in this Complaint, Defendants have acted contrary to these public policies,  
23 have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair  
24 business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving Plaintiffs,  
25 and all persons similarly situated, and all interested persons of rights, benefits, and privileges  
26 guaranteed to all employees under law.

27           98.     Defendants’ conduct, as alleged hereinabove, constitutes unfair competition in  
28 violation of § 17200, *et seq.* of the Business & Professions Code.

99. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise of reasonable care, should have known that the conduct was unlawful. As such it is a violation of § 17200, *et seq.* of the Business & Professions Code.

100. As a proximate result of the above-mentioned acts of Defendants, Plaintiffs and others similarly situated have been damaged in a sum as may be proven.

101. Unless restrained, Defendants will continue to engage in the unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by Defendants, its agents, or employees, of any unlawful or deceptive practices prohibited by the Business & Professions Code, and/or, including but not limited to, restitution and disgorgement of profits which may be necessary to restore Plaintiffs and members of the proposed Class the money Defendants has unlawfully failed to pay.

**XII.**

## SEVENTH CAUSE OF ACTION

**PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

**PENALTIES PURSUANT TO LABOR CODE § 2699, ET SEQ.**

102. Plaintiffs, on behalf of themselves and the Proposed Class, realleges and incorporates by reference all previous paragraphs.

103. As a result of the acts alleged above and specifically incorporated herein, Plaintiffs seeks penalties under Labor Code § 2699, et seq. use of Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802; IWC Wage Order 14-2001; and California Code of Regulations, Title 8, Section 11140, which call for civil penalties.

104. Plaintiffs bring this representative action on behalf of herself and the State of California as well as a group of aggrieved employees defined as: All persons who are employed or have been employed as a field worker by AGRO-JAL FARMING ENTERPRISES; BERRY BUDDYS, INC. in the State of California who worked one or more pay periods since one (1) year prior to the date of Plaintiffs' July 2, 2024 letter to the LWDA and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were

1 tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules  
2 Related to COVID-19’ (“aggrieved employees”).

3 105. As a result of the acts alleged above, Plaintiffs seek penalties under Labor Code §  
4 2699, et seq. because of Defendants’ violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510,  
5 512, 1194, 1194.2, 1199, and 2802; IWC Wage Order 14, which call for civil penalties.

6 106. For each such penalty, Plaintiffs and the aggrieved employees are entitled to  
7 penalties in an amount to be shown at trial, subject to the following formula:

8 a. \$100 for the initial violation per employee pay period.

9 b. \$200 for each subsequent violation per employee per pay period.

10 107. These penalties shall be allocated seventy-five percent (75%) to the LWDA and  
11 twenty-five percent (25%) to the affected employees.

12 108. Pursuant to Labor Code § 2699.3(a)(1), Plaintiffs uploaded a notice letter to the  
13 LWDA <sup>1</sup> and mailed a letter by certified mail to Defendant’s entity address, which is 257 Kathleen  
14 Ct., Santa Maria, CA 93458, as proscribed by the Code on July 2, 2024, describing Defendants’  
15 conduct in violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199,  
16 and 2802, and IWC Wage Order 14, (*see* Exhibit “1.”) Plaintiffs also obtained an e-filing  
17 confirmation from the LWDA confirming receipt of the notice (*see* Exhibit “2.”) Additionally,  
18 Plaintiffs received signed green return receipts from Defendants, indicating that it received  
19 Plaintiffs’ letter (*see* Exhibit “3.”)

20 109. As no letter evidencing the LWDA’s intention to investigate was received by  
21 Plaintiffs’ Counsel within sixty-five (65) calendar days, Plaintiffs are entitled to commence a civil  
22 action as though the LWDA had not chosen to investigate pursuant to Labor Code  
23 §2699.3(a)(2)(A). Plaintiffs will also provide the LWDA with a filed-stamped copy of the First  
24 Amended Class and Representative Action Complaint immediately.

25 **RELIEF REQUESTED**

26

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27 <sup>1</sup> Plaintiffs electronically filed a PAGA Claim Notice to the LWDA, via the State of  
28 California Labor and Workforce Development Agency / Department of Industrial Relations  
website (<https://dir.tfaforms.net/308>).

1           **WHEREFORE**, Plaintiffs prays for the following relief:

2           1.       For compensatory damages in the amount of unpaid wages and/or overtime not paid  
3 to Plaintiffs and each Proposed Class Member from at least four (4) years prior to the filing of this  
4 action to the present as may be proven;

5           2.       For compensatory damages in the amount of Plaintiff's and each Proposed Class  
6 Members' hourly wage for each meal period missed or taken late from at least four (4) years prior  
7 to the filing of this action to the present as may be proven;

8           3.       For compensatory damages in the amount of Plaintiff's and each Proposed Class  
9 Members' unreimbursed out of pocket expenses as a requirement of employment;

10          4.       For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a)  
11 in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs and one  
12 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding  
13 an aggregate penalty of four thousand dollars (\$4,000);

14          5.       For penalties pursuant to Labor Code § 203 for all employees who were terminated  
15 or resigned equal to their daily wage times thirty (30) days;

16          6.       An award of prejudgment and post judgment interest;

17          7.       An order enjoining Defendants and its agents, servants, and employees, and all  
18 persons acting under, in concert with, or for it from providing Plaintiffs with proper wages and/or  
19 overtime, meal periods, accurate itemized wage statements, and wages upon  
20 termination/resignation pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194,  
21 1194.2, 1199, 2802, and IWC 14-2001;

22          8.       For restitution for unfair competition pursuant to Business & Professions Code  
23 § 17200, *et seq.*, including disgorgement or profits, in an amount as may be proven;

24          9.       For injunctive relief pursuant to Labor Code §226(a) requiring Defendant to remedy  
25 the inaccurate itemized wage statements issued to Plaintiffs and the Class;

26          10.       For penalties under Labor Code §2699, *et seq.* for Defendant's violation of Labor  
27 Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, 2802;

28          11.       An award providing for payment of costs of suit;

12. An award of attorneys' fees; and

13. Such other and further relief as this Court may deem proper and just.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

DATED: September 6, 2024

KINGSLEY SZAMET & LY

By: 

Liane Katzenstein Ly

Attorneys for Plaintiffs and the Proposed Class

EXHIBIT "1"



16133 Ventura Boulevard, Suite 1200,   
Encino, California 91436  
[www.kingsleylawyers.com](http://www.kingsleylawyers.com)   
(818) 990-8300 

July 2, 2024

LABOR & WORKFORCE DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612  
*Via Electronic Submission:* <https://dir.tfaforms.net/308>

Agro-Jal Farming Enterprises  
257 Kathleen Ct.  
Santa Maria, CA 93458  
*Via Certified Mailing # 9589 0710 5270 1151 8451 34*

Berry Buddys, Inc.  
257 Kathleen Ct.  
Santa Maria, CA 93458  
*Via Certified Mailing # 9589 0710 5270 1151 8451 41*

Re: Julian Lopez Camarillo, Antonino Herrera Santos, Maria Nicolas Martinez v.  
Berry Buddys, Inc.; Agro-Jal Farming Enterprises  
*California Labor Code § 2699 Penalties*

Gentlepersons:

This office represents Julian Lopez Camarillo, Antonino Herrera Santos, Maria Nicolas Martinez (“Plaintiffs”) and a proposed group of current and former employees working for Berry Buddys, Inc.; Agro-Jal Farming Enterprises (“Defendants”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiffs and all of Defendants’ aggrieved employees.

Plaintiffs wish to bring a representative action on behalf of themselves and the State of California as well as on behalf of a group of aggrieved employees defined as: All persons who are employed or have been employed as a field worker by Berry Buddys, Inc.; Agro-Jal Farming Enterprises, in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present and continuing to the present and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

## LABOR & WORKFORCE DEVELOPMENT AGENCY

### *California Labor Code §2699 Penalties*

July 2, 2024

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Plaintiffs and the aggrieved employees worked for Defendants in or near Santa Barbara County, California as seasonal agricultural workers. Plaintiffs and the aggrieved employees worked in the cultivation and harvest of strawberries, and doing other agricultural work, on land owned, leased, managed, and/or operated, harvested, or otherwise made productive by Defendants. Plaintiffs and the aggrieved employees were paid on an hourly basis and also earned a piece rate for work picking crops.

Defendants have violated Labor Code §§ 510, 1194, 1194.2 and 1199. These statutes require an employer to compensate its employees at the minimum wage rate for all hours worked and at a rate of no less than one and one-half times the *regular rate of pay* for any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the *regular rate of pay*. California law also requires that any compensation must be included in the regular rate of pay for the purposes of determining correct overtime rates.

Here, Defendants have had a consistent policy of failing to pay wages and/or overtime to Plaintiffs and all aggrieved employees. Plaintiffs and other aggrieved employees were not properly compensated for all hours worked over eight (8) hours in one day or forty (40) hours in one week. Plaintiffs and the aggrieved employees were not properly compensated for all hours worked, because Defendants failed to pay Plaintiffs and the aggrieved employees for each and every hour worked. Plaintiffs and the aggrieved employees routinely worked “off the clock” and performed compensable activities before, during, and after each working shift for which no pay was provided as detailed below.

With regard to pre-shift work, Plaintiffs and the aggrieved employees are required to report to work prior to their scheduled shift and perform work but are routinely told by Defendants to wait at least 25 minutes before Plaintiffs and the aggrieved employees can begin their scheduled shifts. Plaintiffs and the aggrieved employees are instructed by the foreman to arrive around 15 to 30 minutes before the official clock in time every day. Plaintiffs and the aggrieved employees are required to walk 8 to 20 minutes every day walking to the field and prepping material for the day of work, including bringing the necessary tools required to do the job. Plaintiffs and the aggrieved employees are not allowed to park close to the field where they will be harvesting crops, so they are required to arrive early to walk to the field. During the time before the official clock-in time, Plaintiffs and the aggrieved employees are required to prepare all the equipment and tools for the day, and set up their harvest carts. Additionally, Plaintiffs and the aggrieved employees meet with the foreman at least once a week prior to the official clock-in time for a meeting regarding fruit quality, work performance, and other topics related to the harvesting of strawberries. Defendants also maintain an attendance system that prevents Plaintiffs and the aggrieved employees from receiving any compensation for work performed prior to the official clock-in time. A batch card is punched by the driver of the workers to the fields every day, and this punch in time does not usually correlate with the time that Plaintiffs and the aggrieved employees actually begin performing compensable activities. Additionally, the foreman

## LABOR & WORKFORCE DEVELOPMENT AGENCY

### *California Labor Code §2699 Penalties*

July 2, 2024

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maintains an attendance list that Plaintiffs and the aggrieved employees are required to sign, and after two weeks, Plaintiffs and the aggrieved employees are allowed to check their time sheets, containing names, boxes worked, hours and breaks, however it is too late for Plaintiffs and the aggrieved employees to make any changes to this sheet once they are allowed to view it. During the rainy season, foreman would force the crew to begin working without necessary protection despite the weather conditions, but Plaintiffs and the aggrieved employees would not be paid for any additional time in excess of eight hours in one workday. This waiting time and work performed prior to Plaintiffs' and the aggrieved employees' scheduled shift occurs daily and Plaintiffs and the aggrieved employees are not compensated for this wait time or work performed. These activities and time are compensable, but Defendants fail to pay Plaintiffs and the aggrieved employees for this time worked.

In the middle of Plaintiffs' and the aggrieved employees shifts, Defendants required Plaintiffs and the aggrieved employees to travel between fields once they are done picking at one field. Plaintiffs and the aggrieved employees use their own vehicle(s) to travel to between fields per shift at least one or twice per year at least, during their lunch breaks. Plaintiffs and the aggrieved employees are not compensated for this travel time, nor are they reimbursed for use of their personal vehicle to perform required work. This travel time usually takes 15 minutes to go from field to field.

With regard to post-shift work, at the end of each working shift, Plaintiffs and the aggrieved employees are instructed by the foreman to close the row they were working on, which could take at least 20 minutes after their shift is over. The foreman would require Plaintiffs and the aggrieved employees to finish the row they were working on and prevent them from leaving until the row is finished. Plaintiffs and the aggrieved employees are required to complete the row they are working on once they have started, as they cannot leave the row partially cut. Finishing the row could take at least 45 minutes after the foreman has made the call to end the shift for the day, usually occurring during the peak of the season. This time spent finishing their row was performed after being "clocked out" and as such, Plaintiffs and the aggrieved employees are not compensated for this time worked even though this time is compensable. Additionally, Plaintiffs and the aggrieved employees are required to return their badges to the driver or docker and they will punch out all of the workers. Plaintiffs and the aggrieved employees are not allowed to "clock out" themselves and did not sign off on their hours worked at the end of each shift. Everyday after Plaintiffs and the aggrieved employees finish their rows, there is an additional 7 to 10 minutes that the employees are required to line up in front of the trailer, drop off their boxes, and wait until the driver marks the boxes with the employee's name. Plaintiffs and the aggrieved employees have to walk back to their cars which are parked 8 to 10 minutes away from the field. This time spent waiting to get their boxes marked and walking back to their cars is performed after being "clocked out" and as such, Plaintiffs and the aggrieved employees are not compensated for this time worked even though this time is compensable.

## LABOR & WORKFORCE DEVELOPMENT AGENCY

### *California Labor Code §2699 Penalties*

July 2, 2024

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Additionally, Defendants have had a consistent policy of failing to pay wages and/or overtime to Plaintiffs and all aggrieved employees at the appropriate rate of pay. Plaintiffs and other aggrieved employees were not properly compensated for all hours worked over eight (8) hours in one day or forty (40) hours in one week. Plaintiffs and the aggrieved employees were not properly compensated for overtime worked because Defendants failed to pay Plaintiffs and the aggrieved employees for all hours worked over 8 hours per day or 40 hours per week. As such, Plaintiffs and the aggrieved employees were not paid overtime pay despite working over eight (8) hours in one day or forty (40) hours in one week. Plaintiffs and the aggrieved employees were paid overtime, usually during the peak of the season, however it was paid at the *regular rate of pay* instead of the overtime rate.

Finally, Defendants failed to pay Plaintiffs and the aggrieved employees accurately on their piece rate pay. Plaintiffs and the aggrieved employees frequently found that they were not paid compensated correctly for piece rate work. Plaintiffs and the aggrieved employees were paid on a piece-rate basis for boxes of strawberries harvested, and Defendants failed to pay Plaintiffs and the aggrieved employees for all boxes of strawberries.

Defendants failed to pay travel time, include work performed off-the-clock, and failed to compensate Plaintiffs and the aggrieved employees for all hours worked, and failed to compensate Plaintiffs and the aggrieved employees overtime at the appropriate rate of pay.

Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts over ten (10) hours. If an employee is entitled to a second meal period, it must be provided after no more than ten (10) hours of work. Defendant failed to maintain a policy informing Plaintiff and the aggrieved employees of these rights. Likewise, the Wage Orders (14-2001) state that: An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, 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. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that a thirty (30) minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Here, Defendants failed to apprise Plaintiffs and the aggrieved employees of their rights associated with meal periods and failed to provide timely meal periods. Defendants have had a consistent policy of: (1) failing to provide Plaintiffs and the aggrieved employees compliant meal periods; (2) required Plaintiffs and the aggrieved employees to work shifts over ten (10) hours without providing a second meal period of thirty minutes in length altogether; (3) failed to pay such

## LABOR & WORKFORCE DEVELOPMENT AGENCY

### *California Labor Code §2699 Penalties*

July 2, 2024

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employees one (1) hour of pay at the employees regular rate of compensation for each workday that the first meal period was not provided within the first (5) hours of the shift or that a second meal period was not provided. Plaintiffs and the aggrieved employees that worked during the high peak of the season worked shifts over ten (10) hours without being provided a second meal period of thirty minutes in length altogether. During 2022-2023, Plaintiffs and the aggrieved employees were not provided with a second meal break, despite working shifts over ten (10) hours. Additionally, Plaintiffs and the aggrieved employees would be interrupted at least twice a week during their meal break in order to view the attendance list provided by the foreman that contained time worked by the employees, number of boxes, and hours and breaks from the previous two weeks. The foreman only allowed Plaintiffs and the aggrieved employees to view this list during their meal breaks. Also, Plaintiffs and the aggrieved employees would have their meal break interrupted when Defendants required the employees to travel to another field during their break, which occurred at least twice per year.

Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an Employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, Defendants have had a consistent policy of failing to pay meal period premiums in compliance with California law.

In addition, Labor Code § 2802 provides that an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

Defendants have failed to reimburse Plaintiffs and aggrieved employees the cost of using their personal tools for business related purposes. When employees first begin performing work for Defendants, they are provided gloves and various used tools. However, these tools are of poor quality and are required to be returned every day after finishing work. Additionally, Defendants do not provide enough gloves so Plaintiffs and the aggrieved employees are required to purchase their own gloves. The tools provided by Defendants do not allow Plaintiffs and the aggrieved employees to perform their work adequately.

Defendants also require Plaintiffs and the aggrieved employees to purchase a variety of tools in order to perform their work adequately. These tools/equipment included: (1) a harvest cart for the "Marqueta", \$45.00 per season; (2) a separate harvest cart for the "Cañeria", \$45.00 per season; (3) tires for the harvest cart, \$30.00, with two needed per season; (4) box of 100 blue gloves, \$25.00, which needed to be replaced every week; (5) boots, \$40.00 per season; (6) glasses, \$6.00 per season; (7) a "chamarra" or jacket, for protective covering, \$40.00 per season; (8) specialized

## LABOR & WORKFORCE DEVELOPMENT AGENCY

### *California Labor Code §2699 Penalties*

July 2, 2024

Page 6 of 7

scissors for cutting strawberries, \$12.00 per season; (9) a specialized knife for harvesting strawberries, \$15.00 per season. Defendants fail to reimburse Plaintiffs and the aggrieved employees for the costs associated with purchasing and using these tools/equipment.

Defendants also required Plaintiffs and all aggrieved employees to travel between fields to perform work tasks. Because Defendants did not provide buses or other transportation to workers so that they could travel from field to field in the middle of their shifts, Plaintiffs and the aggrieved employees used their own vehicles to travel from field to field. Defendants did not reimburse Plaintiffs and the aggrieved employees for their vehicle use for travel between Defendants' job sites during the course of a work shift, in violation of California law.

As a result of the claims alleged above, Defendants engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a) which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code §226(a)(2) requires that every employer shall semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing the total hours worked by the employee. Plaintiffs and the aggrieved employees are issued wage statements that do not include the total hours worked by the employee. As such, Plaintiffs are aggrieved employees within the meaning PAGA and Defendants have violated Labor Code §226(a) with respect to Plaintiffs and all aggrieved employees.

Also, Defendants issued to Plaintiffs and the aggrieved employees itemized wage statements that did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code § 226(a)(9). The itemized wage statements provided to Plaintiffs and the aggrieved employees did not include the hours worked at each hourly rate.

Labor Code § 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.” Here, Plaintiffs and all aggrieved employees were not paid all wages due upon their separation from Defendants' employ. As such, Plaintiffs are aggrieved employees and Defendants failed to pay Plaintiffs and all aggrieved employees all wages due 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 in violation of Labor Code §203. As such, Defendants failed to pay Plaintiffs and all aggrieved employees all wages due 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 in violation of Labor Code §§201, 202, and 203. (See *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754, reh'g denied (June 13,

LABOR & WORKFORCE DEVELOPMENT AGENCY

*California Labor Code §2699 Penalties*

July 2, 2024

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2018), review denied (Aug. 8, 2018), allowing named Plaintiffs to pursue PAGA penalties for violations not personally suffered.

Further, under Labor Code § 2699.3(c)(2)(A), Defendant may cure the alleged violations within thirty-three (33) calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY SZAMET & LY

By: 

\_\_\_\_\_  
Liane Katzenstein Ly

[LKL/tg]

Cc: 1. Martinez Aguilaoscho Law, Inc., P.O. Box 1998, , Bakersfield, CA 93303

EXHIBIT "2"



State of California  
Labor and Workforce Development Agency /  
Department of Industrial Relations

## Private Attorneys General Act (PAGA) - Filing

### New PAGA Claim Notice

#### Your Information (Person Who is Filing)

Your First Name \*  Your Last Name \*  Firm Name (if any) \*  Your Email Address \*

(Enter "in pro per" if you are representing yourself)

Your Street Name, Number and Suite/Apt \*  Your Mobile Phone Number

Your City \*  Your Work Phone Number

Your State \*

Your Zip/Postal Code \*

#### Plaintiff Information

Plaintiff/Aggrieved Employee Name \*  Plaintiff/Aggrieved Employee Occupation \*

#### Plaintiff Information

Plaintiff/Aggrieved Employee Name \*  Plaintiff/Aggrieved Employee Occupation \*

[Remove](#)

#### Plaintiff Information

Plaintiff/Aggrieved Employee Name \*  Plaintiff/Aggrieved Employee Occupation \*

[Remove](#)[Add Additional Plaintiffs](#)

#### Employer Information

Employer Entity Type

Employer Name \*   
Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt \*

Employer City \*

Employer State \*

Employer Zip/Postal Code \*

Employer Industry \*

Agriculture ▼

**Add additional defendants**

- ☒ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

**Additional Employer Information (Corporation/General Partnership)****Employer Entity Type**

Please select... ▼

**Employer Name \***

Berry Buddys, Inc.

Maximum 80 Character Limit

**Employer Street Name, Number and Suite/Apt \***

257 Kathleen Ct.

**Employer City \***

Santa Maria

**Employer State \***

California ▼

**Employer Zip/Postal Code \***

93458

**Employer Industry \***

Agriculture ▼

[Add Additional Employers](#)**Notice General Information****Estimated Number of Employees Impacted by Violations \***

50

## Notice Violations – Check All that Apply \*

## Child Labor – Specify Ages

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☒ Overtime
- ☒ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Time on Call
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030-1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☐ Other

## PAGA Claim Type – Check All that Apply \*

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

## Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

## IFP

- ☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

## Billing information

Billing First Name \*

Eric

Billing Last Name \*

Kingsley

Billing Email \*

service@kingsleykingsley.com

Billing Phone

8189908300

Billing Street Name, Number and Suite/Apt \*

16133 Ventura Blvd., Suite 1200

Billing City \*

Encino

Billing State \*

California

Billing Zip/Postal Code \*

91436

Credit Card Type \*

Credit Card Number \*

CVV Number \*

Credit Card Expiration Month \*

Credit Card Expiration Year \*

mm

yyyy

## Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) \*

Choose File

PAGA Letter -...ry Buddys.pdf

Other Attachment - (if any) (must be a .pdf)

Choose File

No file chosen

[Add Another Attachment](#)Should you have questions regarding this online form, please contact [PAGAInfo@dir.ca.gov](mailto:PAGAInfo@dir.ca.gov)

**IMPORTANT NOTICE OF REDACTION RESPONSIBILITY:** All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

**Thank you for submission of your PAGA Case.**

noreply@salesforce.com <noreply@salesforce.com>  
on behalf of  
LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>

Tue 7/2/2024 9:18 AM

To:Service Email <service@kingsleylawyers.com>

External Email!

7/2/2024

LWDA Case No. LWDA-CM-1037518-24

Law Firm : Kingsley Szamet & Ly

Plaintiff Name : Julian Lopez Camarillo, Antonino Herrera Santos, Maria Nicolas Martinez

Employer: Agro-Jal Farming Enterprises

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: <http://labor.ca.gov/Private Attorneys General Act.htm>

## State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation

noreply@salesforce.com <noreply@salesforce.com>

on behalf of

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>

Tue 7/2/2024 9:18 AM

To:Service Email <service@kingsleylawyers.com>

External Email!

Thank you for your payment.

### Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-1037518-24

Order Number: ORD-000297906

Total:\$75.00

Card Type: XXXXXXXXXX

Date: 7/2/2024

---

### Billing Information

Name: Eric Kingsley

Email: service@kingsleykingsley.com

Billing Address:

16133 Ventura Blvd., Suite 1200

Encino, California

91436

EXHIBIT "3"

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
*Agave - Del Farming Enterprises  
257 Kathleen Court  
Santa Maria, CA 93458*



9590 9402 8465 3186 4050 86

2. Article Number (Transfer from service label)  
*9590 0710 5270 1151 8451 34*

PS Form 3811, July 2020 PSN 0-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]* ☒ Agent ☐ Addressee  
B. Received by (Printed Name) *ALF POME* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

*SAN  
JUL - 9 2024  
CA 93454*

3. Service Type
- |                                                                        |                                                                     |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                    | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |                                                                     |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |                                                                     |

Domestic Return Receipt

USPS TRACKING#

SANTA CLARITA CA 913



9 JUL 2024 PM 1 L

9590 9402 8465 3186 4050 AB

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box.

Kingsley Sarnet & Co  
16133 Ventura Blvd, Ste 1200  
Encino, CA 91436

KL Sarnet & Co. 16133 Ventura Blvd, Ste 1200 Encino, CA 91436

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS TO THE POST OFFICE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Ms. Patricia, The.  
Post Kathleen Court  
Santa Maria, CA 93458

9590 9402 8465 3186 4050 79



2. Article Number (Transfer from service label)

9589 0710 5270 1151 8451 41

PS Form 3811, July 2020 PSN 7530-02-000-90\*

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee  
B. Received by (Printed Name) *Patricia Court* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☒ No  
If YES, enter delivery address below:

JUL - 9 2024

3. Service Type
- |                                                                  |                                                                     |
|------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Adult Signature                         | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery     | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®              | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery      | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery |                                                                     |

Insured Mail (over \$500)  
Restricted Delivery

Domestic Return Receipt

USPS TRACKING #



9590 9402 8465 3166 4050 79

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

9590 9402 8465 3166 4050 79

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box\*

Kingsley Janet "dy"  
1613 Ventura Blvd, Ste 1200  
Encino, CA 91436

POSTAGE & CARRIER PAID BY ADDRESSEE  
Buckley