

JAMIE K. SERB, ESQ. (SBN 289601)

jamie@crosnerlegal.com

BRANDON BROUILLETTE, ESQ. (SBN 273156)

bbrouillette@crosnerlegal.com

ZACHARY M. CROSNER, ESQ. (SBN 272295)

zach@crosnerlegal.com

CROSNER LEGAL, PC

9440 Santa Monica Blvd. Suite 301

Beverly Hills, CA 90210

Tel: (866) 276-7637

Fax: (310) 510-6429

Attorneys for Plaintiff APRIL LUCKETT

on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

APRIL LUCKETT, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

ABSOLUTE INTERNATIONAL
SECURITY INC, a California Corporation;
and DOES 1-100, inclusive,

Defendants.

Case No.: **CVME2404348**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, APRIL LUCKETT, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 ABSOLUTE INTERNATIONAL SECURITY INC, a California Corporation; and DOES 1-100,
4 inclusive (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
5 believes and thereon alleges as follows:

6 **INTRODUCTION**

7 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
8 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
9 Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties (75%
10 payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
11 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

12 **JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
14 California statutes, including but not limited to the PAGA, and decisional law and regulations.

15 3. Venue is proper in this judicial district and the County of Riverside pursuant to
16 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
17 this judicial district and conduct alleged by PLAINTIFF herein occurred in this judicial district. *See*
18 *also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a
19 PAGA action is proper in any county where the defendants committed Labor Code violations against
20 some of its employees). Venue is also proper pursuant to section 393 of the California Code of Civil
21 Procedure because the cause, or some part of the cause, arose in the County of Riverside.

22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California.

25 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
26 title(s) of security guard and/or a similar title(s) and/or job position(s) from in or around February
27 2023 through in or around July 2024. DEFENDANTS assigned PLAINTIFF to work at including
28 but not limited to, DEFENDANTS’ posts, facilities and/or other locations in including but not

1 limited to, Hemet, California.

2 6. Defendant ABSOLUTE INTERNATIONAL SECURITY INC is a California
3 Corporation that, at all relevant times, was authorized to do business within the State of California
4 and is doing business in the State of California.

5 7. DEFENDANTS own, operate, manage and/or staff its employees to work at the
6 posts, offices, facilities and/or other location(s) in California, including but not limited to the posts,
7 offices, facilities and/or other locations in including but not limited to, Hemet, California, and other
8 cities throughout California. DEFENDANTS have operated business and/or operate business under
9 including but not limited to, the following name(s): “Absolute International Security” and/or
10 “Absolute Security International.” DEFENDANTS, through its various locations, serve the security
11 services industry.¹

12 8. The true names and capacities of the DOE Defendants sued herein as DOES 1
13 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
14 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
15 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
16 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
17 become known.

18 9. PLAINTIFF is further informed and believes that, at all relevant times, each
19 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
20 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
21 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
22 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
23 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
24 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
25 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
26 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
27 controlled, aided and abetted the conduct of all other Defendants.

28 ¹ See <https://www.absolutesecurityintl.com/>. Last visited on October 23, 2024.

1 **JOINT LIABILITY**

2 10. Under California law, the definition of the terms “to employ” are broadly construed
3 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
4 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
5 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
6 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
7 was to reach situations in which multiple entities control different aspects of the employment
8 relationship. Supervision of the work, in the specific sense of exercising control over how services
9 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
10 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
11 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
12 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
13 California, applying a less stringent standard to what constitutes sufficient control by a business
14 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
15 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
16 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
17 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
18 employment,” *Id.* at 875 [emphasis added].

19 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
20 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
21 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
22 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
23 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)
24 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
25 PLAINTIFF and Aggrieved Employees to work for them.

26 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
27 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
28 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices

1 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
2 policies and practices regardless of the location(s) where they worked. Among other things,
3 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
4 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
5 over the day-to-day operations and employment matters, including the power to hire and fire, set
6 schedules, issue employee policies, and determine rates of compensation across its locations in
7 California; (3) DEFENDANTS utilize the same policies and procedures for all California
8 employees, including issuing the same employee handbooks and other form agreements; (4)
9 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
10 employment matters; and, (6) DEFENDANTS share employees.

11 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant to
12 this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
13 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
14 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
15 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
16 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
17 Employees.

18 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
19 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
20 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
21 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
22 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
23 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
24 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
25 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
26 and Aggrieved Employees' employment with or without cause. Upon information and belief,
27 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
28 writing the details of their compensation, and the manner in which they were to take meal and rest

1 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
2 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
3 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

4 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
5 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
6 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
7 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
8 PLAINTIFF seeks relief in this Complaint.

9 16. By reason of their status as joint employers of PLAINTIFF and Aggrieved
10 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
11 Code and applicable Wage Orders as to all Aggrieved Employees.

12 **PAGA ALLEGATIONS**

13 17. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
14 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
15 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include the
16 following:

17 All current and former non-exempt employees that worked either directly or via a
18 staffing agency for any one or more DEFENDANTS at any location in California at
19 any time from one year plus 65 days from the filing of the initial Complaint through
20 the present ("PAGA Period").

21 18. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
22 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
23 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,
24 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the
25 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has
26 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
27 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
28 violations.

1 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

2 19. PLAINTIFF, on August 19, 2024, through counsel, gave written notice by online
3 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
4 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
5 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
6 certified mail.

7 20. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
8 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
9 Employees.

10 21. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
11 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
12 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
13 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
14 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

15 22. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
16 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
17 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

18 **FACTUAL ALLEGATIONS**

19
20 23. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
21 title(s) of security guard and/or a similar title(s) and/or job position(s) from in or around February
22 2023 through in or around July 2024.

23 24. DEFENDANTS assigned PLAINTIFF to work at including but not limited to,
24 DEFENDANTS’ posts, facilities and/or other locations in including but not limited to, Hemet,
25 California.

26 25. PLAINTIFF regularly worked at least approximately eight (8) to ten (10) hours per
27 day, at least five (5) days per week.

28 26. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an

1 hourly basis for time counted by DEFENDANTS as hours worked.

2 27. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
3 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
4 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
5 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
6 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
7 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
8 below.

9 28. Based on information and belief, DEFENDANTS implemented a policy and/or
10 practice of rounding meal period start and end times and/or automatically deducting at least thirty
11 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
12 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
13 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
14 PLAINTIFF and Aggrieved Employees of all wages owed.

15 29. Based on information and belief, Aggrieved Employees were not paid for all hours
16 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
17 worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

18 30. For example, based on information and belief, Aggrieved Employees were also
19 required to complete off-the-clock work outside of scheduled shifts due to, including but not limited
20 to, work-related phone calls and/or messages they received to their phones and were required to
21 respond to outside of their scheduled shift times, including but not limited to, communications from
22 supervisors and/or other Aggrieved Employees regarding scheduling and/or other work tasks,
23 resulting in the underpayment of wages owed to Aggrieved Employees.

24 31. For example, DEFENDANTS required PLAINTIFF to send and/or receive off-the-
25 clock work-related communications outside of PLAINTIFF's scheduled shift time(s), including but
26 not limited to, prior to clocking in for PLAINTIFF's shift(s), after clocking out for the end of
27 PLAINTIFF's shift(s), during unpaid meal periods and/or otherwise outside of PLAINTIFF's
28 scheduled shift times, however, DEFENDANTS did not compensate PLAINTIFF for any/all time

1 spent engaging in off-the-clock work-related communications, resulting in DEFENDANTS' failure
2 to compensate PLAINTIFF for all hours worked and the underpayment of wages owed to
3 PLAINTIFF.

4 32. Based on information and belief, at times, Aggrieved Employees were required to
5 either reinitiate and/or otherwise troubleshoot DEFENDANTS' timekeeping/electronic
6 system(s)/app(s) and/or wait for the system/app to boot prior to being able to clock in and/or were
7 unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting
8 in off-the-clock work and the underpayment of wages owed to Aggrieved Employees. Based on
9 information and belief, Aggrieved Employees experienced the same issues when clocking out for
10 shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was not
11 recorded and not compensated and resulted in unpaid minimum wages owed to Aggrieved
12 Employees.

13 33. Based on further information and belief, Aggrieved Employees were not paid for
14 additional pre-shift and/or post-shift off-the-clock work, work during unpaid meal periods and/or
15 other work outside their scheduled shift times, including but not limited to, all time spent traveling
16 between assigned job sites/work locations, all time spent bestowing personal items in and/or
17 retrieving personal items from employee lockers and/or storage areas, all time spent compiling,
18 retrieving, maintaining and/or returning work equipment/tools and/or all time spent donning and
19 doffing uniforms/work clothing/personal protective/safety gear (e.g., protective vests, hats, face
20 masks, gloves, work boots and/or other mandated work clothing/gear) during meal periods, before
21 the start of a scheduled shift, and after completing a scheduled shift resulting in the underpayment
22 of wages owed to Aggrieved Employees.

23 34. Moreover, based on information and belief, DEFENDANTS failed to pay
24 PLAINTIFF and/or other Aggrieved Employees split shift premium wages when they worked split
25 shifts during the relevant period. For example, based on information and belief, at times,
26 DEFENDANTS required PLAINTIFF and/or other Aggrieved Employees to work two separate
27 shifts in the same day. Based on information and belief, DEFENDANTS failed to pay PLAINTIFF
28 and/or other Aggrieved Employees split shift compensation whenever PLAINTIFF's and/or other

1 Aggrieved Employees' work schedules were interrupted by non-paid non-working periods
2 established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See
3 section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay
4 at the minimum wage shall be paid in addition to the minimum wage for that workday...). See, also,
5 Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the
6 minimum wage shall be paid in addition to the minimum wage for that workday, except when the
7 employee resides at the place of employment). DEFENDANTS also failed to separately itemize
8 these split shift premium wages on PLAINTIFF's and/or other Aggrieved Employees' wage
9 statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders.
10 See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium
11 payment on the pay stub provided to the employee, and it should be shown as a separate category
12 such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus,
13 etc. DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF
14 and/or other Aggrieved Employees on their wage statements.

15 35. Based on information and belief, DEFENDANTS failed to pay Aggrieved
16 Employees for time they were required to spend completing orientation, policy questionnaires,
17 and/or time spent completing the onboarding process including but not limited to reviewing various
18 documents and policies provided by DEFENDANTS. Based on information and belief, this work
19 time was completed off-the-clock and was not compensated.

20 36. Based on information and belief, DEFENDANTS implemented a time-rounding
21 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
22 compensable time because the time-rounding system implemented by DEFENDANTS would
23 almost always, if not always, result in understating actual compensable work time.

24 37. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
25 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
26 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
27 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
28 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than

1 forty (40) hours in a week.

2 38. Based on information and belief, DEFENDANTS had actual and/or constructive
3 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
4 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
5 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
6 of California's minimum and overtime wage laws.

7 39. Based on information and belief, DEFENDANTS calculated the owed overtime
8 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
9 based on the minimum wage established for the cities and/or counties within which Aggrieved
10 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
11 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
12 above the California minimum wage rate.

13 40. Based on information and belief, DEFENDANTS failed and continue to fail to pay
14 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
15 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
16 a work week, in violation of California's overtime laws.

17 41. Based on further information and belief, DEFENDANTS implemented a time-
18 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
19 Employees of compensable time because the time-rounding system implemented by
20 DEFENDANTS would almost always, if not always, result in understating actual compensable work
21 time.

22 42. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
23 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
24 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
25 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
26 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
27 forty (40) hours in a week.

28 43. Based on information and belief, DEFENDANTS had actual and/or constructive

1 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
2 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
3 underpayment of minimum wages owed to PLAINTIFF and other Aggrieved Employees, in
4 violation of California's minimum and overtime wage laws.

5 44. Based on information and belief, DEFENDANTS failed and continue to fail to pay
6 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
7 in a week.

8 45. Based on information and belief, DEFENDANTS failed and continue to fail to pay
9 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
10 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
11 a work week, in violation of California's overtime laws.

12 46. Based on information and belief, DEFENDANTS failed to incorporate all non-
13 discretionary remuneration, including but not limited to, shift differential pay, piece
14 rate/commission compensation, bonus pay/incentive pay, multiple base rates of pay and/or other
15 non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
16 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
17 Aggrieved Employees.

18 47. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
19 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
20 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
21 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
22 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
23 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
24 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
25 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
26 completely.

27 48. For example, based on information and belief, DEFENDANTS required Aggrieved
28 Employees to monitor work communication device(s)/work phone(s) and/or remain at their assigned

1 post(s)/tethered to their workstations during unpaid purportedly off-duty meal periods, resulting in
2 DEFENDANTS' failure to relieve PLAINTIFF of all duties and DEFENDANTS' control during
3 unpaid meal periods and therefore consistently denied meal periods and the underpayment of wages
4 owed to PLAINTIFF.

5 49. For example, DEFENDANTS required PLAINTIFF to remain on DEFENDANTS'
6 premises/at PLAINTIFF's assigned post as well as monitor a work phone/mobile device and respond
7 to work-related communications while clocked out for meal periods, resulting in consistently denied
8 meal periods as well as DEFENDANTS' failure to compensate PLAINTIFF for all hours worked
9 and the underpayment of wages owed to PLAINTIFF.

10 50. Based on information and belief, other Aggrieved Employees were consistently
11 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
12 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
13 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
14 the need to meet DEFENDANTS' goals and expectations.

15 51. Based on information and belief, DEFENDANTS implemented policies and/or
16 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
17 during unpaid meal periods.

18 52. Based on information and belief, DEFENDANTS required Aggrieved Employees to
19 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
20 into account when scheduling meal periods for Aggrieved Employees. Based on information and
21 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

22 53. Based on information and belief, despite DEFENDANTS' failure to provide lawful
23 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
24 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
25 deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite
26 having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved Employees did
27 not receive lawful meal periods.

28 54. Moreover, per DEFENDANTS' uniform policy and practice, Aggrieved Employees

1 who worked shifts of more than ten hours did not receive a second legally compliant thirty (30)
2 minute second meal period. For example, when PLAINTIFF worked more than ten (10) and/or
3 twelve (12} hours in a shift, PLAINTIFF was typically, if not always, denied a second legally
4 compliant meal period.

5 55. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
6 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
7 information and belief, DEFENDANTS did not have a written meal period policy, nor did
8 DEFENDANTS have any sort of compliant policy in practice.

9 56. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
10 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
11 Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
12 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
13 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
14 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

15 57. Based on information and belief, DEFENDANTS had actual and/or constructive
16 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
17 were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
18 violation of California's meal period laws.

19 58. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
20 additional hour of wages at their respective regular rates of compensation for each workday a lawful
21 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
22 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
23 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
24 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
25 compensation for purposes of calculating the owed meal period premium.

26 59. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
27 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
28 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the

1 middle of the work period, as required by law.

2 60. PLAINTIFF and other Aggrieved Employees were not adequately informed,
3 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
4 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
5 the taking of duty-free rest periods.

6 61. Based on information and belief, DEFENDANTS did not have a have a compliant
7 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
8 practice.

9 62. For example, based on information and belief, DEFENDANTS required Aggrieved
10 Employees to monitor work communication device(s)/work phone(s) and/or remain at their assigned
11 post(s)/tethered to their workstations during any rest periods, in violation of California rest period
12 law.

13 63. For example, DEFENDANTS required PLAINTIFF to remain on DEFENDANTS'
14 premises/at PLAINTIFF's assigned post as well as monitor a work phone/mobile device and respond
15 to work-related communications during any rest periods.

16 64. As such, PLAINTIFF was rarely, if ever, relieved of all duties and DEFENDANTS'
17 control during any rest periods, resulting in consistently denied rest periods.

18 65. Based on information and belief, DEFENDANTS did not pay PLAINTIFF any rest
19 period premiums during PLAINTIFF's employment and/or did not pay PLAINTIFF a proper rest
20 period premium for each missed and/or otherwise legally non-compliant rest period.

21 66. Based on information and belief, Aggrieved Employees' rest periods were
22 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
23 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring
24 them to skip rest periods completely or otherwise take non-compliant rest periods.

25 67. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
26 lasting longer than ten hours.

27 68. Based on information and belief, DEFENDANTS implemented policies and/or
28 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and

1 DEFENDANTS' control during rest periods.

2 69. Based on information and belief, Aggrieved Employees were pressured to complete
3 their work duties according to a designated schedule such that rest periods were only taken once
4 tasks were completed, and/or as time permitted.

5 70. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
6 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
7 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
8 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
9 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
10 shift differential pay, and/or other non-discretionary compensation into the regular rate of
11 compensation for purposes of calculating the owed rest period premium.

12 71. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
13 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
14 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
15 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
16 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
17 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
18 applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate by the employee.

20 72. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
21 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
22 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
23 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
24 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
25 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
26 other off-the-clock work policies and practices) which results in a violation of Labor Code section
27 226(a).

28 73. As described herein, based on information and belief, DEFENDANTS also failed to

1 incorporate all forms of non-discretionary compensation earned during the pay period into the
2 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
3 of overtime worked by PLAINTIFF and other Aggrieved Employees.

4 74. Based on information and belief, wage statements issued by DEFENDANTS failed
5 to list all applicable hourly rates in effect during the pay period and the corresponding number of
6 hours worked at each hourly rate by the employee, in violation of including but not limited to, Labor
7 Code section 226(a)(9).

8 75. Based on information and belief, DEFENDANTS issued wage statements to
9 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
10 226(a)(4).

11 76. For example, as explained herein, DEFENDANTS regularly failed to reimburse
12 PLAINTIFF for business expenses, incurred by PLAINTIFF each pay period, thereby deducting
13 business costs from PLAINTIFF's earned wages each pay period, in violation of including but not
14 limited to, Labor Code Section 221, and further failing to itemize these deductions for business
15 costs, on PLAINTIFF's wage statements, in violation of Labor Code Section 226(a)(4).

16 77. Based on information and belief, wage statements issued by DEFENDANTS failed
17 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

18 78. For example, based on information and belief, at times, DEFENDANTS issued wage
19 statements to Aggrieved Employees containing payment for hours worked during previous pay
20 periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate
21 pay period for that pay, further failing to list the total hours worked for the pay period, including but
22 not limited to, the total hours worked for the pay period the pay corresponds with, in violation of
23 including but not limited to, Labor Code section 226(a)(2) and/or 226(a)(6).

24 79. Separately, and independent from the above allegations, based on information and
25 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
26 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
27 entity that is the employer.

28 80. For example, DEFENDANTS issued wage statement(s) to PLAINTIFF that identify

1 "Absolute Security International, Inc." as the name of the legal entity that is PLAINTIFF's employer.
2 However, based on information and belief, an entity by the name identified on PLAINTIFF's wage
3 statement(s) does not exist. As such, DEFENDANTS issued wage statements to PLAINTIFF that
4 fail to identify the correct name of the legal entity that is PLAINTIFF's employer, in violation of
5 Labor Code section 226(a)(8).

6 81. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
7 Employees that were not accurate and did not include all of the statutorily required information. As
8 such, DEFENDANTS violated Labor Code section 226.

9 82. **Unreimbursed Business Expenses.** Based on information and belief,
10 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
11 direct consequence of the performance of their job duties without providing reimbursement, in
12 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved
13 Employees were improperly required to provide and maintain work tools that are supposed to be the
14 responsibility of the employer.

15 83. Based on information and belief, DEFENDANTS shifted the costs of doing business
16 onto PLAINTIFF and other Aggrieved Employees requiring them to pay for business expenses,
17 including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and
18 the use of Aggrieved Employees' personal vehicles and/or personal cell phones/mobile devices,
19 internet and/or data usage for work related purposes, including but not limited to, to receive and
20 respond to work related messages and/or phone calls. For example, based on information and belief,
21 Aggrieved Employees were required to receive and respond to work-related calls and/or messages
22 from including but not limited to supervisors and/or other Aggrieved Employees regarding
23 scheduling and/or other work tasks and/or were required to download and use work-related
24 applications on their personal cell phones/mobile devices but were not reimbursed by
25 DEFENDANTS at all and/or in full for these business expenses.

26 84. For example, DEFENDANTS required PLAINTIFF to use her personal cell
27 phone/mobile device(s) for work purposes including but not limited to, for downloading and using
28 work-related applications (e.g., employee timekeeping applications, e.g., E-hub, and/or other work-

1 related applications), however, DEFENDANTS did not provide PLAINTIFF with any and/or full
2 reimbursement for these business expenses PLAINTIFF incurred in connection with being required
3 to use her personal cell phone/mobile device(s) for work, including but not limited to, increased data
4 plan charges.

5 85. As explained above, based on information and belief, Aggrieved Employees were
6 not reimbursed for the cost of using their personal vehicle(s) and/or personal phone(s)/mobile
7 device(s) for work-related purposes and/or the cost of purchasing and/or maintaining work
8 uniforms/work clothing/work shoes, personal protective/safety gear.

9 86. Based on information and belief, DEFENDANTS regularly failed to reimburse and
10 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
11 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
12 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
13 assigned by DEFENDANTS.

14 87. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
15 for all reasonable expenses associated with carrying out their duties required that Aggrieved
16 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
17 2802.

18 88. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
19 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
20 were due and owing upon termination or resignation. Based on information and belief,
21 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
22 requirements of Labor Code sections 201-202.

23 89. Upon separation of employment, Aggrieved Employees' final paychecks were not
24 timely provided, and/or were not timely provided with all owed vacation pay/ and/or paid time off
25 and/or did not include all wages owed.

26 90. For example, DEFENDANTS failed to furnish PLAINTIFF with any final paycheck
27 for at least approximately six (6) days following PLAINTIFF's date of termination, and
28 PLAINTIFF's late final paycheck was devoid of all wages owed including but not limited to, all

1 owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or
2 paid time off wages at the properly accrued rates (including but not limited to, all owed vacation
3 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
4 limited to, shift differentials).

5 91. For example, PLAINTIFF's employment with DEFENDANTS terminated on or
6 around July 14, 2024, however, DEFENDANTS' final paycheck for PLAINTIFF is dated is July
7 19, 2024, at least five (5) days following PLAINTIFF's date of termination, and PLAINTIFF's late
8 final paycheck is devoid of all wages owed, including but not limited to, all owed minimum wages,
9 overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at
10 the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at
11 the final rate including non-discretionary compensation, including but not limited to, shift
12 differentials).

13 92. For example, DEFENDANTS failed to pay PLAINTIFF all owed paid time off
14 and/or failed to pay PLAINTIFF all paid time off at the properly accrued rate(s).

15 93. As such, DEFENDANTS violated Labor Code sections 201 and/or 202, subjecting
16 DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256.

17 94. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
18 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
19 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
20 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
21 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
22 limited to, any owed shift differentials) to Aggrieved Employees upon separation of employment,
23 in violation of California law, including but not limited to, Labor Code section 227.3.

24 95. For example, as explained herein, DEFENDANTS failed to pay PLAINTIFF all
25 owed paid time off and/or failed to pay PLAINTIFF all paid time off at the properly accrued rate(s).

26 96. **Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
27 employee who is discharged shall be paid at the place of discharge, and every employee who quits
28 shall be paid at the office or agency of the employer in the county where the employee has been

1 performing labor. All payments shall be made in the manner provided by law.

2 97. Based on information and belief, DEFENDANTS have a policy and practice of
3 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
4 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
5 office or agency of DEFENDANTS in the county where the work was performed, in violation of
6 Labor Code Section 208.

7 98. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
8 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
9 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
10 from Aggrieved Employees paychecks during the relevant period including without limitation,
11 deducting tips/gratuities and/or business costs from Aggrieved Employees’ earned wages.

12 99. For example, as explained herein, DEFENDANTS regularly failed to reimburse
13 PLAINTIFF for business expenses incurred by PLAINTIFF each pay period, thereby deducting
14 business costs from PLAINTIFF’s earned wages each pay period, in violation of including but not
15 limited to, Labor Code Section 221, and further failing to itemize these deductions for business
16 costs, on PLAINTIFF’s wage statements, in violation of Labor Code section 226(a)(4).

17 100. Such a practice is in violation of including but not limited to, Labor Code Sections
18 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

19 101. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
20 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
21 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
22 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
23 required by law, including but not limited to the following records: total daily hours worked,
24 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
25 began and ended each work period, time records of meal periods, and accurate itemized wage
26 statements.

27 102. DEFENDANTS have failed and continue to fail to keep accurate and complete
28 records showing total hours worked by virtue of DEFENDANTS’ time rounding, automatic meal

1 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
2 employer control during unpaid meal periods, failure to record the true start and end times of meal
3 periods, shift start times and shift end times, and other off-the-clock work policies and practices
4 described herein.

5 103. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
6 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
7 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
8 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
9 accrued sick leave hours on the correct number of hours worked (as a result of the
10 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
11 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
12 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
13 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
14 compensation into the sick leave pay rate calculation.

15 104. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
16 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
17 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
18 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
19 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
20 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
21 used sick leave and the balance of paid sick leave.

22 105. Based on information and belief, throughout the relevant time period,
23 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
24 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
25 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
26 prior to their respective separations, for as on several occasions thereafter, he or she would have
27 been entitled to use the banked sick leave and earn appropriate compensation.

28 106. Upon information and belief, DEFENDANTS failed and continue to fail to comply

1 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
2 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
3 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
4 wages.

5 107. As such, DEFENDANTS have violated California's paid sick leave laws and
6 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
7 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
8 unlawful practices and policies violate Labor Code sections 245-248.5.

9 108. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
10 provides as follows:

11 109. (A) Each workday an employee is required to report for work and does report, but is
12 not put to work or is furnished less than half said employee's usual or scheduled day's work, the
13 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
14 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
15 than the minimum wage. (B) If an employee is required to report for work a second time in any one
16 workday and is furnished less than two (2) hours of work on the second reporting said employee
17 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
18 minimum wage.

19 110. Aggrieved Employees were not paid reporting time wages in accordance with
20 California law, including but not limited to the applicable IWC Wage Order. For example, based on
21 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but
22 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
23 in accordance with California law.

24 111. Based on information and belief, DEFENDANTS have a policy and practice of
25 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
26 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
27 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
28 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

1 **112. Unlawful Agreements-Unlawful Criminal History Inquiries.**

2 Unlawful Agreements.

3
4 113. Labor Code section 432.5 provides that “no employer...shall require any employee
5 or applicant for employment to agree, in writing, to any term or condition which is known by such
6 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
7 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
8 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
9 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
10 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
11 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
12 employment in violation of Labor Code section 432.5.

13 114. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
14 employment, continued employment, or the receipt of any employment-related benefit, require any
15 applicant for employment or any employee to waive any right...”Based on information and belief,
16 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
17 signed as a condition of employment, including but not limited to, during the onboarding process.
18 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
19 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
20 invalid waivers are otherwise unlawful under Labor Code section 432.6.

21 115. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
22 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
23 432.5.

24 Unlawful Inquires into Criminal History

25
26 116. Labor Code section 432.7 prohibits an employer from asking applicants about past
27 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
28

1 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
2 convictions on its employment application, in violation of California law.

3 117. Upon information and belief, DEFENDANTS, in violation of California law,
4 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
5 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
6 employment and/or otherwise impermissibly inquired into criminal history on its employment
7 application in violation of California law, and in violation of Labor code section 432.5.

8 118. **Violation of Labor Code Section 432.6.** Based on information and belief,
9 DEFENDANTS require/required Aggrieved Employees to waive their right to first and/or second
10 meal periods as a condition of working for DEFENDANTS in violation of California law. As such,
11 DEFENDANTS violated including but not limited to, Labor Code section 432.6 by virtue of
12 including but not limited to, requiring Aggrieved Employees to sign invalid meal period waivers as
13 a condition of employment and/or for threatening, retaliating and/or discriminating against and/or
14 terminating Aggrieved Employees because of their refusal to waive their meal period rights.

15 119. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
16 engaged in these same herein described unlawful practices, which led to violations of the California
17 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
18 unlawful practices to all of its employees that it applied to PLAINTIFF.

19 **FIRST CAUSE OF ACTION**
20 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
21 **2698, *ET SEQ.***
22 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
23 **Defendants)**

24 120. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

25 **Failure to Keep Accurate Records**

26 121. California Labor Code § 1174 requires employers to keep “accurate and complete”
27 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
28 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
times during which all owed meal periods were provided each day.

122. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate

1 and complete records as required by law, including but not limited to the following records: total
2 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
3 Aggrieved Employees began and ended each work period, time records of meal periods, and
4 accurate itemized wage statements.

5 123. DEFENDANTS' failure to keep "accurate and complete" payroll records for
6 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
7 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
8 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
9 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
10 period during which the referenced statutes and Wage Order provisions were violated.²

11 **Meal Period Violations**

12 124. California law requires employers to provide employees a duty-free, uninterrupted
13 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
14 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
15 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
16 *Court* (2012) 53 Cal.4th 1004.

17 125. Employers must also provide employees with a second duty-free, uninterrupted thirty
18 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
19 be provided before the end of the 10th hour of work. *Ibid.*

20 126. Employers covered by any and all applicable IWC Wage Orders have an obligation
21 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
22 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
23 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
24 ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
25 section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a
26 rebuttable presumption arises that the employee was not relieved of duty and no meal period was

27 _____
28 ² Labor Code § 2699(f)

1 provided”).

2 127. Employers must pay employees an additional hour of wages at the employees’
3 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
4 meal period, first meal period provided after five (5) hours, second meal period provided after 10
5 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
6 provide an employee a meal period in accordance with the applicable provision of this Order, the
7 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
8 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

9 128. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
10 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
11 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
12 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
13 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
14 periods completely.

15 129. Based on information and belief, DEFENDANTS had and continue to have a policy
16 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
17 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
18 Aggrieved Employees did not receive compliant meal periods.

19 130. Moreover, based on information and belief, Aggrieved Employees did not receive a
20 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

21 131. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
22 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
23 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
24 violation of California's meal period laws.

25 132. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
26 periods in violation of California law and/or failed to pay the proper meal period premium for failure
27 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
28 differential pay and/or other non-discretionary compensation into the regular rate or compensation

1 for purposes of calculating the owed meal period premium.

2 133. These unlawful meal period policies and practices result in violations of Labor Code
3 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
4 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
5 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
6 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

7 **Rest Period Violations**

8 134. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
9 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
10 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
11 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
12 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
13 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
14 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
15 1029). The rest period requirement obligates employers to permit and authorize employees to take
16 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
17 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
18 257. If the employer fails to provide any required rest period, the employer must pay the employee
19 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
20 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
21 applicable IWC Wage Order, §12(B).

22 135. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
23 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
24 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
25 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
26 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
27 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
28 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in

1 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
2 “onus is on the employer to clearly communicate the authorization and permission [to take rest
3 periods] to its employees.”).

4 136. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
5 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
6 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
7 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
8 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
9 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

10 137. Based on information and belief, DEFENDANTS implemented policies and/or
11 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
12 employer control during rest periods. Based on further information and belief, Aggrieved
13 Employees were pressured to complete their work duties according to a designated schedule such
14 that rest periods were only taken once tasks were completed, and/or as time permitted.

15 138. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
16 first, second, or third rest periods as required by California law.

17 139. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
18 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
19 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
20 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
21 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
22 the regular rate of compensation for purposes of determining the owed rest period premium.

23 140. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
24 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
25 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

26
27 **Minimum and Overtime Wage Violations**

28 141. California law provides that employees in California must be paid for all hours

1 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
2 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
3 The minimum wage standard applies to each hour employees worked for which they were not paid.
4 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
5 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
6 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

7 142. California law also provides that employees in California must be paid overtime,
8 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
9 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
10 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
11 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
12 consecutive day of work in a work week. *Ibid.*

13 143. As explained above, DEFENDANTS violated California's minimum and overtime
14 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
15 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
16 start and end times and meal period start and end times), payment according to scheduled hours
17 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
18 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
19 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

20 144. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
21 Aggrieved Employees for all hours worked.

22 145. Based on information and belief, DEFENDANTS had actual or constructive
23 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
24 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
25 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
26 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
27 Employees.

28 146. Based on information and belief, DEFENDANTS calculated the owed overtime

1 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
2 based on the minimum wage established for the cities and/or counties within which Aggrieved
3 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
4 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
5 above the California minimum wage rate.

6 147. Based on information and belief, DEFENDANTS failed and continue to fail to pay
7 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
8 in a week.

9 148. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
10 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
11 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
12 violation of California's overtime laws.

13 149. Based on information and belief, DEFENDANTS further violated California's
14 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
15 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
16 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
17 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
18 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
19 other Aggrieved Employees.

20 150. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
21 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
22 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
23 Wage Orders, section 20.

24 **Statutory Wage Violations**

25 151. California Labor Code section 223 makes it unlawful for an employer to secretly pay
26 wages lower than required by statute while purporting to pay legal wages. As described above,
27 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
28 earned minimum and overtime compensation for all hours worked which resulted in the payment of

1 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
2 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
3 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
4 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
5 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
6 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
7 Labor Code § 2699(f)-(g).

8 **Refusal to Make Payment**

9 152. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
10 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
11 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
12 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
13 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
14 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
15 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
16 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

17 **Standard Conditions of Labor Violations**

18 153. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
19 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
20 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
21 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
22 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
23 minimum/overtime wages and other violations described herein result in separate violations of
24 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
25 1197.1 and 2699.

26 _____
27 ³ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 **Business Expense Violations**

2 154. California law requires employers to indemnify their employees for all necessary
3 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
4 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
5 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
6 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
7 incurred by the employee enforcing the rights granted by this section.”

8 155. Among other things, under California law, when employees must use their personal
9 cellphones for work-related purposes, the employer must reimburse them for a reasonable
10 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
11 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
12 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
13 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
14 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
15 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

16 156. Further, “any contract or agreement, express or implied, made by any employee to
17 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
18 any employee or his personal representative of any right or remedy to which he is entitled to under
19 the laws of this State.” *See* Cal. Lab. Code section 2804.

20 157. As described above, PLAINTIFF and the Aggrieved Employees were improperly
21 required to pay for business expenses that are legally the responsibility of the employer.

22 158. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
23 full reimbursement for all reasonable expenses associated with carrying out their duties required
24 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
25 expenses in violation of Labor Code section 2802.

26 159. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
27 Employees have suffered injury in that they were not completely reimbursed as mandated by
28 California law.

1 160. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
2 full reimbursement for all reasonable expenses associated with carrying out their duties required
3 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
4 expenses in violation of Labor Code section 2802.

5 161. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
6 Employees have suffered injury in that they were not completely reimbursed as mandated by
7 California law.

8 162. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
9 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
10 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
11 Code § 2802 and the applicable Wage Order.

12 **Wage Statement Violations**

13 163. California law requires every employer semi-monthly or at the time of each payment
14 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
15 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
16 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
17 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
18 is paid; (7) the name of the employee and only the last four digits of his or her social security number
19 or an employee identification number other than a social security number; (8) the name and address
20 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
21 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

22 164. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
23 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
24 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
25 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
26 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
27 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
28 effect during the pay period and the corresponding number of hours worked at each hourly rate by

1 the employee, in violation of Labor Code section 226(a)(9).

2 165. Moreover, due to violations detailed above, including but not limited to,
3 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
4 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
5 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
6 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
7 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
8 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
9 compensation earned during the pay period into the regular rate of pay for purposes of calculating
10 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
11 overtime worked by PLAINTIFF and other Aggrieved Employees.

12 166. As explained above, wage statements issued by DEFENDANTS failed to list the
13 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
14 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
15 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
16 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
17 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
18 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

19 167. Based on information and belief, wage statements issued by DEFENDANTS failed
20 to list all applicable hourly rates in effect during the pay period and the corresponding number of
21 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
22 Code section 226(a)(9).

23 168. Separately, and independent from the above allegations, based on information and
24 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
25 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
26 entity that is the employer.

27 169. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

1 170. DEFENDANTS' failure to accurately list all hours worked on all wage statements
2 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
3 Employees over whether they received all wages owed to them.

4 171. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
5 they could not easily determine whether they received all wages owed to them and whether they
6 were paid for all hours worked.

7 172. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
8 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
9 injury as they could not contact their employer regarding any question(s) they had about wages paid.

10 173. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
11 Aggrieved Employees with accurate, itemized wage statements.

12 174. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
13 Employees have suffered injury. The absence of accurate information on their wage statements has
14 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
15 mathematical computations to determine the amount of wages owed, and will cause difficulty and
16 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
17 submission of inaccurate information about wages and amounts deducted from wages to state and
18 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
19 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
20 and pay records than if DEFENDANT had complied with its legal obligations.

21 175. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
22 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
23 during which the statute provisions were violated. ⁴

24 **Unlawful Deductions**

25 176. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
26 an employee any part of wages theretofore paid by said employer to said employee." Based on
27 information and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is ~~per~~ per employee per violation").

1 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
2 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
3 Section 2699.

4 177. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
5 each pay period during which the statute provisions were violated. See Lab. Code §225.5
6 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
7 provided in this article, every person who unlawfully withholds wages due any employee in
8 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
9 to pay each employee”).

10 **Reporting Time Pay Violations**

11 178. Section 5 of all applicable IWC Wage Orders, provides as follows:

12 179. (A) Each workday an employee is required to report for work and does report, but is
13 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the
14 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two
15 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less
16 than the minimum wage. (B) If an employee is required to report for work a second time in any one
17 workday and is furnished less than two (2) hours of work on the second reporting said employee
18 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
19 minimum wage.

20 180. Aggrieved Employees were not paid reporting time wages in accordance with
21 California law, including but not limited to the applicable IWC Wage Order. For example, based on
22 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but
23 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
24 in accordance with California law.

25 181. Based on information and belief, DEFENDANTS have a policy and practice of
26 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
27 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to
28 pay all reporting time wages to Aggrieved Employees violated and continues to violate the

1 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

2 **Sick Leave Violations**

3 182. DEFENDANTS violated California's paid sick leave laws including, Labor Code
4 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
5 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
6 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
7 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
8 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
9 compensation into the sick leave pay rate calculation.

10 183. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
11 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
12 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
13 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
14 Aggrieved Employees' intelligent exercise of their paid sick leave.

15 184. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
16 their paid sick leave at least prior to their respective separations, for as on several occasions
17 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
18 compensation.

19 185. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
20 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
21 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
22 were entitled to the maximum number of hours accruable.

23 186. Upon information and belief, DEFENDANTS failed and continue to fail to comply
24 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
25 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
26 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
27 wages.

28 187. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

1 188. On information and belief, PLAINTIFF alleges that all of these practices were
2 experienced and continue to be experienced by other Aggrieved Employees.

3 189. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
4 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
5 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

6 **Failure to Pay Vested Vacation/Paid Time Off**

7 190. California Labor Code section 227.3 provides that when an employer policy provides
8 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
9 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
10 employee's final rate in accordance with such contract of employment or employer policy respecting
11 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
12 off upon termination.

13 191. Based on information and belief, DEFENDANTS had and continue to have a
14 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
15 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
16 to Aggrieved Employees upon separation of employment, in violation of California law, including
17 but not limited to, Labor Code section 227.3.

18 **Untimely Payment of Final Wages**

19 192. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
20 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
21 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
22 employee not having a written contract for a definite period quits his or her employment, his or her
23 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
24 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
25 to his or her wages at the time of quitting."

26 193. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
27 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
28 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.

1 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
2 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
3 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

4 194. Based on information and belief, upon separation of employment, Aggrieved
5 Employees' final paychecks were not timely provided, and/or were not timely provided with all
6 owed vacation pay/ and/or paid time off and/or did not include all wages owed, in violation of Labor
7 Code section 201-202. Based on information and belief, PLAINTIFF's and other Aggrieved
8 Employees' final paychecks did not include all wages owed as they are devoid of, including but not
9 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay and/or all paid
10 time off wages at the properly accrued rates (including but not limited to any owed shift differential
11 pay).

12 195. Based on information and belief, at times, Aggrieved Employees experienced breaks
13 in employment caused by DEFENDANTS whereby Aggrieved Employees would not be called in
14 for work for longer than a single pay period due to including but not limited to DEFENDANTS'
15 lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
16 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in
17 violation of including but not limited to Labor Code section 201-202.

18 196. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
19 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
20 256.

21 **Violation of Labor Code Section 208**

22 197. Labor Code Section 208 provides: Every employee who is discharged shall be paid
23 at the place of discharge, and every employee who quits shall be paid at the office or agency of the
24 employer in the county where the employee has been performing labor. All payments shall be made
25 in the manner provided by law.

26 198. Based on information and belief, DEFENDANTS have a policy and practice of
27 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
28 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the

1 office or agency of DEFENDANTS in the county where the work was performed, in violation of
2 Labor Code Section 208.

3 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

4 *Unlawful Agreements.*

5 199. Labor Code section 432.5 provides that “no employer...shall require any employee
6 or applicant for employment to agree, in writing, to any term or condition which is known by such
7 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
8 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
9 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
10 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
11 meal period waivers, unlawful commissions agreements, unlawful forum selection clauses and/or
12 choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition
13 of obtaining and/or continuing employment in violation of Labor Code section 432.5.

14 200. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
15 employment, continued employment, or the receipt of any employment-related benefit, require any
16 applicant for employment or any employee to waive any right...”Based on information and belief,
17 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
18 signed as a condition of employment, including but not limited to, during the onboarding process.
19 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
20 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
21 invalid waivers are otherwise unlawful under Labor Code section 432.6.

22 201. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
23 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
24 432.5.

25 **Unlawful Inquires into Criminal History**

26 202. Labor Code section 432.7 prohibits an employer from asking applicants about past
27 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
28 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in

1 convictions on its employment application, in violation of California law.

2 203. Upon information and belief, DEFENDANTS, in violation of California law,
3 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
4 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
5 employment and/or otherwise impermissibly inquired into criminal history on its employment
6 application in violation of California law.

7 204. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
8 Code section 432.7. By asking about convictions at the application phase or prior to extending an
9 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
10 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
11 disclose arrests and/or convictions as a condition of employment.

12 **Violation of Labor Code Section 432.6**

13 205. Based on information and belief, DEFENDANTS required Aggrieved Employees to
14 sign meal period waivers that were universally signed as a condition of employment, including but
15 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
16 under Labor Code section 432.6.

17 206. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
18 employment, continued employment, or the receipt of any employment-related benefit, require any
19 applicant for employment or any employee to waive any right...”

20 207. Labor Code Section 432.6(b) provides in pertinent part:

21 208. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
22 applicant for employment or any employee because of the refusal to the waiver of any right...”

23 209. Based on information and belief, DEFENDANTS require/required Aggrieved
24 Employees to waive their right to first and/or second meal periods as a condition of working for
25 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not
26 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
27 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
28 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their

refusal to waive their meal period rights.

210. Under the provisions of PAGA and the above mentioned Labor Code sections, including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226, 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

a. All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute, pursuant to Labor Code section 2699(a); and

b. Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).

211. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of the State of California, and all Aggrieved Employees:

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and

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4. For such other and further relief that the Court deems just and proper.

Dated: October 25, 2024

CROSNER LEGAL, PC

By: 

Jamie K. Serb, Esq.
Brandon Brouillette, Esq.
Zachary M. Crosner, Esq.
Attorneys for Plaintiff
APRIL LUCKETT