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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

NATHANAEL TAYLOR, RAYMOND
CHAVEZ, and DENNIS CRITES, individually
and on behalf of all others similarly situated,

Plaintiffs,

vs.

HALLCON CORPORATION;
RENZENBERGER, INC.; and DOES 1 through
50, inclusive,

Defendants.

Case No. 37-2023-00021029-CU-OE-CTL

*Assigned to the Hon. Carolyn Caietti
Department C-70*

CLASS ACTION

**THIRD AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Minimum Wage Violations
2. Failure to Pay All Overtime Wages
3. Paid Sick Leave Violations
4. Meal Period Violations
5. Rest Period Violations
6. Unpaid Vacation Wages
7. Untimely Payment of Wages
8. Wage Statement Violations
9. Waiting Time Penalties
10. Failure to Reimburse Business Expenses
11. Unfair Competition
12. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiffs NATHANAEL TAYLOR, RAYMOND CHAVEZ, AND DENNIS CRITES
2 individually and on behalf of all others similarly situated and the State of California under the Private
3 Attorneys General Act (“Plaintiffs”), bring this THIRD AMENDED CLASS AND
4 REPRESENTATIVE ACTION COMPLAINT against Defendants HALLCON CORPORATION;
5 RENZENBERGER, INC.; and DOES 1 through 50, inclusive (collectively “Defendants”), alleging as
6 follows:

7 **INTRODUCTION**

8 1. This is a class action filed for wage and hour violations of the California Labor Code
9 against Hallcon Corporation and Renzenberger, Inc.

10 2. Defendants employed Plaintiffs and class members in the State of California.
11 Defendants failed to pay Labor Code § 226.7 premiums at the regular rate of pay due to a failure to
12 include differentials and other forms of remuneration into the calculation. Additionally, Defendants
13 failed to pay for all hours worked, overtime wages, sick leave, vacation wages, and all meal and rest
14 period premiums for non-compliant breaks and failed to reimburse business expenses. Defendants
15 furthermore failed to pay out all wages upon separation of employment, including vested PTO.

16 3. Plaintiffs bring this action to recover the damages and penalties, plus interest,
17 attorneys’ fees, and cost.

18 **JURISDICTION & VENUE**

19 4. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
20 California Constitution as the causes of action are premised upon violations of California law.

21 5. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
22 the Superior Court.

23 6. This Court has jurisdiction over Defendants because, upon information and belief,
24 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
25 themselves to the California economy so as to render the exercise of jurisdiction over them by the
26 California courts consistent with traditional notions of fair play and substantial justice.

7. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conduct business and committed some of the alleged violations in this county.

PARTIES

A. Plaintiffs

8. Plaintiff Taylor is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about 2018 to May 2023. Plaintiff Taylor worked as a Lead driver.

9. Plaintiff Chavez is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about May 2017 to March 2022 and again from October 2023 to Present. Plaintiff Chavez worked as a Lead driver.

10. Plaintiff Crites is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from April 2018 to the Present. Plaintiff Crites worked as a Driver.

11. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

B. Defendants

12. Defendant Hallcon Corporation is a corporation that maintains operations and conducts business throughout the State of California, including in this county.

13. Defendant Renzenberger, Inc., is a corporation that maintains operations and conducts business throughout the State of California, including in this county.

14. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some

manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

15. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

16. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

17. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

18. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

- a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

19. Plaintiffs reserve the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

20. The class is ascertainable and shares a well-defined community of interest in this litigation:

- a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of

class members are ascertainable by inspection of Defendants' employment and payroll records.

b. Typicality: Plaintiffs' claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiffs experienced, will establish the right of the class to recover on the causes of action alleged herein.

c. Adequacy: Plaintiffs are adequate class representatives; will take all necessary steps to protect the class members' interests adequately and fairly; has no interest antagonistic to other class members; and is represented by attorneys who have substantial experience prosecuting, defending, resolving, and litigating wage and hour class, collective, and representative actions in California state and federal courts.

d. Superiority: A class action is superior to other means for adjudicating this dispute. Individual joinder is impractical. Class treatment will allow for common issues to be resolved in a single forum, simultaneously, and without duplication of effort and expense.

e. Public Policy Considerations: Certification of this lawsuit as a class action advances the State of California's strong public interest in ensuring its approximately millions of employed residents are properly paid the wages they earned for the hours they worked. Class actions provide a mechanism for enforcement of labor laws and allow for vindication of employee rights by unnamed class members.

21. Common questions of law and fact as to the class members predominate over questions affecting only individual members. The common questions of law and fact exist as to whether the employment policies and practices formulated by Defendants and applied to the class members constitute violations of California law.

GENERAL ALLEGATIONS

22. Defendants failed to pay Plaintiffs and class members at the lawful minimum wage rate for all hours worked.

23. Plaintiffs and class members were required to be on-call by Defendants for 5 to 6 days out of the week, for 24 hours a day but only paid for the time they were called in to work rather than the full time they were on-call.

24. Plaintiffs and the class members were under Defendants' control and restrictions during the on-call time rendering these hours as "hours worked." In other words, Plaintiffs and the class members were engaged to wait but were not paid for that time. The restrictions placed on Plaintiffs and other employees included but are not limited to requiring Plaintiffs and class members stay within a 30-minute radius of the main office, monitor and answer their phones immediately, and respond and dispatch within a short time frame. These restrictions resulted in Plaintiffs and class members being unable to engage in normal personal activities during the time they were on-call/engaged to wait. Failure to comply with these restrictions or a failure to dispatch while on-call resulted in disciplinary action.

25. Additionally, Plaintiff Crites and, on information and belief, the other class members experienced unpaid hours worked when their trips exceeded the Defendant's estimated trip window and Plaintiffs, and the class members had to call the dispatch center and remain on hold for up to 20 to 30 minutes of unpaid time to get their hours adjusted to reflect all hours worked. This routinely occurred when Plaintiffs and the class members took a compliant meal period. Defendants discouraged Plaintiffs and the class members from taking meal periods by forcing them to undergo an additional 20-30 minutes of unpaid time on hold to get their hours adjusted.

26. Defendants failed to compensate Plaintiffs and class members for this time, resulting in unpaid hours worked.

27. During the times when Plaintiffs and class members worked overtime during the on-call days, Defendants failed to pay them for all overtime and/or doubletime hours worked (due to the reasons described above).

1 28. Defendants failed to pay sick leave at the regular rate of pay to Plaintiffs and class
2 members because they failed to include shift differentials and other non-discretionary payments in the
3 calculation of paid sick leave and instead paid sick leave at the base hourly rate.

4 29. Defendants failed to pay all accrued and unused vacation wages upon separation of
5 employment at the lawful rate of pay.

6 30. Plaintiffs and class members worked for Defendants and were compensated on an
7 hourly basis as nonexempt employees.

8 31. Plaintiffs earned different hourly wages depending on whether he was making a regular
9 load drive or whether he was making an “administrative” drive to take vehicles to get serviced.
10 Plaintiffs also earned shift differential pay. Defendants failed to include employees’ additional
11 remuneration in the regular rate of pay to calculate and pay Labor Code § 226.7 premiums.

12 32. Defendants failed to consistently provide compliant first and second meal periods to
13 Plaintiffs and class members, in violation of Labor Code §§ 226.7, 512 and §11 of the applicable IWC
14 Wage Orders. Plaintiffs and the class members often experienced late, short, missed, and interrupted
15 meal periods as they were required to get to a certain destination by a specific time.

16 33. When Defendants paid meal or rest break premiums, Defendants failed to pay all the
17 premiums owed at the “regular rate of compensation” because they did not factor in bonuses, stipends,
18 differentials, and other forms of remuneration, instead electing to pay class members at the base hourly
19 rate, in violation of Labor Code § 226.7.

20 34. An illustrative example of this practice appears on Plaintiff Taylor’s wage statement
21 dated March 17, 2023 for the pay period of February 26, 2023 to March 11, 2023, where Plaintiff
22 Taylor was not paid his meal period premium pay at his regular rate of pay.

23 35. Additional examples of Defendants’ failure to pay Labor Code § 226.7 premiums
24 according to Plaintiffs’ regular rate of pay is exemplified on Plaintiff Taylor’s wage stated dated March
25 3, 2023, for the pay period of February 12, 2023 to February 25, 2023 and his wage statement dated
26 February 17, 2023 for the pay period of January 29, 2023 to February 11, 2023.

27 36. Moreover, Defendants failed to authorize or permit ten-minute rest periods for every
28 four hours of work or major fraction thereof as required by Labor Code §§ 226.7, 516, and § 12 of the

1 applicable IWC Wage Order. When Defendants did not provide fully compliant rest periods,
2 Defendants failed to pay Plaintiffs and other class members a rest period premium at the lawful
3 “regular rate of compensation” in violation of Labor Code § 226.7.

4 37. Plaintiffs and class members were also required to use their personal cell phones to
5 communicate with dispatch. Defendants failed to fully reimburse Plaintiffs and class members for the
6 cost of usage of their personal phones, instead electing to pay a nominal sum of a few dollars or cents
7 per pay period.

8 38. Because of these violations, Defendants failed to provide accurate itemized wage
9 statements to class members that included the accurate gross or net wages earned, as the employees
10 earned premiums, which were not paid at the lawful rate in light of the regular rate violations.
11 Likewise, premium wages were paid at an inaccurate hourly wage rate (i.e., the base rate or a multiple
12 of the base rate for overtime instead of the regular rate) which violates the wage statement requirement
13 to include the correct hourly rate in effect each pay period along with the correct number of hours.
14 Therefore, Defendants have provided inaccurate and non-compliant wage statements to class
15 members.

16 39. These violations create derivative liability for failure to pay all wages owed each
17 payday or upon separation of employment, including vacation/PTO wages as Plaintiffs did not receive
18 all accrued PTO upon separation of employment, which Plaintiffs allege on information and belief
19 was a matter of common payroll and corporate policy and practice.

20 40. As a result of the foregoing violations, Defendants also failed to timely pay all wages
21 as they were due to Plaintiffs and class members while they were employed and also failed to timely
22 pay all wages due to Plaintiffs and class members at their separation of employment.

23 **FIRST CAUSE OF ACTION**

24 **MINIMUM WAGE VIOLATIONS**

25 **Violation of Labor Code §§ 1194, 1194.2 and 1197**

26 **(All Claims Alleged by Plaintiffs and Class Members Against All Defendants)**

27 41. All outside paragraphs of this Complaint are incorporated into this section.
28

42. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of Work” and “Minimum Wages” sections of the applicable orders), which require non-exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of work, and further provide a private right of action for an employer’s failure to pay all minimum wages (plus liquidated damages).

43. Defendants willfully failed in their affirmative obligation to pay Plaintiffs and class members at least the lawful minimum wage for each hour worked in violation of Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful local and county minimum wage ordinances in effect. As a result, Defendants are liable for all associated damages, including liquidated damages for the minimum wage violations pursuant to Labor Code § 1194.2.

44. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of minimum, regular and overtime wages in amounts to be determined at trial. Plaintiffs and class members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

Violation of Labor Code §§ 510 and 1194

45. All outside paragraphs of this Complaint are incorporated into this section.

46. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

47. Defendants failed in their affirmative obligation to pay Plaintiffs and class members no less than one and one-half times their respective “regular rate of pay” for all hours worked in excess

of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective “regular rate of pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

48. Plaintiffs and class members are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys’ fees, and costs to the extent permitted by law.

THIRD CAUSE OF ACTION

FAILURE TO PAY ALL PAID SICK LEAVE WAGES

Violation of Labor Code §§ 200, 218, 246 *et seq.*

49. All outside paragraphs of this Complaint are incorporated into this section.

50. Defendants knowingly and intentionally failed in their affirmative obligation to pay sick leave wages to Plaintiffs and a paid sick leave subclass in violation of Labor Code section 246 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 [“Courts have recognized that ‘wages’ also include those benefits to which an employee is entitled as a part of his or her compensation, including money, room, board, clothing, vacation pay, and sick pay”].)

51. Labor Code section 246(l), in conjunction with Labor Code section 248 *et seq.*, 248.1, 248.2, and 248.6, in addition to the applicable County sick pay ordinances in locales worked by class members, govern how Defendants were required to calculate paid sick leave.

52. Defendants failed to pay Plaintiffs and class members their paid sick leave wages at one of the lawful rates set forth in the statute or ordinance because Defendants failed to include in their sick leave calculation the additional remuneration received by Plaintiffs and class members (i.e., at the regular rate of pay and/or calculated based on total wages earned).

53. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19

Supplemental Sick Leave wages to class members at the correct accrual rate or hourly pay rate in violation of Labor Code sections 246, 248.1, 248.2, and 248 *et seq.*

54. As a result, Defendants violated the Labor Code and are liable to Plaintiffs and class members for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

FOURTH CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

55. All outside paragraphs of this Complaint are incorporated into this section.

56. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful regular rate of compensation.

57. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiffs and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

58. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

59. Plaintiffs and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

1 **FIFTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **Violation of Labor Code §§ 226.7 and 516**

4 60. All outside paragraphs of this Complaint are incorporated into this section.

5 61. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
6 §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods
7 (or rest period premiums in lieu thereof), and which further provide a private right of action for an
8 employer's failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful
9 regular rate of compensation.

10 62. Defendants willfully failed in their affirmative obligation to consistently authorize and
11 permit Plaintiffs and class members to receive compliant, duty-free rest periods of not less than ten
12 (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code
13 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the "Rest Periods" sections of the
14 applicable orders).

15 63. Further, Defendants willfully failed in their affirmative obligation to consistently pay
16 Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation
17 for each workday that a fully compliant rest period was not provided, in violation of Labor Code
18 sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

19 **SIXTH CAUSE OF ACTION**

20 **UNPAID VACATION WAGES**

21 **Violation of Labor Code §§ 201, 202, 203, and 227.3 and 1194, and 1198**

22 64. All outside paragraphs of this Complaint are incorporated into this section.

23 65. This cause of action is brought by the Unpaid Vacation Wages Class pursuant to Labor
24 Code §§ 200, 201, 202, 203, and 227.3 and 1194, and 1198, which require non-exempt employees be
25 timely paid all vested vacation wages at their final rate of pay upon separation of employment, and
26 which further provide a private right of action for an employer's timely failure to pay all vacation
27 compensation upon termination.
28

66. Defendant offered Plaintiffs and class members an employment contract or policy providing for the accrual of vacation and/or paid time off. Plaintiffs and class members accrued vacation and/or PTO pursuant to the contract or policy.

68. Plaintiffs and class members are entitled to recover the full amount of the accrued vacation wages owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

UNTIMELY PAYMENT OF WAGES

69. All outside paragraphs of this Complaint are incorporated into this section.

71. Defendants willfully failed in their affirmative obligation to timely pay all wages, including meal and rest premiums, earned by Plaintiffs and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of the applicable orders).

each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

EIGHTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226

73. All outside paragraphs of this Complaint are incorporated into this section.

74. This cause of action is brought by the Wage Statement Subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation.

75. Defendants knowingly and intentionally failed in their affirmative obligation provide accurate itemized wage statements to Plaintiffs and class members resulting in injury to Plaintiffs and class members. Specifically, the wage statements issued to Plaintiffs and class members did not accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

76. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of accurate itemized wage statements, causing confusion and concealing wage and premium underpayments.

77. As a result, Plaintiffs and class members are entitled to recover the statutory penalty of \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 226(e).

NINTH CAUSE OF ACTION

WAITING TIME PENALTIES

Violation of Labor Code §§ 201 *et seq.*

78. All outside paragraphs of this Complaint are incorporated into this section.

79. This cause of action is brought by the Waiting Time Class pursuant to Labor Code §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of

1 employment, and which further provide a private right of action to recover statutory waiting time
2 penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days
3 wages.

4 80. Defendants willfully failed and continue to fail in their affirmative obligation to pay all
5 wages earned and unpaid to Plaintiffs and members of the Waiting Time Class immediately upon
6 termination of employment or within 72 hours thereafter for employees who did not provide at least
7 72 hours prior notice of his or her intention to quit, and further failed to pay those sums for 30 days
8 thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

9 81. Plaintiffs and the Waiting Time Class are entitled to recover a waiting time penalty for
10 a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by
11 law.

12 **TENTH CAUSE OF ACTION**

13 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

14 **Violation of Labor Code § 2802**

15 82. All outside paragraphs of this Complaint are incorporated into this section.

16 83. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and
17 the Reimbursement Class for all necessary expenditures, losses, expenses, and costs incurred by them
18 in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

19 84. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of
20 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiffs and class
21 members are entitled to recover the amount unreimbursed expenses of Plaintiffs and class members in
22 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
23 Code section 2802.

24 **ELEVENTH CAUSE OF ACTION**

25 **UNFAIR COMPETITION**

26 **Violation of Business and Professions Code §§ 17200 *et seq.***

27 85. All outside paragraphs of this Complaint are incorporated into this section.

86. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in the State of California in violation of California Business and Professions Code § 17200 by committing the foregoing wage and hour violations alleged throughout this Complaint.

87. Defendants' dependance on these unfair and/or unlawful business practices deprived Plaintiffs and continue to deprive other class members of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to Defendants over competitors who have been and/or are currently employing workers in compliance with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

88. Plaintiffs are a victim of Defendants' unfair and/or unlawful conduct alleged in this Complaint, and Plaintiffs, as individuals and on behalf of others similarly situated, seeks full restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

89. Plaintiffs do not have an adequate remedy at law for past or future violations, to the extent the statute of limitations on each of the alleged causes of action do not extend to the four year limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order violations do not provide a private right of action.

90. Plaintiffs and class members are entitled to injunctive relief against Defendants, restitution, and other equitable relief to return all funds over which Plaintiffs and class members have an ownership interest and to prevent future damage and the public interest under Business and Professions Code § 17200 *et seq.* Plaintiffs and class members are further entitled to recover interest, attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

TWELFTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiffs on Behalf of the State and the Aggrieved Employees Against All Defendants)

91. All outside paragraphs of this Complaint are incorporated into this section.

1 92. Plaintiffs bring this cause of action as a proxy for the State of California on behalf of
2 the following “aggrieved employees” pursuant to the Private Attorneys General Act (“PAGA”),
3 codified as Labor Code section 2698 *et seq.*:

4 a. All current and former non-exempt employees who worked for Defendants in
5 California at any time from one year prior to the postmark date of the initial
6 PAGA notice through date of trial.

7 93. Plaintiffs reserve the right to amend, supplement, or add to this description of the
8 aggrieved employees, according to proof.

9 94. The State of California, via the Labor and Workforce Development Agency
10 (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
11 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
12 files suit is always the real party in interest.”])

13 95. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,,
14 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
15 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
16 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil
17 action brought by an aggrieved employee on behalf of himself or herself and other current or former
18 employees pursuant to the procedures specified in Section 2699.3. “

19 96. Labor Code section 2699(f) provides: “For all provisions of this code except those for
20 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
21 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
22 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
23 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
24 each subsequent violation.”

25 97. Any allegations regarding violations of the IWC Wage Orders are enforceable as
26 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
27 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
28

1 98. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
2 penalties under the PAGA.

3 99. On or about May 15, 2023, Plaintiff Taylor paid the requisite PAGA filing fee and
4 provided written notice (by online electronic filing with the LWDA and by certified mail to
5 Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support
6 the alleged violations.

7 100. A true and correct copy of Plaintiff Taylor's written PAGA notice, entitled "Notice of
8 Labor Code Violations" is attached hereto as Exhibit 1 and incorporated by reference as though fully
9 set forth herein (the "PAGA notice").

10 101. On or about May 2, 2024, Plaintiff Taylor amended their PAGA notice and provided
11 written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of
12 Defendants' additional alleged Labor Code violations, including the facts and theories to support the
13 alleged violations.

14 102. A true and correct copy of Plaintiff's amended PAGA notice, entitled "Amended
15 Notice of Labor Code Violations" is attached hereto as Exhibit 2.

16 103. On or about August 30, 2024, Plaintiffs Crites and Chavez paid the requisite PAGA
17 filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail
18 to Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to
19 support the alleged violations.

20 104. A true and correct copy of Plaintiffs Crites and Chavez PAGA notice, entitled "Notice
21 of Labor Code Violations" is attached hereto as Exhibit 3.

22 105. To date, neither Plaintiffs nor Plaintiffs' counsel has received a response to Plaintiffs'
23 written PAGA notice from the LWDA.

24 106. Within 33 calendar days of the postmark date of the notice sent by Plaintiffs, neither
25 Plaintiffs nor Plaintiffs' counsel has received written notice by certified mail from any defendant
26 providing a description of any actions taken to cure the alleged violations.

27 107. Now that at least 65 days have passed from Plaintiffs notifying Defendants of these
28 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate

the alleged allegations and issue the appropriate citations to Defendants, Plaintiffs exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

108. As set forth in the PAGA notices attached as Exhibits 1-3 and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

- a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders.
- b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- d. ***Unpaid Vacation Wages.*** Violation of Labor Code § 227.3.
- e. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- f. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- g. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- h. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- i. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- j. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- k. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

109. Plaintiffs seek to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

PRAYER

1 Plaintiffs pray for judgment as follows:

- 2 a. For certification of this action as a class action;
- 3 b. For appointment of Plaintiffs as the class representatives;
- 4 c. For appointment of above-captioned counsel for Plaintiffs as Class Counsel;
- 5 d. For division of class members into appropriate classes and/or subclasses according to
- 6 proof;
- 7 e. For recovery of damages in amount according to proof;
- 8 f. For all recoverable pre- and post-judgment interest;
- 9 g. For recovery of all civil and statutory penalties and liquidated damages;
- 10 h. For disgorgement of all amounts wrongfully obtained;
- 11 i. For this action to be maintained as a representative action under the PAGA;
- 12 j. For Plaintiffs and counsel of record to be provided with all enforcement capability as
- 13 if the action were brought by the State of California or the California Division of Labor
- 14 Enforcement;
- 15 k. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- 16 l. For restitution and injunctive relief;
- 17 m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
- 18 permitted by law, including (without limitation) under Labor Code §§ 218.5, 226,
- 19 2802, 2699, and Code of Civil Procedure section 1021.5; and
- 20 n. For such other relief the Court deems just and proper.

21 Dated: November 19, 2024

Ferraro Vega Employment Lawyers, Inc.

23 
24 _____
25 Nicholas J. Ferraro
26 Attorney for Plaintiffs

EXHIBIT 1

Plaintiff Nathanel Taylor's Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
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ATTORNEYS AT LAW
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San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

May 15, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Halcon Corporation
14325 West 95th Street
Lenexa, KS 66215

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Renzenberger, Inc.
PO. Box 14610
Lenexa, KS 66285

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **NATHANAEL TAYLOR** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

**HALLCON CORPORATION
REZENBERGER INC.**

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed

by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff’s counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Lead Driver from about October 2018 to May 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Vacation Wages **Violation of Labor Code § 227.3**

Defendants violated Labor Code section 227.3 with respect to the aggrieved employees.

Labor Code section 227.3 requires “whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.”

Defendants maintained an unlawful policy and practice of failing to pay all accrued and unused vacation wages upon separation of employment at the lawful rate of pay, resulting in forfeiture of vested vacation time and wages.

Plaintiff's employment ended on May 6, 2023 and he received his final wage statement on May 12, 2023. Plaintiff had 24 hours of accrued PTO that was not paid out at the end of his employment. This is evident on Plaintiff's final wage statement below:

Accruals & Balances	
Sick - Current Year Balance:	Hours
Sick - Carry Over Balance:	Hours
PTO/VAC Balance:	24 Hours
Sick - Supplemental Balance:	Hours

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages **Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's

“regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and the aggrieved employees often experienced a missed, shortened, or interrupted meal periods due to understaffing and the nature of the job. In order to get to certain destinations in time, Plaintiff and the aggrieved employees were not able to pull off the road to take a duty-free meal period of at least 30 minutes. Therefore, Defendants owe Plaintiff and other aggrieved employees the balance of the unpaid meal period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations. Plaintiff’s time records demonstrate liability, as illustrated below:

Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	Cell Phone Reimbursement	Cell Phone		0.400
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	MMP	Prem	1.000	17.100
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD ADMIN	Reg	7:00:00 AM 10:00:00 AM	3.000 53.910
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD MEAL	DailyOT	8:12:00 PM 8:42:00 PM	0.500 14.349
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD MEAL	DT2.0	11:43:00 PM 12:00:00 AM	0.283 10.766
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	DailyOT	6:54:00 PM 8:12:00 PM	1.300 37.046
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	DailyOT	8:42:00 PM 10:54:00 PM	2.200 62.694
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	DT2.0	10:54:00 PM 11:43:00 PM	0.817 31.030
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	Reg	1:54:00 PM 6:54:00 PM	5.000 87.350
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	SDIF	Prem	9:00:00 PM 11:43:00 PM	2.717 8.816
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	SDIF	Prem	11:43:00 PM 12:00:00 AM	0.283 0.086
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	TRIPID	Unpaid		0.000
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	Cell Phone Reimbursement	Cell Phone		0.400
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	MMP	Prem	1.000	17.100
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	ROAD ADMIN	Reg	7:00:00 AM 11:00:00 AM	4.000 71.880
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	ROAD MEAL	DailyOT	7:28:00 PM 7:58:00 PM	0.500 14.349

To the extent any meal period premiums were paid, Plaintiff alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration. Plaintiff and the aggrieved employees were paid a different rate whether they were making a regular load drive or whether they were making an “administrative drive” which is when they take the truck to get maintenance done. Plaintiff and the aggrieved employees also earned shift differential pay. Defendants failed to properly calculate Plaintiff’s premium

pay by failing to include the different hourly pay and shift differential pay into Plaintiff's meal period premium pay as illustrated below:

	Current 2/26/2023 - 3/11/2023			YTD As of 3/11/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	106.3165		\$2,158.59	552.5827	\$12,393.02
Regular	55.5500	17.4700	\$970.46	257.9664	\$4,499.01
OT	2.0832	26.7088	\$55.64	83.6674	\$2,329.66
OT	12.6168	27.3811	\$345.46		
CA Meal	2.0000	17.1000	\$34.20	23.0000	\$394.11
Double Time	4.7833	36.5081	\$174.63	21.2832	\$801.40
Holiday OT				30.6664	\$913.33
Overtime Adjust				3.0668	\$89.21
Settlement					\$419.28
Shift Differential	25.3010	0.3000	\$7.59	225.6376	\$67.70
Administrative	22.0167	17.9700	\$395.64	135.5989	\$2,438.72
PTO	8.0000	17.9700	\$143.76	8.0000	\$143.76
Meal Paid				1.0000	\$17.47
Trip Guar TopUp	0.2833	17.4700	\$4.95	3.1835	\$55.13
Admin Overtime	0.9832	26.7088	\$26.26	8.1501	\$226.24

Excerpt of Plaintiff's wage statement dated March 17, 2023 for the pay period of February 26, 2023 to March 11, 2023.

	Current 2/12/2023 - 2/25/2023			YTD As of 2/25/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	86.5502		\$1,714.19	446.2662	\$10,234.43
Regular	12.2000	17.1000	\$208.62	202.4164	\$3,528.55
Regular	41.0000	17.4700	\$716.27		
OT	7.4334	26.2758	\$195.32	68.9674	\$1,928.56
OT	6.8170	27.6243	\$188.31		
CA Meal	2.0000	17.1000	\$34.20	21.0000	\$359.91
Double Time	0.7832	35.0344	\$27.44	16.4999	\$626.77
Double Time	0.3000	36.8324	\$11.05		
Holiday OT				30.6664	\$913.33
Overtime Adjust				3.0668	\$89.21
Settlement					\$419.28
Shift Differential	30.7667	0.3000	\$9.23	200.3366	\$60.11
Administrative	18.0000	17.9700	\$323.46	113.5822	\$2,041.08
Meal Paid				1.0000	\$17.47
Trip Guar TopUp	0.0166	17.4700	\$0.29	2.9002	\$50.18
Admin Overtime				7.1669	\$199.98

Excerpt of Plaintiff's wage statement dated March 03, 2023 for the pay period of February 12, 2023 to February 25, 2023.

	Current 1/29/2023 - 2/11/2023			YTD As of 2/11/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	43.2498		\$823.48	337.0659	\$8,051.02
Regular	8.5164	17.1000	\$145.63	133.2164	\$2,324.14
Regular	8.0000	17.4700	\$139.76		
OT	3.7334	27.2996	\$101.92	54.7169	\$1,544.93
CA Meal	1.0000	17.1000	\$17.10	18.0000	\$308.61
Double Time				15.4167	\$588.28
Holiday OT				30.6664	\$913.33
Overtime Adjust				-2.5832	(\$65.40)
Settlement					\$419.28
Shift Differential	19.2000	0.3000	\$5.76	167.8530	\$50.36
Administrative	23.0000	17.9700	\$413.31	95.5822	\$1,717.62
Trip Guar TopUp				2.8836	\$49.89
Admin Overtime				7.1669	\$199.98
Taxes			\$77.26		\$1,261.46

Excerpt of Plaintiff's wage statement dated February 17, 2023 for the pay period of January 29, 2023 to February 11, 2023.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

As discussed above with respect to meal periods, Plaintiff and the aggrieved employees were unable to take a rest period for the same reasons they were unable to take a meal period. Similarly, Defendants also failed to pay Plaintiff and the aggrieved employees a rest period premium for the rest period violations. Defendants simply maintained a steadfast policy and practice of not paying rest period premiums, despite California's lawful mandate. Therefore, Defendants owe Plaintiff and other aggrieved employees the balance of the unpaid rest period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations.

To the extent any meal period premiums were paid, Plaintiff alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration, based on the same practice illustrated above with respect to meal period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Due to the Defendant’s failure to properly pay Plaintiff and the aggrieved employees all wages owed at the lawful rates, Defendants failed to timely pay Plaintiff and the aggrieved employees their wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Plaintiff's employment ended on May 6, 2023. However, he did not receive his final wage statement until May 12, 2023. Additionally, as mentioned above, Plaintiff still has 24 hours of PTO that Defendants failed to pay out at the end of Plaintiff's employment.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or

information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “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.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

Plaintiff and the aggrieved employees were required to use their personal cell phone for work activities. They regularly needed their cell phones to communicate with dispatch. Occasionally, they received a nominal cell phone reimbursement ranging from a few cents up to a couple dollars. This is substantially less than the approximately \$100 a month Plaintiff pays for his cell phone bill.

Some examples of this nominal reimbursement are shown below:

Reimbursements				\$0.40
US Cell Phone Reimbursement				\$0.40
	Routing #	Account #	Amount	

agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Nicholas J. Ferraro

Cc Plaintiff Nathanael Taylor
Brooke Coleman – HR Assistant
bcoleman@hallcon.com

EXHIBIT 2

Plaintiff Nathanel Taylor's Amended Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

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Lauren N. Vega
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ATTORNEYS AT LAW
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San Diego, California 92108

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ferrarovega.com

May 2, 2024

AMENDED NOTICE OF LABOR CODE VIOLATIONS **CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.***

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Halcon Corporation
14325 West 95th Street
Lenexa, KS 66215

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Renzenberger, Inc.
PO. Box 14610
Lenexa, KS 66285

Dear LWDA Officer and Company Representatives:

This letter serves as amended written notice under Labor Code section 2699.3 on behalf of **NATHANAEL TAYLOR** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

HALLCON CORPORATION
REZENBERGER INC.

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

Plaintiff hereby amends and supplements the May 15, 2023 LWDA Notice to include additional facts and allegations that have been identified through subsequent investigation.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section

2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff’s counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Lead Driver from about October 2018 to May 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage **Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Plaintiff and other aggrieved employees were required by Defendants to be on-call. Plaintiff and the aggrieved employees were under Defendants’ control and restrictions during the on-call time, rendering the on-call time “hours worked.” However, Defendants failed to compensate Plaintiff and the aggrieved employees for the time they were required to be on-call. Specifically, Plaintiff was required to be on-call 6 days a week, for 24 hours a day. During that time, he was required to carry and respond to his phone non-stop. Plaintiff and the aggrieved employees faced discipline if they failed to answer Defendants’ call during the designated on-call time. Plaintiff and the aggrieved employees were required to stay close to home while they were on-call and were also given approximately 30 minutes to arrive at a destination after being called in. Sometimes these destinations would be 20-30 minutes away, giving employees very little time to respond and restricting their ability to leave home or engage in personal activities such as grocery shopping, going to dinner, running errands, etc. Because Defendants exercised control over and placed the above restrictions on Plaintiff and the aggrieved employees, they should have paid them at least minimum wage for the on-call time, but failed to do so.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “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 for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As described above, Defendants failed to pay Plaintiff and the aggrieved employees for the time they spent on-call. To the extent that Plaintiff and the aggrieved employees worked overtime during the on-call days, Defendants failed to pay them for all overtime and/or doubletime hours worked as a result of Defendants unlawful on-call practices.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave
Violation of Labor Code §§ 246 through 248.7

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. Plaintiff alleges on information and belief that to the extent Defendants paid sick leave wages to employees, Defendants failed to pay the sick leave at the regular rate of pay. Specifically, Plaintiff is informed and believes that Defendants failed to include shift differentials and other non-discretionary payments in the calculation of paid sick leave and instead paid sick leave at employees’ base hourly rate. Furthermore, to the extent Defendants provided PTO in lieu of sick leave, Defendants were nonetheless required to pay PTO used or sick leave purposes at the regular rate of pay, but failed to do so.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Vacation Wages
Violation of Labor Code § 227.3

Defendants violated Labor Code section 227.3 with respect to the aggrieved employees.

Labor Code section 227.3 requires “whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.”

Defendants maintained an unlawful policy and practice of failing to pay all accrued and unused vacation wages upon separation of employment at the lawful rate of pay, resulting in forfeiture of vested vacation time and wages.

Plaintiff’s employment ended on May 6, 2023 and he received his final wage statement on May 12, 2023. Plaintiff had 24 hours of accrued PTO that was not paid out at the end of his employment. This is evident on Plaintiff’s final wage statement below:

Accruals & Balances	
Sick - Current Year Balance:	Hours
Sick - Carry Over Balance:	Hours
PTO/VAC Balance:	24 Hours
Sick - Supplemental Balance:	Hours

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary

payments, not just hourly wages”). “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and the aggrieved employees often experienced a missed, shortened, or interrupted meal periods due to understaffing and the nature of the job. In order to get to certain destinations in time, Plaintiff and the aggrieved employees were not able to pull off the road to take a duty-free meal period of at least 30 minutes. Therefore, Defendants owe Plaintiff and other aggrieved employees the balance of the unpaid meal period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations. Plaintiff’s time records demonstrate liability, as illustrated below:

Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	Cell Phone Reimbursement	Cell Phone		0.400
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	MMP	Prem	1.000	17.100
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD ADMIN	Reg	7:00:00 AM	3.000
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD MEAL	DailyOT	8:12:00 PM	0.500
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD MEAL	DT2.0	11:43:00 PM	0.283
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD WRK	DailyOT	6:54:00 PM	1.300
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD WRK	DailyOT	8:42:00 PM	2.200
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD WRK	DT2.0	10:54:00 PM	0.817
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	ROAD WRK	Reg	1:54:00 PM	5.000
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	SDIF	Prem	9:00:00 PM	2.717
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	SDIF	Prem	11:43:00 PM	0.283
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-20	TRIPID	Unpaid		0.000
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-19	Cell Phone Reimbursement	Cell Phone		0.400
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-19	MMP	Prem	1.000	17.100
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-19	ROAD ADMIN	Reg	7:00:00 AM	4.000
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/22/2022	2022-10-19	ROAD MEAL	DailyOT	7:28:00 PM	0.500

To the extent any meal period premiums were paid, Plaintiff alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration. Plaintiff and the aggrieved employees were paid a different rate whether they were making a regular load drive or whether they were making an “administrative drive” which is when they take the truck to get maintenance done. Plaintiff and the aggrieved employees also earned shift differential pay. Defendants failed to properly calculate Plaintiff’s premium pay by failing to include the different hourly pay and shift differential pay into Plaintiff’s meal period premium pay as illustrated below:

	Current 2/26/2023 - 3/11/2023			YTD As of 3/11/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	106.3165		\$2,158.59	562.5827	\$12,393.02
Regular	55.5500	17.4700	\$970.48	257.9864	\$4,499.01
OT	2.0832	26.7088	\$55.64	83.6674	\$2,329.66
OT	12.6168	27.3811	\$345.46		
CA Meal	2.0000	17.1000	\$34.20	23.0000	\$394.11
Double Time	4.7833	36.5081	\$174.63	21.2832	\$801.40
Holiday OT				30.6664	\$913.33
Overtime Adjust				3.0668	\$89.21
Settlement					\$419.28
Shift Differential	25.3010	0.3000	\$7.59	225.6376	\$67.70
Administrative	22.0167	17.9700	\$395.64	135.5989	\$2,436.72
PTO	8.0000	17.9700	\$143.76	8.0000	\$143.76
Meal Paid				1.0000	\$17.47
Trip Guar TopUp	0.2833	17.4700	\$4.95	3.1835	\$55.13
Admin Overtime	0.9832	26.7088	\$26.26	8.1501	\$226.24

Excerpt of Plaintiff's wage statement dated March 17, 2023 for the pay period of February 26, 2023 to March 11, 2023.

	Current 2/12/2023 - 2/25/2023			YTD As of 2/25/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	86.5502		\$1,714.19	446.2662	\$10,234.43
Regular	12.2000	17.1000	\$208.62	202.4164	\$3,528.55
Regular	41.0000	17.4700	\$716.27		
OT	7.4334	26.2758	\$195.32	68.9674	\$1,928.56
OT	6.8170	27.6243	\$188.31		
CA Meal	2.0000	17.1000	\$34.20	21.0000	\$359.91
Double Time	0.7832	35.0344	\$27.44	16.4999	\$626.77
Double Time	0.3000	36.8324	\$11.05		
Holiday OT				30.6664	\$913.33
Overtime Adjust				3.0668	\$89.21
Settlement					\$419.28
Shift Differential	30.7667	0.3000	\$9.23	200.3366	\$60.11
Administrative	18.0000	17.9700	\$323.46	113.5822	\$2,041.08
Meal Paid				1.0000	\$17.47
Trip Guar TopUp	0.0166	17.4700	\$0.29	2.9002	\$50.18
Admin Overtime				7.1669	\$199.98

Excerpt of Plaintiff's wage statement dated March 03, 2023 for the pay period of February 12, 2023 to February 25, 2023.

	Current 1/29/2023 - 2/11/2023			YTD As of 2/11/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	43.2498		\$823.48	337.0659	\$8,051.02
Regular	8.5164	17.1000	\$145.63	133.2164	\$2,324.14
Regular	8.0000	17.4700	\$139.76		
OT	3.7334	27.2996	\$101.92	54.7169	\$1,544.93
CA Meal	1.0000	17.1000	\$17.10	18.0000	\$308.61
Double Time				15.4167	\$588.28
Holiday OT				30.6664	\$913.33
Overtime Adjust				-2.5832	(\$85.40)
Settlement					\$419.28
Shift Differential	19.2000	0.3000	\$5.76	167.8530	\$50.36
Administrative	23.0000	17.9700	\$413.31	95.5822	\$1,717.62
Trip Guar TopUp				2.8836	\$49.89
Admin Overtime				7.1669	\$199.98
Taxes			\$77.26		\$1,261.10

Excerpt of Plaintiff's wage statement dated February 17, 2023 for the pay period of January 29, 2023 to February 11, 2023.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

As discussed above with respect to meal periods, Plaintiff and the aggrieved employees were unable to take a rest period for the same reasons they were unable to take a meal period. Similarly, Defendants also failed to pay Plaintiff and the aggrieved employees a rest period premium for the rest period violations. Defendants simply maintained a steadfast policy and practice of not paying rest period premiums, despite California's lawful mandate. Therefore, Defendants owe Plaintiff and other aggrieved employees the balance of the unpaid rest period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations.

To the extent any meal period premiums were paid, Plaintiff alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration, based on the same practice illustrated above with respect to meal period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor

within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Due to the Defendant’s failure to properly pay Plaintiff and the aggrieved employees all wages owed for the hours worked and at the lawful rates, Defendants failed to timely pay Plaintiff and the aggrieved employees their wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment **Violation of Labor Code §§ 201, 202, 203, 256**

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages, sick leave, and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Plaintiff’s employment ended on May 6, 2023. However, he did not receive his final wage statement until May 12, 2023. Additionally, as mentioned above, Plaintiff still has 24 hours of PTO that Defendants failed to pay out at the end of Plaintiff’s employment.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements
Violation of Labor Code §§ 226, 226.3

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages, sick leave and premiums that were not paid (including for off the clock work during on-call time), resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Defendants also violated section 226(a)(2) by failing to list the correct hours worked on Plaintiff and the aggrieved employees’ wage statements. Employees’ on-call time should have been considered hours worked, however, these hours were not paid and therefore not captured on employee wage statements, rendering the wage statements inaccurate.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “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.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

Plaintiff and the aggrieved employees were required to use their personal cell phone for work activities. They regularly needed their cell phones to communicate with dispatch. Occasionally, they received a nominal cell phone reimbursement ranging from a few cents up to a couple dollars. This is substantially less than the approximately \$100 a month Plaintiff pays for his cell phone bill.

Some examples of this nominal reimbursement are shown below:

Reimbursements				\$0.40
US Cell Phone Reimbursement				\$0.40
	Routing #	Account #	Amount	

Reimbursements				\$2.80
US Cell Phone Reimbursement				\$2.80
	Routing #	Account #	Amount	

Reimbursements				\$3.60
US Cell Phone Reimbursement				\$3.60
	Routing #	Account #	Amount	

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda

and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is written in a cursive, flowing style.

Nicholas J. Ferraro

Cc Plaintiff Nathanael Taylor

EXHIBIT 3

Plaintiffs Raymond Chavez and Dennis Crites' Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

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August 30, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Halcon Corporation
14325 West 95th Street
Lenexa, KS 66215

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Renzenberger, Inc.
PO. Box 14610
Lenexa, KS 66285

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **RAYMOND CHAVEZ AND DENNIS CRITES** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

**HALLCON CORPORATION;
RENZENBERGER, INC.**

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiffs. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiffs intend to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that

employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiffs maintain standing to pursue these claims against Defendants as an aggrieved employee.

Through this notice, Plaintiffs request that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiffs attempt to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiffs’ counsel to protect the interests of Plaintiffs, the aggrieved employees, and the State of California via the LWDA. Plaintiffs advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff Chavez during the PAGA Period in the position of Lead Driver from about May 2017 to March 2022 and again from October 2023 to Present.

Defendants employ Plaintiff Crites during the PAGA Period in the position of Driver from about April 2018 to Present.

During their employment Plaintiffs and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiffs inform the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiffs and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiffs reserve the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiffs seek all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage **Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiffs and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

Plaintiffs and other aggrieved employees were required by Defendants to be on-call 24 hours a day for a minimum of 5 days a week. Plaintiffs and the aggrieved employees were not paid unless they were called in, despite being under the control and restriction of Defendants during this time. Defendants failed to compensate Plaintiff and the aggrieved employees for the time they were required to be on-call.

Plaintiffs and the aggrieved employees faced discipline if they failed to answer Defendants’ call during the designated on-call time. Additionally, Plaintiffs and the aggrieved employees were required to stay relatively close to home while being on-call, in case they were called in and had to leave swiftly. These destinations would typically be 30 minutes away from the nearest town where Plaintiffs and many other aggrieved employees lived, giving employees very little time to respond and restricting their ability to leave home or engage in personal activities such as grocery shopping, going to dinner, running errands, etc. Because Defendants exercised control over and placed the above restrictions on Plaintiffs and the aggrieved

employees, they should have paid them at least minimum wage for the on-call time, but failed to do so.

Additionally, Plaintiff Crites and, on information and belief, the other aggrieved employees experienced unpaid hours worked when their trips exceeded the Defendant's estimated trip window and Plaintiff, and the aggrieved employees had to call the dispatch center and remain on hold for up to 20 to 30 minutes of unpaid time to get their hours adjusted to reflect all hours worked. This routinely occurred when Plaintiffs and the aggrieved employees took a compliant meal period. Defendants discouraged Plaintiffs and the aggrieved employees from taking meal periods by forcing them to undergo an additional 20-30 minutes of unpaid time on hold to get their hours adjusted.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the "Hours and Days of Work" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;" and "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 for an employee;" and "any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the "Hours and Days of Work" sections.

Defendants failed to pay Plaintiffs and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages

First, to the extent that this off-the-clock work resulted in unpaid hour worked over 8 hours in day or 40 hours in a week, this resulted in unpaid overtime.

Second, Defendants failed to pay overtime at the regular rate of pay. Plaintiffs and the aggrieved employees earned non-discretionary bonuses, shift differentials, and other forms of additional remuneration in the regular rate of pay. When Plaintiffs and the aggrieved employees earned non-discretionary bonuses or other forms of non-excludable remuneration in the same pay period they earned overtime, Defendant failed to properly pay overtime at the regular rate of pay. Instead, Defendant paid overtime at a deficient rate, violating the Labor Code accordingly.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California's paid sick leave laws with respect to the aggrieved employees. Plaintiffs allege on information and belief that to the extent Defendants paid sick leave wages to employees, Defendants failed to pay the sick leave at the regular rate of pay. Specifically, Plaintiffs are informed and believes that Defendants failed to include shift differentials and other non-discretionary payments in the calculation of paid sick leave and instead paid sick leave at employees' base hourly rate. Furthermore, to the extent Defendants provided PTO in lieu of sick leave, Defendants were nonetheless required to pay PTO used or sick leave purposes at the regular rate of pay, but failed to do so.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Vacation Wages
Violation of Labor Code § 227.3

Defendants violated Labor Code section 227.3 with respect to the aggrieved employees.

Labor Code section 227.3 requires "whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination."

Defendants maintained an unlawful policy and practice of failing to pay all accrued and unused vacation wages upon separation of employment at the lawful rate of pay, resulting in forfeiture of vested vacation time and wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed,

short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiffs and the aggrieved employees often experienced a missed, shortened, or interrupted meal periods due to understaffing and the nature of the job. In order to get to certain destinations in time, Plaintiffs and the aggrieved employees were not able to pull off the road to take a duty-free meal period of at least 30 minutes. Therefore, Defendants owe Plaintiffs and other aggrieved employees the balance of the unpaid meal period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations. Plaintiffs' time records demonstrate liability, as illustrated below:

To the extent any meal period premiums were paid, Plaintiffs alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration. Plaintiffs and the aggrieved employees were paid a different rate whether they were making a regular load drive or whether they were making an "administrative drive" which is when they take the truck to get maintenance done. Plaintiffs and the aggrieved employees also earned shift differential pay. Defendants failed to properly calculate Plaintiffs' premium pay by failing to include the different hourly pay and shift differential pay into Plaintiffs' meal period premium pay as illustrated below:

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiffs and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

As discussed above with respect to meal periods, Plaintiffs and the aggrieved employees were unable to take a rest period for the same reasons they were unable to take a meal period. Similarly, Defendants also failed to pay Plaintiffs and the aggrieved employees a rest period premium for the rest period violations. Defendants simply maintained a steadfast policy and practice of not paying rest period premiums, despite California's lawful mandate. Therefore, Defendants owe Plaintiffs and other aggrieved employees the balance of the unpaid rest period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations.

To the extent any meal period premiums were paid, Plaintiffs alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration, based on the same practice illustrated above with respect to meal period premiums.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiffs and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Due to the Defendant’s failure to properly pay Plaintiffs and the aggrieved employees all wages owed for the hours worked and at the lawful rates, Defendants failed to timely pay Plaintiffs and the aggrieved employees their wages.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Defendants also violated section 226(a)(2) by failing to list the correct hours worked on Plaintiffs and the aggrieved employees’ wage statements. Employees’ on-call time should have been considered hours worked, however, these hours were not paid and therefore not captured on employee wage statements, rendering the wage statements inaccurate.

Plaintiffs and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or

information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiffs and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “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.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiffs and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiffs and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

Plaintiffs and the aggrieved employees were required to use their personal cell phone for work activities. They regularly needed their cell phones to communicate with dispatch. Occasionally, they received a nominal cell phone reimbursement ranging from a few cents up to a couple dollars. This is substantially less than the approximately \$100 a month Plaintiffs pays for his cell phone bill.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiffs and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiffs may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiffs have been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiffs continue to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiffs and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiffs intend to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiffs' counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Nicholas J. Ferraro

Cc Plaintiff Raymond Chavez
 Plaintiff Dennis Crites

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