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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

LIZETH MEDINA, on behalf of herself and all
others similarly situated,

Plaintiff,
v.

KOONER TRUCK REPAIR, INC., a Texas
Corporation; and DOES 1-50, inclusive.

Defendants.

CASE NO.: 24CV015836

**FIRST AMENDED CLASS AND PAGA
ACTION COMPLAINT:**

- (1) MEAL PERIOD VIOLATIONS;
- (2) REST PERIOD VIOLATIONS;
- (3) WAGE STATEMENT VIOLATIONS;
- (4) WAITING TIME PENALTIES;
- (5) FAILURE TO REIMBURSE
NECESSARY BUSINESS EXPENSES;
- (6) FAILURE TO MAINTAIN PAYROLL
RECORDS;
- (7) FAILURE TO PROVIDE COPIES OF
RECORDS;
- (8) UNFAIR COMPETITION; &
- (9) PENALTIES UNDER THE PRIVATE
ATTORNEYS GENERAL ACT
("PAGA")

DEMAND FOR JURY TRIAL

1
2 Plaintiff Lizeth Medina (“Plaintiff”), on behalf of herself and all other similarly situated non-
3 exempt employees, alleges and complains of Defendant Kooner Truck Repair, Inc. (“Defendant”)
4 and DOES 1 to 50 (collectively “Defendants”) and each of them, as follows:

5 **INTRODUCTION**

6 1. Defendant provides diesel truck repair and 24/7/365 roadside assistance with expert
7 technicians in Sacramento, CA.

8 2. Plaintiff brings this class action lawsuit against Defendant for alleged violations of the
9 California Labor Code and Business and Professions Code.

10 3. As set forth below, Plaintiff alleges that Defendant’s meal and rest period policies and
11 practices failed to allow and permit non-exempt employees to take all compliant and timely meal and
12 rest periods or pay premium wages at the “regular rate of pay” in lieu thereof. Plaintiff further alleges
13 that Defendant failed to provide non-exempt employees with accurate written itemized wage
14 statements in violation of Labor Code § 226(a), failed to reimburse all necessary business expenses
15 incurred, failed to timely pay all final wages upon separation of employment in violation of Labor
16 Code §§ 201-203, and failed to maintain and provide payroll records and personnel files. Plaintiff
17 also brings a claim for civil penalties based on the foregoing Labor Code violations under the Private
18 Attorney General Act (“PAGA”).

19 4. Based on these alleged Labor Code violations, Plaintiff now brings this class action
20 and representative action to recover unpaid wages, restitution, penalties, and other related relief for
21 herself and all other similarly situated non-exempt employees.

22 **JURISDICTION AND VENUE**

23 5. Plaintiff, on behalf of herself and all other similarly situated employees hereby brings
24 this class action for recovery of unpaid wages and penalties under California Labor Code §§ 201-
25 204, 210, 226(a), 226(a)(6), 226(e), 226.3, 226.7, 227.3, 512, 516, 1174, 1174.4, 1174.5, 1198.5,
26 1199, 2802-2804, and applicable Industrial Welfare Commission Wage Orders (“Wage Orders”), in
27 addition to seeking declaratory relief and restitution pursuant to California Business and Professions
28 Code § 17200, *et seq.*

6. This class action is brought pursuant to the California Code of Civil Procedure § 382.

7. This Court has jurisdiction over Defendant's violations of the California Labor Code and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional minimum.

8. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, Defendant operates in California within the County of Sacramento, and Defendant is within the jurisdiction of this Court for the service of process.

PARTIES

9. At all relevant times herein, Plaintiff, who is over 18, was and currently is a California resident residing in the State of California.

10. Plaintiff is informed, believes, and alleges that Defendants are authorized to do business within the County of Sacramento and is and/or was the legal employer of Plaintiff and the Class Members during the applicable statutory periods. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein and has been deprived of the rights guaranteed to her by California Labor Code §§ 201-203, 204, 210, 226, 226(a), 226(e), 226.3, 226.7, 227.3, 512, 516, 1174, 1174.4, 1174.5, 1198.5, 1199, 2802-2804, and the California Business and Professions Code § 17200 *et seq.*, and applicable Wage Orders.

11. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the State of California, County of Sacramento.

12. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the Defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious Defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices alleged herein.

1 13. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
2 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
3 times herein mentioned, each of the Defendants participated in the acts hereinafter alleged to have
4 been done by the named Defendants. Furthermore, the Defendants, and each of them, were the agents,
5 servants, and employees of each and every one of the other Defendants, as well as the agents of all
6 Defendants, and at all times herein mentioned, were acting within the course and scope of said agency
7 and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified
8 each and every one of the acts or omissions complained of herein.

9 14. At all times mentioned herein, Defendants, and each of them, were members of and
10 engaged in a joint venture, partnership, and common enterprise and acting within the course and
11 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff
12 alleges that all Defendants were joint employers for all purposes of Plaintiff and all members of the
13 Classes.

14 **COMMON FACTUAL ALLEGATIONS**

15 15. Defendant provides diesel truck repair and 24/7/365 roadside assistance with expert
16 technicians in Sacramento, CA.

17 16. Plaintiff was employed by Defendant as a non-exempt employee with the title of
18 “Dispatcher” out of Sacramento, California, beginning in January 2023, until her separation from
19 employment on July 29, 2024. Plaintiff and other non-exempt employees (including, but not limited
20 to, Diesel Mechanic, Diesel Technician, Trailer Mechanic, Mobile Diesel Mechanic, Dispatcher,
21 Advertising Specialist, Technician, Billing Specialist, Data Entry Clerk, Office Assistant, and all
22 other non-exempt positions) were responsible for all aspects of Defendant’s business in the State of
23 California.

24 17. However, in these roles, Plaintiff and non-exempt employees were often not afforded
25 all protections and rights conferred under the California Labor Code and applicable Wage Orders.

26 18. First, at all relevant times, Plaintiff and other non-exempt employees were denied
27 compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to
28 Defendant’s uniform meal period policies/practices, operational requirements, staffing issues, and

1 work demands, Plaintiff and other non-exempt employees often could not take timely and
2 uninterrupted net 30-minute first meal periods before the end of the fifth hour of work. Further, when
3 Plaintiff and other non-exempt employees worked more than 10.0 hours in a shift, they were not
4 always allowed and permitted to take a mandated second meal period before the end of the tenth hour
5 of work in violation of the Labor Code and applicable Wage Orders. Indeed, Plaintiff's and other
6 non-exempt employees' meal periods were often interrupted and/or lasted fewer than 30 minutes due
7 to Defendant's meal period policies/procedures, operational requirements, and work demands.

8 19. In addition, for each missed or non-compliant meal period, Defendant failed and
9 continues to fail to maintain a mechanism by which non-exempt employees were paid meal period
10 premiums at the "regular rate of pay" pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) and
11 Labor Code § 226.7.

12 20. Accordingly, due to Defendant's uniform meal period practices, non-exempt
13 employees were also regularly denied legally compliant meal periods in violation of Labor Code §§
14 226.7, 510, 516, and applicable Wage Orders.

15 21. Next, at all relevant times, Plaintiff and other non-exempt employees were not
16 provided with all 10-minute rest periods for every four hours worked, or a major fraction thereof, due
17 to Defendant's uniform rest period policies/practices, operational requirements, staffing issues, and
18 work demands. As a result, Plaintiff and other non-exempt employees were and are often unable to
19 take a net 10-minute duty-free rest period for every major fraction of four hours worked. This includes
20 a second rest period for shifts in excess of six hours and a third rest period for shifts in excess of 10.0
21 hours in a workday.

22 22. By not relieving all non-exempt employees of all duties during rest periods, Defendant
23 failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc.* (2016)
24 2 Cal. 5th 257, 269 [concluding that "during rest periods employers must relieve employees of all
25 duties and relinquish control over how employees spend their time."] (Emphasis added). In *Augustus*,
26 the California Supreme Court expressly rejected the employer's assertion that it could provide an on-
27 duty rest period to employees who worked as security guards and further explained: "that employers
28 [must] relinquish any control over how employees spend their break time and relieve their employees

1 of all duties.” *Id.* at 273. Each time non-exempt employees could not take a compliant rest period;
2 Defendant failed and continues to fail to adequately pay rest period premium payments at the “regular
3 rate of pay” as required by Labor Code § 226.7.

4 23. Accordingly, due to Defendant’s uniform rest period policies/practices, non-exempt
5 employees were regularly denied legally compliant rest breaks in violation of Labor Code §§ 226.7,
6 512, and applicable Wage Orders.

7 24. As a result of Defendant’s failure to pay Plaintiff and other non-exempt employees for
8 all meal and rest period premiums at the “regular rate of pay,” Defendant issued wage statements
9 which failed to identify the gross wages earned accurately, the total hours worked, the net wages
10 earned, and the correct corresponding number of hours worked at each hourly rate, in violation of
11 Labor Code § 226(a)(1, 2, 5, and 9).

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

17 26. Thus, for the violations of Labor Code section 226 described above, Plaintiff and other
18 non-exempt employees may also recover Labor Code § 226.3 penalties for Defendant’s violations of
19 Labor Code § 226(a). Consequently, because Defendant failed to comply with Labor Code § 226(a),
20 Plaintiff and other non-exempt employees would be entitled to recover penalties under Labor Code §
21 226(e).

22 27. Furthermore, because Defendant failed to pay meal and rest period premiums at the
23 “regular rate of pay,” Defendant also failed and continues to fail to pay Plaintiff and other non-exempt
24 employees all wages owed at their time of separation from employment in violation of Labor Code
25 §§ 201-203. Thus, non-exempt employees would be entitled to recover waiting time penalties under
26 Labor Code §§ 201-203.

27 28. Moreover, at all relevant times, Defendant required Plaintiff and other non-exempt
28 employees to incur necessary expenses for work-related purposes but did not reimburse non-exempt

1 employees adequately for these necessary expenditures in violation of Labor Code §§ 2802-2804.
2 Here, Defendant uniformly failed to reimburse non-exempt employees for the necessary costs
3 incurred in discharging their duties. Accordingly, due to Defendant's uniform failure to adequately
4 reimburse for necessary business expenditures in violation of Labor Code §§ 2802-2804 and
5 applicable Wage Orders.

6 29. Furthermore, at all relevant times, Defendant, as the relevant employer here, was
7 required to maintain certain employment and payroll records for Plaintiff and other non-exempt
8 employees.

9 30. Pursuant to Labor Code § 1174, subdivision (d), an employer shall keep at a central
10 location in the state or at the plants or establishments at which employees are employed, payroll
11 records showing the hours worked daily by and wages paid to employees employed at the respective
12 plants or establishments. These records must be kept in accordance with rules established for this
13 purpose by the commission, but in any case, shall be kept on file for not less than two years.

14 31. Defendant has intentionally and willfully failed to keep accurate and complete records
15 showing the daily hours worked and wages paid to Plaintiff and other non-exempt employees. Thus,
16 Plaintiff and the other non-exempt employees have been denied their legal right and protected interest
17 in having available at a central location at the plant or establishment where they are employed
18 accurate and complete payroll records showing the hours worked daily and the wages paid to,
19 employees at those respective locations pursuant to Labor Code § 1174.

20 32. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
21 are entitled to recover a civil penalty of \$500 for an employer's failure to maintain accurate and
22 complete records pursuant to Labor Code § 1174.

23 33. Finally, at all relevant times, Defendant failed to provide or timely provide Plaintiff
24 and other non-exempt employees with their respective personnel files, signed documents and payroll
25 records.

26 34. Labor Code section 226(c), in relevant part, states: "An employer who receives a
27 written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
28 or former employee shall comply with the request as soon as practicable, but no later than 21 calendar

days from the date of the request.”

35. Additionally, Labor Code section 1198.5(a), states: “Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” Further, California Labor Code section 1198.5(b)(1), in relevant part, states: “The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer’s receipt of the written request.”

36. Finally, Labor Code section 432, states: “If an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.”

37. However, at all relevant times, Defendants have intentionally and willfully failed to provide or timely provide personnel and payroll records to Plaintiff and other non-exempt employees upon their respective requests for the same. Therefore, Defendants failed to permit Plaintiff and the Putative Classes to inspect their respective personnel files and payroll records in violation of California Labor Code sections 226, 432, and 1198.5.

38. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees are entitled to recover a seven-hundred-fifty-dollar (\$750) penalty from Defendants pursuant to Labor Code §§ 226(f) and 1198.5(k), in addition to reasonable attorneys' fees and costs pursuant to Labor Code § 1198.5(l).

CLASS ACTION ALLEGATIONS

39. Plaintiff brings this action on behalf of herself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

All current or former non-exempt hourly employees who work or worked for Defendant in California during the four years immediately preceding the filing of the Complaint through the date of trial. (the “Class”);

1 All current or former employees who work or worked for Defendant in
2 California during the one year immediately preceding the filing of the
3 Complaint through the date of trial. (“the Wage Statement Subclass”)

4 All employees who work or worked for Defendant in California and who left
5 their employment during the three years immediately preceding the filing of
6 the Complaint through the date of trial. (“Waiting Time Penalty Subclass”)

(collectively “the Classes”)

7 40. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
8 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
9 unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one
10 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
11 Defendant’s employment and payroll records.

12 ///

13 41. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
14 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated
15 non-exempt employees, which predominate over questions affecting only individual members
16 including, without limitation to:

17 1. Whether Defendant provided legally compliant meal and rest periods or proper
18 compensation at the “regular rate of pay” in lieu thereof to members of the Class;

19 2. Whether Defendant furnished legally compliant wage statements to members of the
20 Wage Statement Subclass pursuant to Labor Code § 226(a);

21 3. Whether the timing and amount of payment of final wages to members of the Waiting
22 Time Penalty Subclass at the time of separation from employment were unlawful;

23 4. Whether Defendant failed to reimburse Class Members for all necessary business
24 expenses in violation of Labor Code §§ 2802-2804;

25 5. Whether Defendant failed to maintain necessary personnel and payroll records; and

26 6. Whether Defendant failed to provide copies of personnel and payroll records upon
27 request.

28 42. **Predominance of Common Questions:** Common questions of law and fact

1 predominate over questions that affect only individual members of the Classes. The common
2 questions of law set forth above are numerous and substantial and stem from Defendant's policies
3 and/or practices applicable to each individual class member, such as without limitation, Defendant's
4 failure to provide all compliant meal and rest periods or premiums at the "regular rate of pay" in lieu
5 thereof, Defendant's failure to provide accurate itemized wage statements, Defendant's failure to
6 reimburse for all necessary business expenses, Defendant's failure to pay for all wages due upon
7 separation of employment, and Defendant's failure to maintain and provide payroll records and
8 personnel files. As such, the common questions predominate over individual questions concerning
9 each class member's showing as to his or her eligibility for recovery or the amount of his or her
10 damages.

11 43. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
12 Plaintiff was employed by Defendant as a non-exempt employee in California during the statute(s)
13 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein,
14 Plaintiff, like the members of the Classes, was deprived of meal and rest period premium wages, was
15 subject to Defendant's uniform meal and rest period policies/practices, was not provided accurate
16 itemized wage statements, was not reimbursed for all necessary business expenses, was not timely
17 paid all wages owed upon separation of employment, and was not provide payroll records and
18 personnel files upon request.

19 44. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
20 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
21 attorneys are ready, willing, and able to fully and adequately represent the members of the Classes.
22 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
23 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
24 members of the Classes.

25 45. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
26 important public interest in establishing minimum working conditions and standards in California.
27 These laws and labor standards protect the average working employee from exploitation by
28 employers who have the responsibility to follow the laws and who may seek to take advantage of

1 superior economic and bargaining power in setting onerous terms and conditions of employment. The
2 nature of this action and the format of laws available to Plaintiff and members of the Classes make
3 the class action format a particularly efficient and appropriate procedure to redress the violations
4 alleged herein. If each employee were required to file an individual lawsuit, Defendant would
5 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the
6 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

7 46. Moreover, requiring each member of the Classes to pursue an individual remedy would
8 also discourage the assertion of lawful claims by employees who would be disinclined to file an action
9 against their former and/or current employer for real and justifiable fear of retaliation and permanent
10 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
11 the individual class members, even if possible, would create a substantial risk of inconsistent or
12 varying verdicts or adjudications with respect to the individual class members against Defendant
13 herein and which would establish potentially incompatible standards of conduct for Defendant; and/or
14 legal determinations with respect to individual class members which would, as a practical matter, be
15 dispositive of the interest of the other class members not parties to adjudications or which would
16 substantially impair or impede the ability of the class members to protect their interests. Further, the
17 claims of the individual members of the class are not sufficiently large to warrant vigorous individual
18 prosecution considering all of the concomitant costs and expenses attending thereto. As such, the
19 Classes identified in Paragraph 36 are maintainable as Classes under § 382 of the Code of Civil
20 Procedure.

21 **FIRST CAUSE OF ACTION**

22 **MEAL PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 47. Plaintiff re-alleges and incorporates all previous paragraphs by reference.

25 48. Plaintiff is informed and believes, and based thereon alleges, that Defendant failed in
26 their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff
27 and members of the Class, with all required meal periods in accordance with the mandates of the
28 California Labor Code and applicable Wage Orders, for the reasons set forth in the Common

1 Allegations section of this Complaint.

2 49. Despite Defendant's violations, Defendant has not paid an additional hour of pay at
3 the "regular rate of pay" to Plaintiff and Class members at their respective regular rates of pay for
4 each violation, per California Labor Code § 226.7.

5 50. As a result, Defendant is responsible for paying premium compensation at the "regular
6 rate of pay" for meal period violations, including interest thereon, statutory penalties, and costs of
7 suit pursuant to the applicable Wage Orders, Labor Code §§ 226.7, 512, and Civil Code §§ 3287(b)
8 and 3289.

9 **SECOND CAUSE OF ACTION**

10 **REST PERIOD VIOLATIONS**

11 **(AGAINST ALL DEFENDANTS)**

12 51. Plaintiff re-alleges and incorporates all previous paragraphs by reference.

13 52. Section 12 of the applicable Wage Orders and Labor Code §§ 226.7 and 516
14 establishes the right of non-exempt employees to be provided with a rest period of at least ten (10)
15 minutes for each four (4) hour period worked or major fraction thereof.

16 53. Due to their unlawful rest period policy/practices and operational requirements/work
17 demands, Defendant did not authorize and permit Plaintiff and Class members to take all rest periods
18 to which they were legally entitled.

19 54. Despite Defendant's violations, Defendant has not paid an additional hour of pay at
20 the "regular rate of pay" to Plaintiff and Class members at their respective regular rates of pay for
21 each violation, per California Labor Code § 226.7.

22 55. The foregoing violations create an entitlement to recovery by Plaintiff and members
23 of the Class in a civil action for the unpaid amount of rest period premiums owing, including interest
24 thereon, statutory penalties, and costs of suit pursuant to the applicable Wage Orders, Labor Code §§
25 226.7 and 516, and Civil Code §§ 3287(b) and 3289.

26 **THIRD CAUSE OF ACTION**

27 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

28 **(AGAINST ALL DEFENDANTS)**

1 56. Plaintiff re-alleges and incorporates all previous paragraphs by reference.

2 57. Labor Code 226(a) states in pertinent part the following:

3 “(a) An employer, semimonthly or at the time of each payment of wages,
4 shall furnish to his or her employee, either as a detachable part of the check,
5 draft, or voucher paying the employee’s wages, or separately if wages are
6 paid by personal check or cash, an accurate itemized statement in writing
7 showing (1) gross wages earned, (2) total hours worked by the employee,
8 (3) the number of piece-rate units earned and any applicable piece rate if the
9 employee is paid on a piece-rate basis, (4) all deductions, provided that all
10 deductions made on written orders of the employee may be aggregated and
11 shown as one item, (5) net wages earned, (6) the inclusive dates of the
12 period for which the employee is paid, (7) the name of the employee and
13 only the last four digits of his or her social security number or an employee
14 identification number other than a social security number, (8) the name and
15 address of the legal entity that is the employer, and (9) all applicable hourly
16 rates in effect during the pay period and the corresponding number of hours
17 worked at each hourly rate by the employee.”

18 58. As set forth above, during the Class Period, Defendant issued and continues to issue
19 wage statements to its employees, including Plaintiff and members of the Wage Statement Subclass,
20 which are inadequate under Labor Code Section § 226(a).

21 59. Because Defendant failed to pay Plaintiff and the Wage Statement Subclass for all
22 missed meal and rest period premiums at the appropriate “regular rate of pay,” Defendant failed to
23 include required information on Plaintiff and the Wage Statement Subclass’ wage statements,
24 including, but not limited to, the total hours worked and the correct corresponding number of hours
25 worked at each hourly rate in violation of Labor Code section 226(a)(1,2,5 and 9).

26 60. Defendant’ failure to comply with section 226(a) of the Labor Code was knowing
27 and intentional.

28 61. As a result of Defendant’s issuance of inaccurate itemized wage statements to Plaintiff
and members of the Wage Statement Subclass in violation of section 226(a) of the California Labor
Code, Plaintiff and members of the Wage Statement Subclass are each entitled to recover an initial
penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty
of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendant’s
pursuant to section 226(e) of the Labor Code, costs and reasonable attorneys’ fees.

1 **FOURTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES**

3 **(AGAINST ALL DEFENDANTS)**

4 62. Plaintiff re-alleges and incorporates all previous paragraphs by reference.

5 63. The actionable period for this cause of action is three years before filing this Complaint
6 through the present and ongoing until the violation is corrected, or the class is certified.

7 64. Labor Code §§ 201 and 202 require Defendant to pay all compensation due and owing
8 to Plaintiff and the Waiting Time Subclass during the actionable period for this cause of action at or
9 around the time their employment is terminated or ended.

10 65. Labor Code § 203 provides that if an employer willfully fails to pay compensation
11 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, the
12 employer is liable for penalties for continued compensation up to thirty (30) workdays.

13 66. Defendant willfully failed to pay the Waiting Time Subclass for their meal and rest
14 period premiums at the “regular rate of pay” before or upon termination or separation from
15 employment with Defendant as required by Labor Code §§ 201 and 202.

16 67. As a result, Defendant is liable to the Waiting Time Subclass for waiting time penalties
17 amounting to thirty (30) days wages for Plaintiff and the Waiting Time Subclass pursuant to Labor
18 Code § 203. *See, e.g., DLSE Manual, 4.3.4 (Failure to pay any sort of wages due upon termination*
19 *entitles an employee to recover waiting time penalties).*

20 **FIFTH CAUSE OF ACTION**

21 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES**

22 **(AGAINST ALL DEFENDANTS)**

23 68. Plaintiff re-alleges and incorporates all previous paragraphs by reference.

24 69. Labor Code 2802(a) states in pertinent part the following: “(a) An employer shall
25 indemnify his or her employee for all necessary expenditures or losses incurred by the employee in
26 direct consequence of the discharge of his or her duties, or of his or her obedience to the directions
27 of the employer, even though unlawful, unless the employee, at the time of obeying the directions,
28 believed them to be unlawful.”

70. As set forth above, Plaintiff and Class members must be compensated for all necessary business expenditures, including, but not limited to, a reasonable portion of their monthly personal cell phone bills, and other costs incurred in the discharge of their duties. (See *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137 (“We hold that when employees must use their personal cell phones for work-related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.”); *Ritchie v. Blue Shield of California*, 2014 WL 6982943, at *21 (N.D. Cal. 2014) (certifying class of cell phone reimbursement claim and adopting the logic of *Cochran*)).

71. At all relevant times, Defendant has failed to comply with Labor Code Section 2802 and the applicable Wage Orders by failing to reimburse Plaintiff and the Class for all necessary business expenditures.

SIXTH CAUSE OF ACTION

FAILURE TO MAINTAIN PAYROLL RECORDS

(AGAINST ALL DEFENDANTS)

72. Plaintiff re-alleges and incorporates all previous paragraphs by reference.

73. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for at least two years.

74. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records.

75. Defendant has intentionally and willfully failed to keep accurate and complete records showing the hours worked daily and wages paid to Plaintiff and the Classes. Thus, Plaintiff and the Classes have been denied their legal right and protected interest in having available at a central location at the plant or establishment where they are employed, accurate and complete payroll records

1 showing the hours worked daily by, and the wages paid to, employees at those respective locations
2 pursuant to Labor Code § 1174.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO PROVIDE COPIES OF RECORDS**

5 **(AGAINST ALL DEFENDANTS)**

6 76. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 77. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall
8 keep at a central location in the state or at the plants or establishments at which employees are
9 employed, payroll records showing the hours worked daily by and wages paid to employees employed
10 at the respective plants or establishments. These records must be kept in accordance with rules
11 established for this purpose by the commission, but in any case, shall be kept on file for not less than
12 two years.

13 78. California Labor Code section 226(c), in relevant part, states: “An employer who
14 receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to
15 a current or former employee shall comply with the request as soon as practicable, but no later than
16 21 calendar days from the date of the request.” Further, Cal. Labor Code § 226(f) states: “A failure
17 by an employer to permit a current or former employee to inspect or copy records within the time set
18 forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover
19 a seven-hundred-fifty-dollar (\$750) penalty from the employer.”

20 79. California Labor Code section 432, states: “If an employee or applicant signs any
21 instrument relating to the obtaining or holding of employment, he shall be given a copy of the
22 instrument upon request.”

23 80. California Labor Code section 1198.5(a), states: “Every current and former employee,
24 or his or her representative, has the right to inspect and receive a copy of the personnel records that
25 the employer maintains relating to the employee’s performance or to any grievance concerning the
26 employee.” Further, California Labor Code section 1198.5(b)(1), in relevant part, states: “The
27 employer shall make the contents of those personnel records available for inspection to the current or
28 former employee, or his or her representative, at reasonable intervals and at reasonable times, but not

1 later than 30 calendar days from the date the employer receives a written request, unless the current
2 or former employee, or his or her representative, and the employer agree in writing to a date beyond
3 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days
4 from the employer's receipt of the written request." Further, California Labor Code section 1198.5(k)
5 states: "If an employer fails to permit a current or former employee, or his or her representative, to
6 inspect or copy personnel records within the times specified in this section, or times agreed to by
7 mutual agreement as provided in this section, the current or former employee or the Labor
8 Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer."
9 Further, California Labor Code § 1198.5(l) states: "A current or former employee may also bring an
10 action for injunctive relief to obtain compliance with this section and may recover costs and
11 reasonable attorney's fees in such an action."

12 81. Defendant has intentionally and willfully failed to provide or timely provide personnel
13 and payroll records to Plaintiff and the Records Request Subclass upon their respective requests for
14 the same. Therefore, Defendant failed to permit Plaintiff and the Records Request Subclass to inspect
15 their respective personnel files and payroll records in violation of California Labor Code sections
16 226, 432, and 1198.5.

17 **EIGHTH CAUSE OF ACTION**

18 **UNFAIR COMPETITION**

19 **(AGAINST ALL DEFENDANTS)**

20 82. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 83. Defendant has engaged and continues to engage in unfair and/or unlawful business
22 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
23 failing to provide all legally required meal and rest periods or pay premium payments at the "regular
24 rate of pay" in lieu thereof, by failing to provide accurate wage statements, by failing to reimburse
25 for all necessary business expenses adequately, by failing to pay all earned wages at the time of
26 separation from employment, and by failing to maintain and provide payroll records and personnel
27 files.

28 84. Defendant's utilization of these unfair and/or unlawful business practices deprived

1 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
2 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
3 Defendant competitors who have been and/or are currently employing workers and attempting to do
4 so in honest compliance with applicable wage and hour laws.

5 85. Because Plaintiff is a victim of Defendant's unfair and/or unlawful conduct alleged
6 herein, Plaintiff, for herself and on behalf of the members of the Classes, seeks full restitution of
7 monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or
8 converted by Defendant's pursuant to Business and Professions Code §§ 17203 and 17208.

9 86. The acts complained of herein occurred within the last four years immediately
10 preceding the filing of the Complaint in this action.

11 87. Plaintiff was compelled to retain the services of counsel to file this court action to
12 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of
13 Defendant's current hourly non-exempt employees, and to enforce important rights affecting the
14 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which
15 she is entitled to recover under Code of Civil Procedure § 1021.5.

16 **NINTH CAUSE OF ACTION**

17 **PRIVATE ATTORNEYS GENERAL ACT**

18 **(AGAINST ALL DEFENDANTS)**

19 88. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 89. Defendant has committed several Labor Code violations against Plaintiff and other
21 similarly aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code
22 § 2698 *et seq.*, acting on behalf of herself and other similarly aggrieved employees, brings this PAGA
23 representative action against Defendant to recover the civil penalties due to Plaintiff, other similarly
24 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699
25 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each
26 subsequent violation per employee per pay period for those violations of the Labor Code for which
27 no civil penalty is specifically provided based on the following Labor Code violations:

28 a) Failing to provide Plaintiff and other similarly Aggrieved Employees with all of their

1 statutorily-mandated meal periods in violation of Labor Code §§ 204, 510, 1194 and 1198;

2 b) Failing to authorize and permit Plaintiff and other similarly Aggrieved employees
3 with all of their statutorily-mandated rest periods in violation of Labor Code §§ 226.7 and 516;

4 c) Failing to furnish Plaintiff and other similarly situated employees with complete,
5 accurate, itemized wage statements in violations of Labor Code § 226(a) and applicable Wage Orders;

6 d) Failing to pay final wages in a timely manner in violation of Labor Code §§ 201-203
7 and applicable Wage Orders; and

8 e) Failing to reimburse Plaintiff and other aggrieved employees with all necessary
9 business expenditures in violation of Labor Code §§ 2802-2804 and applicable Wage Orders.

10 f) Failing to maintain and provide payroll records and personnel files in violation of
11 Labor Code §§ 432, 1174, 1174.5, 1198.5 and applicable Wage Orders.

12 90. On or about August 8, 2024, Plaintiff notified Defendant Kooner Truck Repair, Inc.
13 (“Defendant”) and the California Labor and Workforce Development Agency (“LWDA”) via email
14 of Defendant’s violations of the California Labor Code § 2698 *et seq.*, with respect to violations of
15 the California Labor Code identified in Paragraph 88 (a)-(f). Now that the sixty-five days have passed
16 from Plaintiff notifying Defendant of these violations, Plaintiff has exhausted her administrative
17 requirements for bringing a claim under the Private Attorneys General Act with respect to these
18 violations.

19 91. Plaintiff was compelled to retain the services of counsel to file this court action to
20 protect her interests and the interests of similarly aggrieved employees, and to assess and collect the
21 civil penalties owed by Defendant. Plaintiff has hereby incurred attorneys’ fees and costs, which she
22 is entitled to receive under California Labor Code § 2699.

23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiff prays for judgment for herself and all others on whose behalf this
25 suit is brought against Defendant, as follows:

- 26 1. For an order certifying the proposed Classes;
27 2. For an order appointing Plaintiff as representative of the Classes;
28 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;

1 4. Upon the First Cause of Action, for compensatory, consequential, general, and
2 special damages according to proof pursuant to Labor Code §§ 226.7 and 512;

3 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
4 special damages according to proof pursuant to Labor Code §§ 226.7 and 516;

5 6. Upon the Third Cause of Action, penalties pursuant to Labor Code § 226(a), and
6 reasonable costs and attorney's fees;

7 7. Upon the Fourth Cause of Action, for statutory waiting time penalties pursuant to
8 Labor Code §§ 201-203;

9 8. Upon the Fifth Cause of Action, for unreimbursed expenses, interest, and attorney's
10 fees and costs pursuant to Labor Code § 2802;

11 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §§
12 226(a), 1174, and 1174.5;

13 10. Upon the Seventh Cause of Action, for statutory penalties pursuant to Labor Code
14 §§ 226, 432, and 1198.5;

15 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
16 Classes of all money and/or property unlawfully acquired by Defendant by means of any acts or
17 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

18 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other similarly
19 Aggrieved Employees, and the State of California according to proof pursuant to Labor Code § 2699
20 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation and \$200 for each
21 subsequent violation per employee per pay period for those violations of the Labor Code for which
22 no civil penalty is specifically provided under the Labor Code, and for reasonable attorneys' fees and
23 costs;

24 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
25 § 218.6 and Civil Code §§ 3287 and 3289;

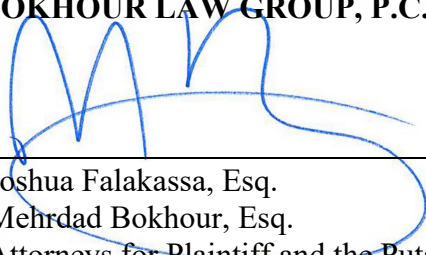
26 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
27 218.5, 226, 1194, Code of Civil Procedure § 1021.5; and

28 15. For such other relief that the Court may deem just and proper.

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Dated: October 29, 2024

FALAKASSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

By: 

Joshua Falakassa, Esq.
Mehrdad Bokhour, Esq.
Attorneys for Plaintiff and the Putative Classes