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as an aggrieved employee, and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MARK ESTRADA and RICARDO
MONTALVO, as aggrieved employees, and
on behalf of all other aggrieved employees
under the Labor Code Private Attorneys'
General Act of 2004,

Plaintiff,

v.

CAPSTONE GREEN ENERGY LLC, a
Delaware Limited Liability Company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **25STCV27757**

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

Plaintiffs MARK ESTRADA and RICARDO MONTALVO (“Plaintiffs”) or “Employees”), as aggrieved employees, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys’ General Act of 2004, alleges as follows:

JURISDICTION AND VENUE

1. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Capstone Green Energy LLC, a Delaware Limited Liability Company, and any of its respective subsidiaries or affiliated companies within the State of California (“Capstone Green”), as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with the Labor Code. Specifically, in connection with the alleged claims for failure to comply with Labor Code sections 96, 98.6, 200, 201, 201.5, 201.7, 202, 203, 203.5, 204, 204a, 205, 205.5, 210, 212, 221, 222, 223, 222.5, 226, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8, 1102.5, 1197.5, 1198, 1198.5, 1527, 3366, 3457, and 8397.4, among others, California Code of Regulations, Title 8, Sections 3395, Business and Professions Code sections 16600, 16700, and 17200, Government Code section 12952, as well as applicable Wage Orders. Plaintiffs seek to represent all employees of Capstone Green, and each of them, DOES 1 through 100, as well as their parents, subsidiaries and affiliates (hereinafter, collectively, “Defendants” or “Employer”) working within three years preceding the date of filing Notice with the LWDA and continuing past the date of the LWDA Notice filing into perpetuity (“Civil Penalty Period”). On all other claims mentioned herein, Plaintiffs seek to represent only non-exempt employees of Defendants working within the Civil Penalty Period. Collectively, those employees shall be known as “Aggrieved Employees” herein.

2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

3. Venue is proper in Los Angeles County, California pursuant to Code of Civil Procedure sections 392, et seq. because, among other things, Los Angeles County is where the

1 causes of action complained of herein arose; the county in which the employment relationship
2 began; the county in which performance of the employment contract, or part of it, between Plaintiffs
3 and Defendants was due to be performed; the county in which the employment contract, or part of
4 it, between Plaintiffs and Defendants was actually performed; and the county in which Defendants,
5 or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiffs
6 and Aggrieved Employees in Los Angeles County, and because Defendants employ Aggrieved
7 Employees in Los Angeles County.

8 4. Plaintiffs are an “aggrieved employee” under PAGA, as Plaintiffs were employed by
9 Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein,
10 even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiffs seek
11 to recover civil penalties under the Labor Code Private Attorneys General Act of 2004, codified at
12 Labor Code section 2698, *et seq.* (“PAGA”), as amended, plus reasonable attorneys’ fees and costs,
13 for Plaintiffs and all other current and former Aggrieved Employees of Defendants during the Civil
14 Penalty Period.

15 5. Specifically, Plaintiffs seek to recover PAGA civil penalties through a representative
16 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
17 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
18 PAGA allegations described herein is not required.

19 6. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections
20 96, 98.6, 200, 201, 201.5, 201.7, 202, 203, 203.5, 204, 204a, 205, 205.5, 210, 212, 221, 222, 223,
21 222.5, 226, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8, 1102.5, 1197.5,
22 1198, 1198.5, 1527, 3366, 3457, and 8397.4, among others, California Code of Regulations, Title
23 8, Sections 3395, Business and Professions Code sections 16600, 16700, and 17200, Government
24 Code section 12952, as well as applicable Wage Orders.

25 7. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
26 such as Plaintiff, on behalf of Plaintiffs and all other current and former Aggrieved s within the
27 Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures
28 specified in Labor Code section 2699.3.

1 8. On or around August 16, 2024, Plaintiffs provided written notice pursuant to Labor
2 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
3 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
4 as well as by certified mail, with return receipt requested to Defendants, and each of them.

5 9. To the extent Defendants, or either of them, previously used the notice and cure
6 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
7 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
8 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
9 conference process pursuant to section 2699.3(f).

10 10. In the event that Defendants, or either of them, is/are determined to have satisfied
11 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
12 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
13 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

14 11. In the event that Defendants, or either of them, is/are determined to have, prior to
15 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from
16 Plaintiffs and/or their counsel, adequately taken all reasonable steps to be in compliance with all
17 provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to
18 section 2699(g)(1)-(3).

19 12. In the event that Defendants, or either of them is/are deemed to have adequately taken
20 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
21 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
22 Code section 2699(h)(1)-(3).

23 13. Plaintiffs are further informed and believes that within five (5) years of any of
24 violations described above, the LWDA or a court has issued a finding or determination to the
25 Defendants, or either of them, that its/their policy or practice giving rise to such violations was
26 unlawful, and thus Defendants, or any of them, is/are further liable for civil penalties pursuant to
27 Labor Code section 2699(f)(2)(B)(i). Plaintiffs are informed that Defendants, or any of them,
28 was/were found to have unlawfully committed some or all of the above-related Labor Code

1 violations, and thus is/are subject to increased penalties, as applicable, under Labor Code sections
2 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3), and is/are **not** eligible for reduced penalties under
3 either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the
4 serving of this notice. Regardless, as the Defendants' conduct giving rise to the violations detailed
5 herein was and is malicious, fraudulent, and/or oppressive, the Employer thus is subject to increased
6 penalties under Labor Code section 2699(f)(2)(B)(ii) and, per Labor Code sections 2699(g)(3) and
7 2699(h)(3), are **not** eligible for reduced penalties under either 2699(g) or 2699(h), for remedying
8 violations either prior to or after the Employer's receipt of this notice.

9 14. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
10 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
11 calendar days of the August 16, 2024 postmarked date of the herein-described notice sent by
12 Plaintiffs to the LWDA and Defendants.

13 **PAGA REPRESENTATIVE ALLEGATIONS**

14 15. Plaintiffs are informed and believe, and based thereon alleges, that Defendants, and
15 each of them, had and have a policy or practice of requiring Plaintiffs and other Aggrieved
16 Employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7)
17 straight workdays in a workweek (in violation of Labor Code sections 551 and 552) without paying
18 them proper overtime wages every day, as a result of, without limitation, failing to accurately track
19 and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work
20 off the clock, including, without limitation, by: to come early to work and leave late work without
21 being able to clock in for all that time, to suffer under Employer's control due to long lines for
22 clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to
23 clock out for meal periods and continue working, to clock out for rest periods, to don and doff
24 uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make
25 phone calls or drive off the clock, and/or go through security screenings and/or temperature checks
26 off the clock; failing to include all forms of remuneration, including non-discretionary bonuses,
27 incentive pay, meal allowances, mask allowances, gift cards and other forms of remuneration into
28 the regular rate of pay for the pay periods where overtime was worked and the additional

1 compensation was earned for the purpose of calculating the overtime rate of pay; detrimental
2 rounding of employee time entries, editing and/or manipulation of time entries to show less hours
3 than actually worked, for paying straight pay instead of overtime pay, and by attempting but failing
4 to properly implement an alternative workweek schedule (“AWS”) (including, without limitation,
5 by failing to implement a written agreement designating the regularly scheduled alternative
6 workweek in which the specified number of work days and work hours are regularly recurring;
7 failing to adopt the AWS in a secret ballot election, before the performance of work, by at least a
8 two-thirds (2/3) vote of the affected employees in the work unit; failing to follow the
9 notice/disclosures procedures prior to any AWS election; and/or failing to register an AWS election
10 with the State of California, as required by Labor Code section 511 and applicable Wage Orders)
11 all to the detriment of Employee and other Aggrieved Employees. Consequently, Employee is
12 informed and believes, and based thereon alleges, that Employer violated Labor Code sections 223,
13 510, 511, 551, 552, 1194, 1198 and applicable Wage Orders based on its practice of providing total
14 compensation that is less than the required legal overtime compensation for the overtime worked,
15 entitling Employee and other aggrieved employees to damages, including, without limitation, at
16 least one hour of unpaid overtime wages each day worked by each Aggrieved Employee during the
17 Civil Penalty Period. Employee further informed and believes, and based thereon alleges, that
18 Employer’s conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
19 Employer would also be liable for civil penalties pursuant to Labor Code sections 210 (for failure
20 to timely pay these wages), 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
21 2699(k). Employer would further be liable for civil penalties pursuant to Labor Code section
22 2699(f)(2)(B)(ii).

23 16. Plaintiffs are informed and believe, and based thereon alleges, that Defendants, and
24 each of them, had and have a practice or policy of failing to compensate Plaintiffs and other
25 Aggrieved Employees with minimum wages for all hours worked or otherwise under Employer’s
26 control every day as a result of, without limitation, failing to accurately track and/or pay for all
27 minutes actually worked; engaging, suffering, or permitting employees to work off the clock,
28 including, without limitation, by requiring employees: to come early to work and leave late work

1 without being able to clock in for all that time, to suffer under Employer's control due to long lines
2 for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out,
3 to clock out for meal periods and continue working, to clock out for rest periods, to don and doff
4 uniforms and/or safety equipment off the clock, to undergo security checks and/or bag checks off
5 the clock, to store and retrieve personal belongings off the clock, to attend company meetings off
6 the clock, to make phone calls, receive and respond to emails and/or texts, or drive off-the-clock;
7 detrimental rounding of employee time entries; editing and/or manipulation of time entries to show
8 less hours than actually worked; and failing to pay split shift premiums. In addition, Employee and
9 other aggrieved employees were required to report to work, and did report, but were not put to work
10 and/or were furnished less than half their usual or scheduled day's work without being paid for half
11 the usual or scheduled work at their regular rate of pay. As such, Plaintiffs are informed and believes,
12 and based thereon alleges, that Defendants violated, without limitation, Labor Code sections 1197,
13 1182.12, Cal. and applicable Wage Orders based on its continued failure to pay minimum wages for
14 all hours worked, that Plaintiffs and other Aggrieved Employees personally suffered these
15 violations, and that Plaintiffs and other Aggrieved Employees are entitled to actual and liquidated
16 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198 to compensate them
17 for at least one unpaid hour of work per day for each Aggrieved Employee in the Civil Penalty
18 Period. Employee further informed and believes, and based thereon alleges, that Defendants'
19 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Plaintiffs
20 would also be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely
21 pay these wages), 558, 1197.1, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
22 2699(k). Plaintiffs would further be liable for civil penalties pursuant to Labor Code section
23 2699(f)(2)(B)(ii).

24 17. Plaintiffs are informed and believe, and based thereon alleges, that Defendants, and
25 each of them, had and have a policy or practice of compelling Plaintiffs and other Aggrieved
26 Employees during the Civil Penalty Period to work every day in excess of five (5) and ten (10) hours
27 per day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
28 compensation in lieu thereof including, each workday, without limitation: by interrupting meal

1 periods; not providing timely meal periods; failing to provide first and second meal periods;
2 providing short meal periods, including without, limitation meal periods that were recorded for less
3 than thirty minutes, and meal periods that may appear on the record to be thirty minutes or longer
4 but in practice were shorter than thirty minutes due to time required to walk to and from a suitable
5 break area, time spent having to wait in line to clock back in, having to don and doff safety gear
6 during the meal period, having to undergo security or bag checks during the meal period, and /or
7 having to retrieve and store personal belongings during the meal period; requiring that employees
8 carry cellular telephones or walkie-talkies during meal periods; not permitting employees to leave
9 the premises; otherwise requiring on-duty/on-call meal periods; and auto-deducting meal periods
10 that could not be auto-deducted by law or during which employees worked. Plaintiffs and other
11 Aggrieved Employees personally suffered these violations. Consequently, Plaintiffs are informed
12 and believes, and based thereon alleges, that Defendants violated Labor Code sections 512 and 1198
13 each day for each Aggrieved Employee during the Civil Penalty Period, and that, thus each
14 Aggrieved Employee was owed one hour of premium pay at their regular rate of pay for each day
15 worked during the Civil Penalty Period under Labor Code section 226.7. However, Plaintiffs are
16 informed and believes that those premium payments under Labor Code section 226.7 were not made,
17 either, for these non-compliant meal periods, either at all or at the proper regular rate of pay.
18 Plaintiffs would thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to
19 timely pay these wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant
20 meal periods and for failing to provide premium pay under Labor Code section 226.7, or injunctive
21 relief under sections 2699(e)(1) and 2699(k). Plaintiffs further informed and believes, and based
22 thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
23 fraudulent, or oppressive. Employer would further be liable for civil penalties pursuant to Labor
24 Code section 2699(f)(2)(B)(ii).

25 18. Plaintiffs are informed and believe, and based thereon alleges, that Defendants
26 maintain policies or practices of compelling Plaintiffs and other Aggrieved Employees every day
27 to, including, without limitation, work over four-hour periods (or major fractions thereof) without
28 authorizing and permitting Plaintiffs and other Aggrieved Employees to take uninterrupted, timely,

1 and complete ten-minute rest periods in which the employees are completely relieved of all of their
2 duties, including, without limitation: by failing to provide rest periods all together; failing to provide
3 rest periods that were at least ten minutes in length, including rest periods that were shorter than ten
4 minutes, or rest periods that may have encompassed a total of ten minutes but were in practice less
5 than ten uninterrupted minutes due to, without limitation, due to time required to walk to and from
6 a suitable break area, time spent having to don and doff safety gear during the rest period, having to
7 retrieve and store personal belongings during the rest period, and/or having to undergo security or
8 bag checks during the rest period, requiring that they be bundled together and/or with meal periods;
9 interrupting them; requiring that employees carry cellular telephones or walkie-talkies during rest
10 periods; not providing rest periods in a timely fashion; and not permitting employees to leave the
11 premises; and otherwise requiring on-duty/on-call rest periods. Employee and other Aggrieved
12 Employees personally suffered these violations. Consequently, Plaintiffs are informed and believes,
13 and based thereon alleges, that Defendants violated the applicable Wage Order(s) each day for each
14 Aggrieved Employee during the PAGA Period, and that, thus each Aggrieved Employee was owed
15 one hour of premium pay at their regular rate of pay for each day worked during the PAGA Period
16 under Labor Code section 226.7. However, Plaintiffs are informed and believe that those premium
17 payments under Labor Code section 226.7 were not made, either, for these non-compliant rest
18 periods, either at all or at the proper regular rate of pay, in violation of Labor Code sections 226.7
19 and 1198. Defendants would thus be liable for civil penalties pursuant to Labor Code sections 210
20 (for failure to timely pay these wages), 558, 1198 and 2699 for both failing to authorize the taking
21 of compliant rest periods and for failing to provide premium pay under Labor Code section 226.7,
22 or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiffs are further informed and
23 believe, and based thereon alleges, that Defendants' conduct above gave rise to such violations was
24 malicious, fraudulent, or oppressive. Defendants would further be liable for civil penalties pursuant
25 to Labor Code section 2699(f)(2)(B)(ii).

26 19. As a result of, among other things, Defendants' herein-described policy or practice
27 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
28 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or

1 rest periods, as described above, and due to independent failures in connection therewith, Plaintiffs
2 are informed and believes, and based thereon alleges, that Defendants also intentionally failed and
3 continues to fail to furnish Aggrieved Employees, including, without limitation, Plaintiff, with
4 itemized wage statements that accurately reflect: gross wages earned; total hours worked by the
5 employee; net wages earned; the inclusive dates of the period for which the employee is paid; the
6 name of the employee and only the last four digits of their social security number or an employee
7 identification number other than a social security number; all deductions; all applicable hourly rates
8 in effect during the pay period and the corresponding number of hours worked at each hourly rate
9 by the employee; and other such information as required by Labor Code section 226, subdivision
10 (a). Specifically, Defendants intentionally failed to furnish employees with itemized wage
11 statements that accurately reflect the hours worked by Plaintiffs and other Aggrieved Employees
12 and the rates of pay at which they were or should have been paid (including due to failure to pay at
13 the proper regular rate), thus resulting in a failure to reflect gross and net wages earned and paid at
14 each rate, as well. Consequently, Employee is informed and believes, and based thereon alleges,
15 that Employer violated Labor Code sections 226, and 1198 each day for each Aggrieved Employee
16 during the PAGA Period, and that, thus Employee and each Aggrieved Employee personally
17 suffered these violations and was owed penalties under Labor Code section 226 for each pay period
18 worked during the PAGA Period. Plaintiffs are informed and believe that those penalties under
19 Labor Code section 226 were not paid for these violations of Labor Code section 226. Defendants
20 would thus be liable for civil penalties pursuant to Labor Code sections 226.3, 558, 1198, and 2699.
21 Plaintiffs are further informed and believe, and based thereon alleges, that Defendants' conduct
22 above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants would also
23 be liable for civil penalties pursuant to Labor Code sections 226.3, 558, and 2699, or injunctive
24 relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties
25 pursuant to Labor Code section 2699(f)(2)(B)(ii).

26 20. Plaintiffs are informed and believe, and based thereon alleges, that Defendants also
27 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
28 compensation to Plaintiffs and other terminated or resigned employees, including but not limited to,

1 all overtime wages owed; all minimum wages owed; all paid sick leave, vacation pay and paid time
2 off; and all premium pay owed as set out above, including, without limitation, for failure to pay at
3 the proper regular rate of pay, among other things. Consequently, Plaintiffs are informed and
4 believes, and based thereon alleges, that Defendants violated Labor Code sections 201, 202 203,
5 and 1198 each pay period for each Aggrieved Employee during the PAGA Period, and that, thus
6 Plaintiffs and each Aggrieved Employee personally suffered these violations and was owed
7 penalties under Labor Code section 203 for each pay period worked during the PAGA Period.
8 However, Plaintiffs are informed and believe that those penalties under Labor Code section 203
9 were not made for these violations of Labor Code sections 201, 202, and 203. Plaintiffs are further
10 informed and believe, and based thereon alleges, that Defendants' conduct above gave rise to such
11 violations was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
12 penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under sections
13 2699(e)(1) and 2699(j). Defendants would further be liable for civil penalties pursuant to Labor
14 Code section 2699(f)(2)(B)(ii).

15 21. Plaintiffs are informed and believe, and based thereon alleges that Defendants also
16 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
17 limitation, Plaintiffs and other Aggrieved Employees, with their costs incurred for driving personal
18 vehicles (i.e., mileage and gas), purchasing uniforms, providing uniform and other deposits,
19 separately laundering mandatory uniforms, for the purchase of tools and safety equipment, and for
20 the purchase and maintenance of cellular phones and cellular phone plans, for pre-employment
21 medical, physical or drivers' exams taken as a condition of employment, or for compelling or
22 coercing Employee and Aggrieved Employees, including applicants, to patronize in the purchase of
23 a value or things, including, without limitation, the Employer's product(s) and/or service(s), in direct
24 consequence of the discharge of their duties, or of their obedience to the directions of Defendants,
25 as required by Labor Code sections 1198, 2800, 2802, and other statutory and common law
26 offenses. As a result, Plaintiffs and other Aggrieved Employees have personally suffered these
27 violations and Defendants are liable to reimburse Plaintiffs and other Aggrieved Employees for
28 these costs incurred in furtherance of work duties. Plaintiffs further informed and believe, and based

1 thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
2 fraudulent, or oppressive. In addition, Defendants would be liable for civil penalties pursuant to
3 Labor Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
4 Defendants would further be liable for civil penalties pursuant to Labor Code section
5 2699(f)(2)(B)(ii).

6 22. Plaintiffs are informed and believe, and based thereon alleges that Defendants had
7 and have a policy or practice of failing to pay Plaintiffs and other Aggrieved Employees their paid
8 time off and vacation time owed upon separation of employment as wages at their final rate of pay
9 in violation of Labor Code section 227.3 and applicable Wage Orders. Plaintiffs are thus informed
10 and believe that Defendants violated these Labor Code sections, as well as Labor Code section 1198.
11 As such, Plaintiffs and other Aggrieved Employees have personally suffered these violations and
12 Defendants would be liable for civil penalties for violation of Labor Code section 227.3 under Labor
13 Code section 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
14 Plaintiffs are further informed and believe, and based thereon alleges, that Defendants' conduct
15 above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants would
16 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

17 23. Plaintiffs are informed and believe, and based thereon alleges that Defendants had
18 and have a policy or practice of failing to pay aggrieved employees their wages in accordance with
19 Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days,
20 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
21 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
22 any calendar month, shall be paid for between the 1st and 10th day of the following month."
23 Plaintiffs are informed and believe and based thereon alleges that Defendants did not and do not pay
24 Plaintiffs and other Aggrieved Employees every day and every workweek in accordance with Labor
25 Code sections 204 and 1198. As such, Plaintiffs are informed and believe and based thereon alleges
26 that Defendants violated Labor Code section 204 and that Plaintiffs and other Aggrieved Employees
27 have personally suffered these violations. Plaintiffs further informed and believe, and based thereon
28 alleges, that Defendants' conduct above gave rise to such violations was malicious, fraudulent, or

1 oppressive. Plaintiffs would be liable for civil penalties pursuant to Labor Code sections 210, 558,
2 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiffs would further
3 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

4 24. Plaintiffs are informed and believe, and based thereon alleges that Defendants had
5 and have a policy of failing to provide all temporary workers, including without limitation, Plaintiff,
6 with owed wages weekly by not later than the regular payday of the following week. Plaintiffs are
7 informed and believe that this has resulted in a violation of Labor Code sections 201.3 and 1198.
8 As a result, pursuant to Labor Code section 201.3, Plaintiffs and other Aggrieved Employees have
9 personally suffered violations thereto and Plaintiffs would be liable for civil penalties pursuant to
10 Labor Code sections 201.3, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
11 2699(k). Plaintiffs further informed and believe, and based thereon alleges, that Defendants'
12 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
13 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

14 25. Plaintiffs are informed and believe, and based thereon alleges, that Defendants have
15 or had collected, taken, or received gratuities (or a part thereof) that is paid, given to, or left for
16 Plaintiffs and/or Aggrieved Employees by a patron, or deducted amounts from wages due to
17 Plaintiffs and/or Aggrieved Employees on account of a gratuity, or required Plaintiffs and/or
18 Aggrieved Employees to credit the amount (or a part thereof) of a gratuity against and as part of the
19 wages due to the Plaintiffs and/or Aggrieved Employees from the Defendants. In addition, Plaintiffs
20 are informed and believes, and based thereon alleges, that Defendants permit and/or permitted
21 patrons to pay gratuities by credit card but failed to pay Plaintiffs and/or Aggrieved Employees the
22 full amount of the gratuity that the patron indicated on the credit card slip, without any deductions,
23 for any credit card payment processing fees that may be charged to the employer by the credit card
24 company by not later than the regular payday following the date the patron authorized the credit
25 card. In addition, Defendants failed to keep accurate records of all gratuities received by Defendants
26 and made those open to inspection at all reasonable hours. Plaintiffs are informed and believe that
27 this has resulted in a violation of Labor Code sections 351, 353, 1198. As a result, pursuant to Labor
28 Code sections 351 and 353, Plaintiffs and other Aggrieved Employees have personally suffered

1 violations thereto and Defendants would be liable for civil penalties pursuant to Labor Code sections
2 351, 353, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiffs are
3 further informed and believe, and based thereon alleges, that Defendants' conduct above gave rise
4 to such violations was malicious, fraudulent, or oppressive. Defendants would further be liable for
5 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

6 26. Plaintiffs are informed and believe, and based thereon allege that Defendants had and
7 have a policy or practice of failing to provide all working employees, including without limitation
8 Plaintiffs, with suitable seats when the nature of the work reasonably permits the use of seats.
9 Plaintiffs are further informed and believes, and based thereon alleges that Defendants have failed
10 to place an adequate number of seats in reasonable proximity to the work area and/or permitted
11 Plaintiffs and other Aggrieved Employees to use such seats when it does not interfere with the
12 performance of their duties when employees are not engaged in the active duties of their
13 employment and the nature of their work requires standing. Plaintiffs and other Aggrieved
14 Employees have personally suffered these violations. Plaintiffs are informed and believe that this
15 has resulted in a violation of Labor Code section 1198. As a result, Plaintiffs and other Aggrieved
16 Employees have personally suffered violations thereto and Defendants would be liable for civil
17 penalties under Labor Code sections 1198 and 2699, or injunctive relief under sections 2699(e)(1)
18 and 2699(k). Plaintiffs are further informed and believe, and based thereon alleges, that Defendants'
19 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
20 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

21 27. Plaintiffs are informed and believe, and based thereon alleges that Defendants had
22 and have a policy or practice of preventing Plaintiffs and other Aggrieved Employees from using or
23 disclosing the skills, knowledge and experience they obtained with Defendants for purposes of
24 competing with Defendants, including, without limitation, preventing Plaintiffs and Aggrieved
25 Employees from disclosing their wages in negotiating a new job with a prospective employer, and
26 from disclosing who else works with Defendants and under what circumstances that they might be
27 receptive to an offer from a rival employer. As such, Plaintiffs are informed and believes that this
28 violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof,

1 various provisions of the Labor Code, including Labor Code sections 232, 232.5, 1197.5,
2 subdivision (k), and 1198, and that Plaintiffs and other Aggrieved Employees have personally
3 suffered these violations. Plaintiffs are further informed and believe, and based thereon alleges, that
4 Defendants' conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
5 Defendants would be liable for civil penalties pursuant to Labor Code sections 1198 and 2699, or
6 injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil
7 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

8 28. Plaintiffs are informed and believe, and based thereon alleges that Defendants had
9 and have a policy or practice of preventing Plaintiffs and other Aggrieved Employees from
10 disclosing violations of state and federal law, either within Defendants to their managers or outside
11 of Defendants to private attorneys or government officials, among others, in violation of Business
12 and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. Plaintiffs
13 and other Aggrieved Employees personally suffered these violations. In addition, Plaintiffs are
14 informed and believes that these policies and/or practices prevent Plaintiffs and other Aggrieved
15 Employees from disclosing information about unsafe or discriminatory working conditions, or about
16 wage and hour violations in violation of Labor Code sections 232, 232.5 and 1198. Plaintiffs and
17 other Aggrieved Employees personally suffered these violations of the Labor Code, and as such,
18 these violations would expose Defendants to liability for civil penalties pursuant to Labor Code
19 sections 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiffs are
20 further informed and believe, and based thereon alleges, that Defendants' conduct above gave rise
21 to such violations was malicious, fraudulent, or oppressive. Defendants would further be liable for
22 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

23 29. Plaintiffs are informed and believe, and based thereon alleges that Defendants had
24 and have a policy or practice of preventing Plaintiffs and other Aggrieved Employees from engaging
25 in lawful conduct during non-work hours, thus violating state statutes entitling employees to disclose
26 wages, working conditions, and illegal conduct, including, without limitation, Labor Code sections
27 96, subdivision (k), 98.6, 232, 232.5, 1197.5, subdivision (k), and 1198. Plaintiffs and other
28 Aggrieved Employees personally suffered these violations. Plaintiffs are informed and believe that

1 this lawful conduct includes, without limitation, the exercise of Plaintiffs and other Aggrieved
2 Employee's constitutional rights of freedom of speech and economic liberty and would thus expose
3 Defendant to liability for civil penalties pursuant to Labor Code sections 1198 and 2699, or
4 injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiffs further informed and believes,
5 and based thereon alleges, that Defendants' conduct above gave rise to such violations was
6 malicious, fraudulent, or oppressive. Defendants would further be liable for civil penalties pursuant
7 to Labor Code section 2699(f)(2)(B)(ii).

8 30. Plaintiffs are informed and believe, and based thereon alleges, that Defendants,
9 including their agents, managers, superintendents, and/or officers, required Plaintiffs and/or
10 Aggrieved Employees to agree, in writing, to terms and conditions known by Defendants (and their
11 agents, managers, superintendents and/or officers) to be prohibited by law, including, without
12 limitation, non-compete agreements, terms known to be illegal in purported arbitration agreements,
13 purported confidentiality agreements, purported severance agreements, or purported release
14 agreements, and other written documents presented for signature and/or assent to Plaintiffs and/or
15 Aggrieved Employees by Defendants. And, even more specifically, Plaintiffs are informed and
16 believes, and based thereon alleges, that Defendants had and have a practice or policy of requiring
17 Plaintiffs and other Aggrieved Employees to agree in writing to confidentiality policies that
18 unlawfully restrain trade by prohibiting employees from speaking with prospective employers about
19 their work with Defendants, including but not limited to their wages and working conditions.
20 Defendants also required Plaintiffs and Aggrieved Employees to inform prospective employers of
21 Defendants' restrictions of Plaintiffs' and Aggrieved Employees' freedom to work. As a result,
22 Employee is informed and believes that Employer violated Labor Code sections 432.5, 1700.31 and
23 1198. As such, Plaintiffs are informed and believes, and based thereon alleges, that Plaintiffs and
24 other Aggrieved Employees personally suffered these violations, and that Defendants violated,
25 without limitation, Labor Code section 432.5 and Government Code section 12952, entitling
26 Plaintiffs and other Aggrieved Employees to damages. Plaintiffs further informed and believe, and
27 based thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
28 fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to Labor Code

1 sections 432.5, 1198, 1700.31 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
2 Defendants would further be liable for civil penalties pursuant to Labor Code section
3 2699(f)(2)(B)(ii).

4 31. Plaintiffs are informed and believe, and based thereon alleges, that Defendants had
5 and have a practice or policy of conducting unlawful background checks on prospective and current
6 employees, including without limitation Plaintiffs, prior to making a conditional offer. Plaintiffs
7 are informed and believes, and based thereon alleges, that Defendants violated applicable laws by,
8 without limitation: requiring job applicants and employees to disclose their conviction history before
9 Defendants made a conditional offer of employment; inquiring into or considering the conviction
10 history of applicants before Defendants made any conditional offers of employment; considering,
11 distributing, or disseminating information about arrests not followed by conviction, referrals to or
12 participation in a pretrial or posttrial diversion program, convictions that have been sealed,
13 dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the
14 convicted person has received a full pardon or has been issued a certificate of rehabilitation, while
15 conducting conviction history background checks in connection with any applications for
16 employment; intending to deny an applicant a position of employment solely or in part because of
17 the applicant's conviction history; and asking applicants for employment to disclose, through any
18 written form or verbally, information concerning or related to an arrest, detention, processing,
19 diversion, supervision, adjudication, or court disposition that occurred while the person was subject
20 to the process and jurisdiction of the juvenile court, to the detriment of Employee and other
21 aggrieved employees. As such, Plaintiffs are informed and believes, and based thereon alleges, that
22 Plaintiffs and other Aggrieved Employees personally suffered these violations, as well as violation
23 of Labor Code section 1198, and that Employer violated, without limitation, Labor Code sections
24 432.7 and 1198, as well as Government Code section 12952, entitling Plaintiffs and other Aggrieved
25 Employees to damages. Plaintiffs are further informed and believe, and based thereon alleges, that
26 Defendants' conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
27 Defendants would also be liable for civil penalties pursuant to Labor Code sections 432.7, 432.8,
28 1198, and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would

1 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

2 32. Plaintiffs are informed and believe, and based thereon alleges, that Defendants had
3 and have a practice or policy of relying on the salary history information of an applicant for
4 employment as a factor in determining whether to offer employment to an applicant or what salary
5 to offer the applicant in violation of Labor Code section 432.3 by including, on Defendants'
6 application for employment, an inquiry regarding current and/or former salary history information,
7 including, without limitation, compensation and benefits of the applicant for employment. Plaintiffs
8 are informed and believe that this practice has resulted in unequal pay. Specifically, for this reason,
9 as well as for other reasons, Plaintiffs are informed and believes, and based thereon alleges, that
10 Employer has failed to pay its employees at wage rates less than those paid to employees of the
11 opposite sex and/or another race or ethnicity for substantially similar work, when viewed as a
12 composite of skill, effort, and responsibility, and/or performed under similar working conditions
13 without sufficient legal rationale. Finally, Plaintiffs are informed and believe, and based thereon
14 alleges that Employer has discharged and/or discriminated and/or retaliated against Plaintiffs and
15 Aggrieved Employees by reason of an action taken by them to invoke or assist in the enforcement
16 of Labor Code section 1197.5. As such, Plaintiffs are informed and believes, and based thereon
17 alleges, that Defendants violated, without limitation, Labor Code sections 432.3, 1102.5, 1197.5,
18 and 1198. Plaintiffs also allege that Plaintiffs and other Aggrieved Employees personally suffered
19 these violations, and that Plaintiffs and other Aggrieved Employees are entitled to damages.
20 Plaintiffs further informed and believe, and based thereon alleges, that Defendants' conduct above
21 gave rise to such violations was malicious, fraudulent, or oppressive. Defendants would also be
22 liable for civil penalties pursuant to Labor Code sections 432.3, 1198 and 2699, or injunctive relief
23 under sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties
24 pursuant to Labor Code section 2699(f)(2)(B)(ii).

25 33. Plaintiff, in Plaintiffs' representative capacity, seeks civil penalties under Labor
26 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
27 the California Labor Code as described above, including on behalf of Plaintiffs and other Aggrieved
28 Employees pursuant to PAGA.

1 **PARTIES**

2 **A. Plaintiff**

3 34. Plaintiff MARK ESTRADA is a resident of the State of California. At all relevant
4 times herein, Plaintiffs are informed and believes, and based thereon alleges, that Defendants
5 employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to,
6 assembling units, testing units, and preparing units for shipment. Plaintiffs are informed and
7 believes, and based thereon alleges, that Plaintiff MARK ESTRADA worked for Defendants from
8 approximately June of 2016 to approximately July of 2024.

9 35. Plaintiff RICARDO MONTALVO is a resident of the State of California. At all
10 relevant times herein, Plaintiffs are informed and believes, and based thereon alleges, that
11 Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not
12 limited to, running wire, connecting final pieces, and placing decals/ company logo on products in
13 preparation for shipment. Plaintiffs are informed and believes, and based thereon alleges, that
14 Plaintiff RICARDO MONTALVO worked for Defendants from approximately July of 2023 to
15 approximately July of 2024.

16 **B. Defendants**

17 36. Plaintiffs (Employees) are informed and believes and based thereon alleges that
18 defendant Capstone Green is, and at all times relevant hereto was, a limited liability company
19 organized and existing under and by virtue of the laws of the State of California and doing business
20 in the County of Los Angeles, State of California.

21 37. The true names and capacities, whether individual, corporate, associate, or otherwise,
22 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiffs,
23 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
24 Plaintiffs are informed and believe and based thereon alleges that each of the defendants designated
25 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
26 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities
27 of the defendants designated hereinafter as DOES when such identities become known. Plaintiffs
28 are informed and believes, and based thereon alleges, that each defendant acted in all respects

1 pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business
2 plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable
3 to the other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants” or
4 “Employer” it shall include Capstone Green, and any of their parent, subsidiary, or affiliated
5 companies within the State of California, as well as DOES 1 through 100 identified herein.

6 **JOINT LIABILITY ALLEGATIONS**

7 38. Plaintiffs are informed and believe, and based thereon alleges, that at all times
8 mentioned herein, each of the defendants was the agent, principal, employee, employer,
9 representative, joint venture or co-conspirator of each of the other defendants, either actually or
10 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
11 employment, joint venture, and conspiracy.

12 39. All of the acts and conduct described herein of each and every corporate defendant
13 was duly authorized, ordered, and directed by the respective and collective defendant corporate
14 employers, and the officers and management-level employees of said corporate employers. In
15 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
16 their said employees, agents, and representatives, and each of them; and upon completion of the
17 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
18 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
19 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
20 aforementioned corporate employees, agents and representatives.

21 40. Plaintiffs are informed and believe, and based thereon alleges, that despite the
22 formation of the purported corporate existence of Capstone Green, and DOES 1 through 50,
23 inclusive (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES
24 51 through 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following
25 reasons:

26 a. The Alter Ego Defendants are completely dominated and controlled by the
27 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
28 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego

1 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
2 inequitable purpose;

3 b. The Individual Defendants derive actual and significant monetary benefits by
4 and through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego Defendants as
5 the funding source for the Individual Defendants' own personal expenditures;

6 c. Plaintiffs are informed and believe, and thereon alleges, that the Individual
7 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
8 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
9 accomplishing some other wrongful or inequitable purpose;

10 d. Plaintiffs are informed and believe, and thereon alleges, that the business
11 affairs of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times
12 mentioned herein were, so mixed and intermingled that the same cannot reasonably be segregated,
13 and the same are inextricable confusion. The Alter Ego Defendants are, and at all relevant times
14 mentioned herein were, used by the Individual Defendants as mere shells and conduits for the
15 conduct of certain of their, and each of their affairs. The Alter Ego Defendants are, and at all relevant
16 times mentioned herein were, the alter egos of the Individual Defendants;

17 e. The recognition of the separate existence of the Individual Defendants from
18 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
19 insulate themselves from liability to Plaintiffs for violations to the Civil Code, Government Code,
20 and other statutory violations. The corporate existence of these defendants should thus be
21 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
22 and injustice to Plaintiffs herein;

23 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
24 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
25 disregarded.

26 41. As a result of the aforementioned facts, Plaintiffs are informed and believe, and based
27 thereon alleges that Defendants, and each of them, are joint employers.

28 42. Moreover, Plaintiffs are informed and believes, and based thereon alleges, that

1 Individual Defendants, and each of them, are liable for the civil penalties, or some of them, described
2 herein because Individual Defendants, and each of them, caused or are otherwise contributed to the
3 violations described herein, or some of them.

4 **FIRST AND ONLY CAUSE OF ACTION**

5 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

6 43. Plaintiffs re-alleges and incorporates by reference all of the allegations set forth in
7 the preceding paragraphs as though fully set forth hereat.

8 **Civil Penalties Under Labor Code § 210**

9 44. At all relevant times herein, Labor Code section 204, requires and required that:
10 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
11 between the 16th and 26th day of the month during which the labor was performed, and labor
12 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
13 between the 1st and 10th day of the following month.”

14 45. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
15 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
16 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
17 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
18 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
19 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
20 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

21 46. At all relevant times herein, Defendants have had a consistent policy or practice of
22 failing to pay Plaintiffs and/or Aggrieved Employees during their employment on a timely basis as
23 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
24 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiffs and other
25 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
26 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
27 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
28 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent

1 violation in connection with each payment that was made in violation of Labor Code section 204.

2 Civil Penalties Under Labor Code § 226.3

3 47. Defendants had and have a policy or practice of failing to comply with Labor Code
4 section 226, subdivision (a) by intentionally failing to furnish Plaintiffs and Aggrieved Employees
5 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
6 wages earned; the name and address of each employer with whom they have been placed to work;
7 all applicable hourly rates in effect during the pay period and the corresponding number of hours
8 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
9 entity securing the employer's services if the employer is a farm labor contractor; and other such
10 information as required by Labor Code section 226, subdivision (a) and/or Labor Code section 226.2
11 to the extent it does not include for piece-rate work the information required therein including,
12 without limitation, the quantity, rate and units worked per piece, as well as separately itemized non-
13 productive time and rest and recovery periods

14 48. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
15 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
16 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
17 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
18 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

19 49. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
20 this section are in addition to any other penalty provided by law."

21 50. Plaintiffs are informed and believe, and based thereon alleges, that Defendants had
22 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
23 statements as set forth in the preceding paragraphs.

24 51. Pursuant to Labor Code section 226.3, Plaintiffs and other Aggrieved Employees are
25 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
26 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
27 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
28 period for each subsequent violation.

1 Violation of Labor Code § 558

2 52. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
3 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
4 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
5 penalty as follows:

6 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
7 pay period for which the employee was underpaid in addition to an amount sufficient
8 to recover underpaid wages;

9 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
10 employee for each pay period for which the employee was underpaid in addition to
11 an amount sufficient to recover underpaid wages;

12 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

13 53. Plaintiffs are informed and believe, and based thereon alleges, that Defendants, and
14 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
15 causing Plaintiffs and other Aggrieved Employees not to: be paid with the rates of pay and overtime
16 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
17 regular payday designated by employer, the name of the employer, including any “doing business
18 as” names used, the name, address, and telephone number of the workers’ compensation insurance
19 carrier, information regarding paid sick leave, and other pertinent information.

20 54. As a direct and proximate result of the herein-described Labor Code violations,
21 pursuant to Labor Code section 558, Plaintiffs and other Aggrieved Employees are entitled to
22 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty
23 dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred
24 dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

25 Violation of Labor Code § 1174.5

26 55. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
27 every person employing labor in California to “[a]llow any member of the commission or the
28 employees of the Division of Labor Standards Enforcement free access to the place of business or

1 employment of the person to secure any information or make any investigation that they are
2 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
3 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
4 or papers of the person.”

5 56. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
6 every person employing labor in California to “[k]eep a record showing the names and addresses of
7 all employees employed and the ages of all minors.”

8 57. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
9 every person employing labor in California to “[k]eep, at a central location in the state or at the
10 plants or establishments at which employees are employed, payroll records showing the hours
11 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
12 piece rate paid to, employees employed at the respective plants or establishments. These records
13 shall be kept in accordance with rules established for this purpose by the commission, but in any
14 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
15 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
16 earned.”

17 58. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
18 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
19 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
20 member of the commission or employees of the division to inspect records pursuant to subdivision
21 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

22 59. Plaintiffs are informed and believe, and based thereon alleges, that Defendants have
23 willfully failed to keep adequate or accurate time records including wage statements and similar
24 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
25 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
26 under Labor Code section 1174.

27 60. As a direct and proximate result of the herein-described Labor Code violations,
28 pursuant to Labor Code section 1174.5, Plaintiffs and other Aggrieved Employees are entitled to

1 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five
2 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

3 Violation of Labor Code § 1197.1

4 61. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
5 person acting either individually or as an officer, agent, or employee of another person, who pays
6 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
7 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
8 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
9 Section 203 as follows:

10 (1) For any initial violation that is intentionally committed, one hundred dollars
11 (\$100) for each underpaid employee for each pay period for which the
12 employee is underpaid. This amount shall be in addition to an amount
13 sufficient to recover underpaid wages, liquidated damages pursuant to Section
14 1194.2, and any applicable penalties imposed pursuant to Section 203.

15 (2) For each subsequent violation for the same specific offense, two hundred fifty
16 dollars (\$250) for each underpaid employee for each pay period for which the
17 employee is underpaid regardless of whether the initial violation is
18 intentionally committed. This amount shall be in addition to an amount
19 sufficient to recover underpaid wages, liquidated damages pursuant to Section
20 1194.2, and any applicable penalties imposed pursuant to Section 203.

21 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
22 Section 203, recovered pursuant to this section shall be paid to the affected
23 employee."

24 62. Plaintiffs are informed and believe, and based thereon alleges, that Defendants
25 caused Plaintiffs and Aggrieved Employees not to be paid minimum wages as a result of Defendants,
26 without limitation, routinely failing to pay Plaintiffs or other Aggrieved Employees' minimum
27 wages for all hours worked or otherwise under Defendants' control due to, without limitation,
28 routinely failing to accurately track and/or pay for all hours actually worked; detrimental rounding

1 or manipulation of time entries; paying straight pay instead of overtime or otherwise failing to pay
2 overtime hours at the proper overtime rate of pay; engaging, suffering, or permitting employees to
3 work off the clock, entitling Plaintiffs and other Aggrieved Employees to actual and liquidated
4 damages.

5 63. As a direct and proximate result of the herein-described Labor Code violations,
6 pursuant to Labor Code section 1197.1, Plaintiffs and other Aggrieved Employees are entitled to
7 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of one
8 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
9 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
10 subsequent violation.

11 Civil Penalties Under Labor Code § 2699

12 64. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
13 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
14 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
15 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
16 action brought by an aggrieved employee on behalf of himself or herself and other current or former
17 employees pursuant to the procedures specified in Labor Code section 2699.3.

18 65. Plaintiffs are informed and believe, and based thereon alleges that Defendants, and
19 each of them, violated the Labor Code sections described in the preceding paragraphs.

20 66. As such, Plaintiffs and aggrieved employees are entitled to injunctive relief, one
21 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
22 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
23 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

24 67. Moreover, Plaintiffs and other Aggrieved Employees within the State of California
25 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
26 connection with their herein-described claims for civil penalties.

27 ///

28 ///

1 **PRAYER**

2 **WHEREFORE**, on behalf of Plaintiffs and Aggrieved Employees, Plaintiffs pray for
3 judgment against Defendants as follows:

- 4 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
5 1174.5, 1197.1, and 2699;
- 6 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
7 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 8 C. For equitable, including, without limitation, injunctive relief;
- 9 C. Pre-judgment and post-judgment interest;
- 10 D. For costs of suit incurred herein; and
- 11 E. Such other and further relief as the Court deems just and proper.

12
13
14 Dated: September 22, 2025

BIBIYAN LAW GROUP, P.C.

15 BY: 
16 Molly DeSario
17 Bryce Bommer
18 Faik Yetgin

19 Attorneys for Plaintiffs MARK ESTRADA
20 and RICARDO MONTALVO, as aggrieved
21 employees, and on behalf of all other
22 aggrieved employees under the Labor Code
23 Private Attorneys' General Act of 2004,
24
25
26
27
28