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

STEVEN PORTER, ANDRE STOKES, and
TODD GASSER, CURTIS BALDWIN,
ROBB LEWIS, ANTONIO REYES, and
BERNARDO ROMERO, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

JOHN CHRISTNER TRUCKING, LLC, an
Oklahoma Limited Liability Company;
HIRSCHBACH, INC., an Indiana
Corporation; HIRSCHBACH MOTOR
LINES, INC., an Iowa Corporation; and
DOES 1 through 20, inclusive;

Defendants.

Case No.: CVRI2406864
*[Assigned to Hon. Harold Hopp, Dept 1, for
all purposes]*

FIRST AMENDED COMPLAINT

CLASS ACTION CLAIMS

- (1) Failure to Pay Wages;
- (2) Failure to Pay for Nonproductive Time Under Labor Code § 226.2;
- (3) Failure to Reimburse Bus. Expenses;
- (4) Failure to Timely Pay Final Wage;
- (5) Failure to Provide Accurate Itemized Wage Statements;
- (6) Unfair and Unlawful Competition;

PAGA CLAIMS

- (7) Willful Misclassification;
- (8) Failure to Pay Wages;
- (9) Failure to Pay for Nonproductive Time Under Labor Code § 226.2;
- (10) Failure to Reimburse Business Expenses;
- (11) Failure to Timely Pay Wages;
- (12) Failure to Timely Pay Final Wages; and
- (13) Failure to Provide Accurate Itemized Wage Statements.

1 Plaintiffs Steven Porter, Andre Stokes, Todd Gasser, Curtis Baldwin, Robb Lewis,
2 Antonio Reyes, and Bernardo Romero (“Plaintiffs”), on behalf of themselves, on a representative
3 basis, and on behalf of others similarly situated, complain and allege as follows.

4 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

5 1. Plaintiffs bring this action against their employer(s) John Christner Trucking,
6 LLC, Hirschbach, Inc., Hirschbach Motor Lines, Inc., and DOES 1 through 20, inclusive,
7 (collectively, “Defendants”) on behalf of a “Class” (the “Represented Employees”) comprised of
8 two distinct groups of workers: (A) the “Contractor Subclass”, defined as all current and former
9 California resident truck drivers who, on behalf of themselves or a business, entered into a
10 written contract to provide equipment and delivery services as independent contractors for any of
11 the Defendants, and performed services for any of the Defendants in the State of California at
12 any time since September 30, 2020, and (B) the “Employee Subclass”, defined as all current and
13 former California resident truck drivers employed by any of the Defendants who drove in
14 California at any time since March 11, 2020.

15 2. Plaintiffs allege that they and the Represented Employees were subjected to
16 violations of the California Labor Code stemming from Defendants’ willful misclassification,
17 failure to pay wages for all hours worked, failure to pay for nonproductive time under Labor
18 Code § 226.2, failure to reimburse business expenses, failure to timely pay wages each period
19 and upon separation of employment, and failure to provide accurate itemized wage statements,
20 among other claims.

21 3. Plaintiffs allege on information and belief that the Represented Employees were
22 subjected to the same policies, working conditions, and corresponding wage and hour violations
23 to which Plaintiffs were subjected during employment.

24 4. At all relevant times, Plaintiffs and the Contractor Subclass performed various
25 duties for Defendants as employee truck drivers. However, Defendants have maintained policies
26 and practices based on or including the willful misclassification of Plaintiffs and the Contractor
27 Subclass as independent contractors despite that, under applicable standards of law, Plaintiffs
28 and all Contractor Subclass are, or were during their employment with Defendants, employees,

1 and not independent contractors.

2 5. Under Labor Code § 2775, the Contractor Subclass members are/were employees
3 of Defendants, not independent contractors, and Defendants cannot meet their burden of proving
4 otherwise because:

5 A. The Contractor Subclass are/were subject to the control and direction of
6 Defendants in connection with the performance of their work, under contract and in fact.

7 B. The Contractor Subclass performed work that was the core business of the
8 company (*e.g.*, cargo pickup and delivery, etc.), and therefore the tasks were not outside the
9 usual course of Defendants' business, and

10 C. The Contractor Subclass were not customarily engaged in an
11 independently established trade, occupation, or business of the same nature as the work
12 performed by Defendants.

13 6. Also, Plaintiffs and the Contractor Subclass were subject to the direction and
14 control of Defendants in regard to work assignments, scheduling requirements, and days of work.
15 Defendants also directly and indirectly exercised control over the wages, hours, and working
16 conditions of Plaintiffs and the Contractor Subclass. At all relevant times, the daily schedule for
17 Plaintiffs and the Contractor Subclass was controlled solely by Defendants, and Defendants told
18 them the exact time and location for all daily pickups and deliveries. Further, through the
19 performance of their job duties, Plaintiffs and the Contractor Subclass performed an integral and
20 entirely essential aspect of Defendants' business; Plaintiffs and the Contractor Subclass
21 performed the one and only service that Defendants provided: cargo transportation. In this role,
22 Plaintiffs and the Contractor Subclass drove trucks owned by Defendants that were plastered
23 with Defendants' logo(s) and information and operated under Defendants' Department of
24 Transportation authority and insurance. Additionally, the customers are and/or were Defendants'
25 customers, not those of Plaintiffs or the Contractor Subclass. Plaintiffs and the Contractor
26 Subclass were also prohibited from performing similar services for other companies and, thus,
27 were not engaged in an independently established trade, occupation or business of the same
28 nature as the work performed by Defendants. Finally, Defendants retained the right to terminate

1 Plaintiffs and the Contractor Subclass' working relationship without cause and at its discretion.

2 7. Despite the facts discussed herein, Defendants misclassified Plaintiffs and the
3 Contractor Subclass as independent contractors rather than as employees, leading to violations of
4 the California Labor Code and IWC Wage Orders discussed below.

5 8. Plaintiffs and the Represented Employees were not provided proper minimum and
6 regular wages due to Defendants' failure to accurately record and compensate for all hours
7 worked. For example, Plaintiffs and the Represented Employees were often required to clock
8 out for meal periods and/or breaks yet were under Defendants' control and required to perform
9 duties for Defendants while off the clock. As a result of this policy and practice, Plaintiffs and
10 the Represented Employees were required to perform off-the-clock work that Defendants either
11 knew or should have known they were performing.

12 9. Additionally, Defendants failed to pay all required minimum and regular wages to
13 the Represented Employees due to a policy which paid on a piece-rate basis (per-mile and/or per-
14 day). Under this pay plan, the Represented Employees did not receive separate hourly
15 compensation at no less than the minimum wage for all unpaid, on-duty, time including tasks
16 such as pre-trip and post-trip inspections, detention time, loading and unloading time, completing
17 paperwork, refueling or repair, and downtime between runs. Also, the piece-rate compensation
18 paid to the Represented Employees often resulted in a payment of wages at less than the required
19 California minimum wages for all hours worked. Moreover, under the "per-day" pay plan,
20 Plaintiffs and the Represented Employees frequently were denied all required pay on occasions
21 that they worked on two calendar days (but were only paid for one day).

22 10. Also, Defendants required Plaintiffs and the Represented Employees to incur
23 substantial business-related expenses and costs without reimbursement. For example,
24 Defendants required Plaintiffs and the Represented Employees to incur substantial cost for truck
25 lease payments, maintenance expenses, and costs to use personal cell phones to carry out their
26 duties for Defendants, all without reimbursement.

27 11. Plaintiffs further allege that Defendants failed to provide accurate itemized wage
28 statements that fully complied with the requirements of Labor Code § 226(a).

1 12. Plaintiffs allege that Defendants' violations of the wage and hour components of
2 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their
3 level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over
4 its competitors.

5 13. At all material times, Defendants and DOES 1 through 20 were and/or are the
6 Represented Employees' employers or persons acting on behalf of the Represented Employees'
7 employer, within the meaning of California Labor Code § 558, who violated or caused to be
8 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
9 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each
10 underpaid employee as set forth in Labor Code § 558 and under California law.

11 14. Plaintiffs bring this lawsuit seeking declaratory, equitable, and monetary relief
12 against Defendants and each of them, on behalf of themselves and the Represented Employees to
13 recover, among other things, unpaid wages and benefits, interest, attorneys' fees, penalties, costs
14 and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 218.6, 221, 223, 226,
15 226.2, 226.3, 226.8, 246, 558, 1194, 1194.2, and 2802, among possibly other sections
16 inadvertently omitted. Plaintiffs also reserve the right to name additional representatives
17 throughout the State of California.

18 **II. JURISDICTION**

19 15. This Court has jurisdiction over the claims for relief of Plaintiffs and the
20 Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

21 **III. VENUE**

22 16. Venue as to each Defendant is proper in this Court pursuant to Code of Civil
23 Procedure § 395(a) because: Defendants transact business in Riverside County, the unlawful acts
24 alleged herein have a direct effect on the Represented Employees in Riverside County,
25 Defendants employed or employ the Represented Employees in Riverside County, and the
26 alleged violations occurred in Riverside County.

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1 **IV. PARTIES**

2 **Plaintiff**

3 17. Plaintiffs and Class Representatives Steven Porter, Andre Stokes, Todd Gasser,
4 Curtis Baldwin, Robb Lewis, Antonio Reyes, and Bernardo Romero were employed by
5 Defendants and performed work for Defendants during the applicable periods herein.

6 **Defendants**

7 18. Plaintiffs allege that Defendant John Christner Trucking, LLC, is an Oklahoma
8 Limited Liability Company authorized to and doing business in Riverside County, California,
9 and is and/or was the legal employer of Plaintiffs and the Represented Employees during the
10 applicable statutory periods.

11 19. Plaintiffs allege that Defendant Hirschbach, Inc., is an Indiana Corporation
12 authorized to and doing business in Riverside County, California, and is and/or was the legal
13 employer of Plaintiffs and the Represented Employees during the applicable statutory periods.

14 20. Plaintiffs allege that Defendant Hirschbach Motor Lines, Inc., is an Iowa
15 Corporation authorized to and doing business in Riverside County, California, and is and/or was
16 the legal employer of Plaintiffs and the Represented Employees during the applicable statutory
17 periods.

18 21. Plaintiffs are ignorant of the true names, capacities, relationships, and extent of
19 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
20 inclusive, but on information and belief allege that those Defendants are legally responsible for
21 the payment of penalties and damages to Plaintiffs and all Represented Employees by virtue of
22 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
23 names. Plaintiffs will amend this complaint to allege the true names and capacities of the DOE
24 Defendants when ascertained.

25 22. Plaintiffs are informed and believe and thereon allege that they and the
26 Represented Employees worked under the joint direction and control of Defendants and that
27 Defendants, and each of them, acted in all respects pertinent to this action as the agent of the
28 other Defendants, carried out a joint scheme, business plan or policy in all respect pertinent

1 hereto, and the acts of each Defendant are legally attributable to the other Defendants. On
2 information and belief, a unity of interest and ownership between each Defendant exists such
3 that all Defendants acted as a single employer of Plaintiffs and other Represented Employees.

4 23. Furthermore, Plaintiffs are informed and believe and thereon allege that
5 Defendants, and each of them, are an integrated enterprise and should be treated as a single
6 employer because these entities share an interrelation of operations, with common human
7 resources and personnel policies and shared common offices and facilities. Additionally,
8 Defendants also have a shared website, common management, a centralized control of labor
9 operations, and common ownership or financial control.

10 24. Plaintiffs are informed and believe and thereon allege that, in conducting
11 themselves in the manner described herein, Defendants, and each of them, were acting in active
12 concert with one another such that the acts of each were and are fully attributable to the others in
13 all material respects. Plaintiffs are further informed and believe that at all relevant times
14 Defendants and each of them are now, and at all material times herein mentioned were, the
15 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
16 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
17 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
18 their remaining co-Defendants.

19 25. Plaintiffs are further informed and believe that at all relevant times, Defendants
20 have been inadequately capitalized to conduct business, have failed to follow appropriate
21 corporate formalities, and have simply been a shell and instrumentality through which
22 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
23 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
24 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
25 separate existence of these corporate entities would permit abuse of the corporate privilege,
26 thereby sanctioning fraud and promoting injustice.

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1 **V. CLASS ACTION ALLEGATIONS**

2 26. Plaintiffs incorporate the preceding paragraphs of this First Amended Complaint
3 (the “Complaint”) as if fully alleged herein.

4 27. Plaintiffs bring this action on behalf of themselves and all others similarly situated
5 as a class action, pursuant to Code of Civil Procedure § 382.

6 28. The Class, also referred to as the “Represented Employees,” that Plaintiffs seek to
7 represent is “all members of the Contractor Subclass and the Employee Subclass.”

8 29. Plaintiffs also seek to represent the following subclasses:

9 **Contractor Subclass**

10 All current and former California resident truck drivers who, on behalf of
11 themselves or a business, entered into a written contract to provide
12 equipment and delivery services as independent contracts for any of the
13 Defendants, and performed services for any of the Defendants in the State
14 of California at any time since September 30, 2020

15 **Employee Subclass**

16 All current and former California resident truck drivers employed by any
17 of the Defendants who drove in California at any time since March 11, 2020.

18 30. Plaintiffs reserve the right to amend or modify the class description with greater
19 specificity or further division into subclasses or limitation to particular issues as appropriate.

20 31. Plaintiffs, as the Class Representatives, are members of the class and subclasses
21 that they seek to represent.

22 32. This action has been brought and may properly be maintained as a class action
23 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the
24 litigation and the proposed class is easily ascertainable from Defendants’ personnel and payroll
25 records.

26 33. **Numerosity:** The potential members of the Class as defined are so numerous that
27 a joinder of all Represented Employees is impracticable. Although the exact number is currently
28 unknown to Plaintiffs, this information is easily ascertainable from Defendants’ payroll and

1 personnel records.

2 34. **Commonality:** There are questions of law and fact common to the class which
3 predominate over any questions affecting only individual members of the class, including
4 without limitation:

5 i. Whether Defendants misclassified the Contractor Subclass as independent
6 contractors;

7 ii. Whether Defendants violated the California Labor Code and IWC Wage
8 Order by failing to pay proper minimum and regular wages to the Represented Employees for all
9 hours worked;

10 iii. Whether Defendants violated California Labor Code and IWC Wage
11 Order by paying the Represented Employees on a piece-rate basis yet not providing separate
12 hourly compensation for “nonproductive” time;

13 iv. Whether Defendants violated the California Labor Code and applicable
14 IWC Wage Order by failing to reimburse the Represented Employees for business expenses
15 incurred while discharging their duties or in obedience to the directions of their employer;

16 v. Whether Defendants violated the California Labor Code by failing to
17 timely pay all wages due upon separation of employment between Defendants and the
18 Represented Employees, whether such separation was voluntary or involuntary;

19 vi. Whether Defendants violated the California Labor Code by failing to
20 provide the Represented Employees with complete, accurate, itemized wage statements;

21 vii. Whether Defendants violated California Business & Professions Code §§
22 17200 *et seq.* due to the: failure to pay all wages owed, failure to reimburse business expenses,
23 and failure to timely pay final wages; and

24 viii. Whether Plaintiffs and Represented Employees are entitled to equitable
25 relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

26 35. **Typicality:** Plaintiffs’ claims, as the Class Representatives, are typical of the
27 claims of The Class. Plaintiffs, like other members of The Class, were subjected to Defendants’
28 ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all

1 wages owed, failure to reimburse business expenses, failure to timely pay final wages, and
2 failure to provide accurate itemized wage statements.

3 36. **Adequacy of Representation.** Plaintiffs, as the Class Representatives, will fairly
4 and adequately represent and protect the interests of the Class. Plaintiffs' interests are not in
5 conflict with those of the Class. Class Representatives' counsel are competent and experienced in
6 litigating large employment class actions and other complex litigation matters, including cases
7 like this case.

8 37. **Superiority of Class Action.** Class certification is appropriate because a class
9 action is superior to other available means for the fair and efficient adjudication of this
10 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
11 law and fact common to the Class predominate over any questions affecting only individual
12 members of the Class. Each Represented Employee has been damaged and is entitled to
13 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
14 treatment will allow those similarly situated persons to litigate their claims in the manner that is
15 most efficient and economical for the parties and the judicial system.

16 **FIRST CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES**

18 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

19 38. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
20 alleged herein.

21 39. Plaintiffs and the Represented Employees were not exempt from the requirement
22 to be paid at least the applicable California minimum wage throughout the statutory period for
23 each hour worked.

24 40. As alleged herein, Plaintiffs and the Represented Employees were not provided
25 proper minimum and regular wages due to Defendants' failure to accurately record and
26 compensate for all hours worked and due to Defendants' piece-rate policy that failed to provide
27 separate hourly compensation for nonproductive time. As a result of these policies and practices,
28 Plaintiffs and the Represented Employees were required to perform off-the-clock work that

Defendants either knew or should have known they were performing.

41. Consequently, Defendants violated California Labor Code laws and minimum wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

42. Plaintiffs allege that Defendants intentionally, willfully, and improperly failed to pay wages to Plaintiffs and the Represented Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

43. Defendants' conduct was willful, as Defendants knew that Plaintiffs and the Represented Employees were entitled to be paid wages throughout the statutory period for each hour worked, including proper minimum wages, yet Defendants chose not to pay them in accordance thereto.

44. At all material times, Defendants DOES 1 through 20 were and/or are Plaintiffs' and the Represented Employees' employers or persons acting on behalf of Plaintiffs and the Represented Employees' employer, within the meaning of California Labor Code § 558, who violated or caused to be violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California Labor Code regulating hours and days of work respectively.

45. During employment of Plaintiffs and the Represented Employees, Defendants failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

46. As a result of the Defendants' wrongful conduct, Plaintiffs and the Represented Employees have been damaged in amounts to be proven at trial.

47. Plaintiffs, on behalf of themselves and the Represented Employees, seek recovery of all unpaid wages, liquidated damages, penalties, interest, and attorneys' fees and costs, pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in amounts to be proven at trial.

SECOND CAUSE OF ACTION

FAILURE TO PAY FOR NONPRODUCTIVE TIME

(Labor Code § 226.2)

48. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

1 49. Plaintiffs and the Represented Employees are and/or were employees of
2 Defendants who were paid on a piece-rate basis.

3 50. Labor Code § 226.2 requires employers that pay their employees on a piece-rate
4 basis to provide separate payment for nonproductive time at an hourly rate that is no less than the
5 applicable minimum wage. However, at all relevant times herein, Defendants failed to
6 compensate the Represented Employees for all nonproductive time separate from any piece-rate
7 compensation a. Therefore, Defendants violates Labor Code § 226.2 every pay period with
8 respect to each and every one of the Represented Employees.

9 51. As a result of Defendants' violations of Labor Code § 226.2, Plaintiffs and the
10 Represented Employees seek to recover, in a civil action, the unpaid balance of the full amount
11 of unpaid payments for nonproductive time, including interest thereon, reasonable attorneys'
12 fees, and costs of suit.

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

15 (Labor Code § 2802)

16 52. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
17 alleged herein.

18 53. Plaintiffs and the Represented Employees are and/or were employees of
19 Defendants who did not receive proper protections and benefits of the laws governing
20 reimbursement of business expenses.

21 54. Labor Code § 2802(a) requires that the employer indemnify its employees for
22 expenses incurred while discharging their duties or in obedience to directions of their employer.

23 55. At all relevant times herein mentioned, as a condition of employment, Defendants
24 required Plaintiffs and the Represented Employees to incur substantial business-related expenses
25 and costs without reimbursement. For example, Defendants required Plaintiffs and the
26 Represented Employees to incur substantial cost for truck lease payments, maintenance
27 expenses, and costs to use personal cell phones to carry out their duties for Defendants, all
28 without reimbursement.

1 56. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they
2 failed to reimburse Plaintiffs and the Represented Employees for expenses incurred as a direct
3 consequence of Plaintiffs' employment with Defendants and/or under the direction of
4 Defendants.

5 57. At all relevant times herein, Defendants failed to reimburse the Represented
6 Employees, including Plaintiffs, for expenses incurred while discharging duties to Defendants,
7 thereby receiving an economic benefit.

8 58. As a direct result of Defendants' violation of Labor Code § 2802 and IWC Wage
9 Order § 9(B), Plaintiffs and the Represented Employees have suffered, and continue to suffer,
10 substantial losses related to such incurred expenses, expenses, and attorney's fees in seeking to
11 compel Defendants to fully perform their obligations under the law, all in an amount to be
12 proved at time of trial.

13 59. Labor Code § 2802(b) states that "[a]ll awards made by a Court for
14 reimbursement of necessary expenditures" shall carry interest, at the same rate as judgments in
15 civil actions, and said interest will accrue from the date on which the employee incurred the
16 necessary expenditure or loss including, but not limited to, reasonable costs and attorney's fees
17 incurred by the employee enforcing the rights granted pursuant to Labor Code § 2802. The exact
18 amount of the necessary expenditures or losses is in an amount to be proven at time of trial.

19 60. Furthermore, Labor Code § 2802(c) states that "[f]or the purposes of this section,
20 the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not
21 limited to, attorney's fees incurred by the employee in enforcing the rights granted by this
22 section." Therefore, Plaintiffs and the Represented Employees seek to recover the unreimbursed
23 expenses, interest on the unreimbursed expenses, and the costs and attorney's fees necessarily
24 incurred in pursuing same. The exact amount of reimbursements, interest, costs, and attorney's
25 fees will be in an amount to be proved at the time of trial.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY FINAL WAGES**

3 (Labor Code §§ 201 – 203)

4 61. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 62. Plaintiffs and the Represented Employees are and/or were employees of
7 Defendants who did not receive proper protections and benefits of the laws governing the timing
8 and payment of wages.

9 63. Labor Code § 201 requires that the employer immediately pay any wages, without
10 abatement or reduction, to any employee who is discharged.

11 64. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
12 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
13 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

14 65. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
15 penalty from the due date thereof at the same rate until paid or until an action therefore is
16 commenced, but the wages shall not continue for more than thirty (30) days.

17 66. At all relevant times, Defendants employed a policy and practice whereby
18 Plaintiffs and the Represented Employees were not paid all wages due and owing upon
19 separation of employment within the time required by Labor Code §§ 201 and 202.

20 67. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
21 wages due and owing to Plaintiffs and the Represented Employees upon separation of
22 employment, including, but not limited to, minimum and regular wages.

23 68. Plaintiffs allege that, at all times material to this action, Defendants had a planned
24 pattern and practice of failing to timely pay Plaintiffs and the Represented Employees all wages
25 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.
26 Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiffs and the Represented
27 Employees the above-described waiting time penalty, all in an amount to be shown according to
28 proof at trial and within the jurisdiction of this Court.

1 **FIFTH CAUSE OF ACTION**

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

3 (Labor Code § 226)

4 69. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 70. Plaintiffs and the Represented Employees are and/or were employees of
7 Defendants who did not receive proper protections and benefits of the laws governing the
8 provision of accurate itemized wage statements.

9 71. Labor Code § 226(a) requires an employer to provide its employees with itemized
10 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
11 inclusive dates of the pay period, the employee's name and the last four digits of his or her
12 Social Security number (or employee identification number), the name and address of the legal
13 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
14 corresponding number of hours worked at each hourly rate by the employee.

15 72. Defendants violates Labor Code § 226(a) every pay period with respect to
16 Plaintiffs and the Represented Employees because Defendants failed to provide a document that
17 could constitute a wage statement within the meaning of Labor Code § 226.

18 73. Furthermore, Defendants violate Labor Code § 226(a) every pay period with
19 respect to the Represented Employees due to violations including: failure to accurately state
20 gross wages earned, total hours worked, all deductions, net wages earned, the name and address
21 of the legal entity that is the employer, the inclusive dates of the pay period, and all applicable
22 hourly rates in effect during the pay period and the corresponding number of hours at each
23 hourly rate by the employee.

24 74. Labor Code § 226.2(a) also states "[f]or employees compensated on a piece-rate
25 basis during a pay period, the following shall apply for that pay period: [...] (2) the itemized
26 statement required by subdivision (a) of Section 226 shall, in addition to the other items specified
27 in that subdivision, separately state the following, to which the provisions of Section 226 shall
28 also be applicable: (A) the total hours of compensable rest and recovery periods, the rate of

1 compensation, and the gross wages paid for those periods during the pay period [and] (B) [...]
2 the total hours of other nonproductive time, [...] the rate of compensation, and the gross wages
3 paid for that time during the pay period.”

4 75. At all relevant times, Defendants failed to provide a wage statement to Plaintiffs
5 and the Represented Employees that complied with the requirements of Labor Code §
6 226.2(a)(2) because the wage statements did not include any information regarding compensable
7 nonproductive time, or the rates of pay and compensation for the same. As such, Defendants
8 violate Labor Code § 226 and § 226.2 every pay period with respect to Plaintiffs and the
9 Represented Employees.

10 76. Defendants’ failure to provide the required writing deprived Plaintiffs and the
11 Represented Employees of the ability to know, understand, and question the calculation and rate
12 of pay and hours used to calculate the wages paid by Defendants. Therefore, Plaintiffs and the
13 Represented Employees had no way to dispute the resulting miscalculation of wages, all of
14 which resulted in an unjustified economic enrichment to said Defendants. As a direct result,
15 Plaintiffs and the Represented Employees have suffered and continue to suffer, substantial losses
16 related to the use and enjoyment of such wages, lost interest on such wages and expenses and
17 attorney’s fees in seeking to compel Defendants to fully perform its obligation under state law,
18 all to their respective damages in amounts according to proof at trial.

19 77. As a result of Defendants’ knowing and intentional failure to comply with Labor
20 Code § 226(a), Plaintiffs and the Represented Employees have suffered an injury in that each
21 was prevented from knowing, understanding and disputing the wage payments paid to them.
22 Furthermore, Plaintiffs and the Represented Employees have each suffered an injury in that the
23 failure to show all wages earned on the itemized wage statements resulted in Plaintiffs and the
24 Represented Employees being denied all necessary deductions, payments, and withholdings
25 owed by the employer, including, but not limited to, the failure to make all necessary
26 contributions for unemployment benefits, social security benefits, proper payment of taxes and
27 withholdings, and other mandated state and federal benefits.

1 78. Plaintiffs have also been injured as a result of having to bring this action to
2 attempt to obtain correct wage information following Defendants' refusal to comply with many
3 of the mandates of California's Labor Code and related laws and regulations.

4 79. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
5 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
6 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
7 attorney's fees and costs, to Plaintiffs and the Represented Employees who were injured by
8 Defendants' failure to comply with Labor Code § 226(a). The exact amount of the applicable
9 penalty is all in an amount to be shown according to proof at trial.

10 **SIXTH CAUSE OF ACTION**

11 **UNFAIR AND UNLAWFUL COMPETITION**

12 (Business and Professions Code § 17200 *et seq.*)

13 80. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
14 alleged herein.

15 81. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
16 competition, which includes any "unlawful, unfair or fraudulent business act or practice." The
17 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
18 due to the unfair and unlawful business practices of Defendants as alleged herein.

19 82. Defendants, and each of them, are "persons" as defined under Business &
20 Professions Code § 17021.

21 83. As alleged herein, Defendants engaged in conduct that violated California's wage
22 and hour laws, including failure to pay minimum and regular wages, failure to reimburse
23 business expenses, and failure to timely pay final wages, all in order to decrease their costs and
24 increase their profits. Plaintiffs also allege that they and members of the Contractor Subclass
25 suffered lost equity arising from the allegation that Defendants deprived individuals who
26 participated in Defendants' "lease purchase" program of equity accrued in vehicles they leased
27 when their lease was terminated prior to completion of the lease term.

1 84. At all times relevant herein, Defendants did not pay Plaintiffs and the Represented
2 Employees wages and monies and other financial obligations to which they were entitled.

3 85. As a result of Defendants' failure to comply with the Labor Code and IWC
4 Orders, Represented Employees, including Plaintiffs, suffered a loss of wages and monies, all in
5 an amount to be shown according to proof at trial. Defendants' ongoing violations of the
6 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

7 86. Defendants' violations of the California Labor Code and IWC Wage Orders and
8 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
9 practices because it was done in a systematic manner over a period of time to the detriment of the
10 Plaintiffs and all others similarly-situated.

11 87. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
12 unlawful, and harmful to Plaintiffs, other Represented Employees, and to the general public.

13 88. Plaintiffs seek to enforce important rights affecting the public interest within the
14 meaning of Code of Civil Procedure § 1021.5.

15 89. A violation of California Business & Professions Code § 17200, *et seq.* may be
16 predicated on the violation of any state or federal law. All of the acts described herein as
17 violations of, among other things, the California Labor Code and IWC Wage Orders, are
18 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
19 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
20 practices in violation of California Business and Professions Code §§ 17200, *et seq.*

21 90. Plaintiffs, individually, and on behalf of the Represented Employees, are entitled
22 to, and do, seek such relief as may be necessary to disgorge the profits which Defendants have
23 acquired, or of which Plaintiffs and Represented Employees have been deprived, by means of the
24 above-described unfair, unlawful and/or fraudulent business practices. Plaintiffs and the
25 Represented Employees are not obligated to establish individual knowledge of the unfair
26 practices of Defendants in order to recover restitution.

27 91. Plaintiffs, individually, and on behalf of the Represented Employees, are further
28 entitled to and do seek an order that the above-described business practices are unfair, unlawful

1 and/or fraudulent.

2 92. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiffs and
3 Represented Employees are entitled to restitution of the lost equity and wages withheld and
4 retained by Defendants during a period that commences four years prior to the filing of this
5 complaint; an order requiring Defendants to pay all outstanding wages due to Plaintiffs and
6 Represented Employees; an award of attorneys' fees pursuant to California Code of Civil
7 Procedure § 1021.5 and other applicable laws; and an award of costs.

8 **VI. PAGA CAUSES OF ACTION (Labor Code §§ 2698 – 2699.5)**

9 93. Plaintiffs are “aggrieved employees” under the PAGA as they were employed by
10 Defendants during the applicable statutory period and suffered one or more of the Labor Code
11 violations alleged herein. As such, Plaintiffs may recover the remedies described herein in a civil
12 action filed on behalf of the State of California and for violations committed against the
13 Aggrieved Employees.

14 94. Plaintiffs seeks to recover all applicable and available PAGA remedies pursuant
15 to Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by
16 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
17 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiffs are not required to, nor
18 do they, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

19 95. Pursuant to Labor Code § 2699.3(a), Plaintiffs gave written notice by online filing
20 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to
21 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
22 the facts and theories to support the alleged violations. Sixty-five (65) days have elapsed since
23 Plaintiffs provided notice of the claims alleged herein without the LWDA assuming jurisdiction,
24 so Plaintiffs have fully satisfied the administrative prerequisites for bringing suit under PAGA.

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PAGA ASSESSMENT FOR WILLFUL MISCLASSIFICATION

(Labor Code § 226.8)

96. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

97. At all relevant times, Plaintiffs and the Aggrieved Employees performed various duties for Defendants as employee truck drivers. However, as alleged in detail above, Defendants have maintained policies and practices based on or including the willful misclassification of Plaintiffs and the Aggrieved Employees as independent contractors despite that, under applicable standards of law, Plaintiffs and all Aggrieved Employees are, or were during their employment with Defendants, employees and not independent contractors.

98. Labor Code § 226.8(a) states “It is unlawful for any person or employer to engage in any of the following activities: (1) Willful misclassification of an individual as an independent contractor.”

99. Labor Code § 226.8(b) states that if “a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.”

100. Labor Code § 226.8(c) further states that if “a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

101. At all relevant times herein, Defendants engaged in a pattern and practice of willfully and knowingly misclassifying Plaintiffs and the Aggrieved Employees as independent contractors. Therefore, Plaintiffs and the Aggrieved Employees are entitled to the stepped-up penalties as set forth in Labor Code § 226.8(c).

102. As a result of the unlawful employment practices alleged herein, Plaintiffs, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code §§ 226.8 and 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY WAGES

(Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

103. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

104. Plaintiffs and the Aggrieved Employees were not exempt from the requirement to be paid at least the applicable California minimum wage throughout the statutory period for each hour worked.

105. As alleged herein, Plaintiffs and the Aggrieved Employees were not provided proper minimum and regular wages due to Defendants' failure to accurately record and compensate for all hours worked and due to Defendants' pay policies that failed to pay all required wages. As a result of these policies and practices, Plaintiffs and the Aggrieved Employees were required to perform off-the-clock work that Defendants either knew or should have known they were performing.

106. Consequently, Defendants violated California Labor Code laws and minimum wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

107. Plaintiffs are informed and believe and thereon allege that Defendants intentionally, willfully, and improperly failed to pay wages to Plaintiffs and the Aggrieved Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

108. Defendants' conduct was willful, as Defendants knew that Plaintiffs and the Aggrieved Employees were entitled to be paid wages throughout the statutory period for each hour worked, including proper minimum and regular wages, yet Defendants chose not to pay them in accordance thereto.

109. As a result of the unlawful employment practices alleged herein, Plaintiffs, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

NINTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY FOR NONPRODUCTIVE TIME

(Labor Code § 226.2)

110. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

111. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants who were paid on a piece-rate basis.

112. Labor Code § 226.2 requires employers that pay their employees on a piece-rate basis to provide separate payment for nonproductive time at an hourly rate that is no less than the applicable minimum wage. However, at all relevant times herein, Defendants failed to compensate the Aggrieved Employees for all nonproductive time separate from any piece-rate compensation a. Therefore, Defendants violates Labor Code § 226.2 every pay period with respect to each and every one of the Aggrieved Employees.

113. As a result of the unlawful employment practices alleged herein, Plaintiffs, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

TENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802)

114. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged herein.

115. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing reimbursement of

1 business expenses.

2 116. Labor Code § 2802(a) requires that the employer indemnify its employees for
3 expenses and losses incurred while discharging their duties or in obedience to the directions of
4 their employer.

5 117. At all relevant times herein mentioned, Defendants violated Labor Code § 2802(a)
6 when they failed to reimburse Plaintiffs and the Aggrieved Employees for expenses incurred as a
7 direct consequence of employment with Defendants and/or under the direction of Defendants.

8 118. As a result of the unlawful employment practices alleged herein, Plaintiffs, on
9 behalf of the State of California, seeks the assessment of all applicable and available PAGA
10 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
11 any other damages permitted under PAGA.

12 **ELEVENTH CAUSE OF ACTION**

13 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

14 (Labor Code § 204)

15 119. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
16 alleged herein.

17 120. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
18 who did not receive proper protections and benefits of the laws regarding the timing of payment
19 of wages each period.

20 121. Labor Code § 204(a) states that all wages earned by a person are due and payable
21 twice during each calendar month, and further states that wages earned during the first through
22 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that
23 wages earned between the sixteenth and last day of the month must be paid by the tenth day of
24 the following month. And Labor Code § 204(d) states "[t]he requirements of this section shall
25 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
26 the wages are paid not more than seven calendar days following the close of the payroll period."

27 122. At all relevant times herein, Defendants did not provide Plaintiffs and the
28 Aggrieved Employees with all wages due and owing each period within the time required by

1 Labor Code § 204. Moreover, Defendants did not provide Plaintiffs and the Aggrieved
2 Employees with all wages due and owing each pay period, including, but not limited to,
3 minimum wages and wages for unpaid nonproductive time within the time specified by § 204.

4 123. As a result of the unlawful employment practices alleged herein, Plaintiffs, on
5 behalf of the State of California, seeks the assessment of all applicable and available PAGA
6 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
7 any other damages permitted under PAGA.

8 **TWELFTH CAUSE OF ACTION**

9 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

10 (Labor Code §§ 201 – 203)

11 124. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
12 as if fully alleged herein.

13 125. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
14 who did not receive proper protections and benefits of the laws governing the timing and
15 payment of final wages.

16 126. Labor Code § 201 requires that the employer immediately pay any wages, without
17 abatement or reduction, to any employee who is discharged. Labor Code § 202 requires that the
18 employer pay all wages earned and unpaid, without abatement or reduction, no later than 72
19 hours of receiving an employee's notice of intent to quit or immediately at the time of quitting if
20 at least a 72-hour notice was provided. Labor Code §§ 201-203 cause the unpaid wages of the
21 employee to continue as a penalty from the due date thereof at the same rate until paid or until an
22 action therefore is commenced, but the wages shall not continue for more than thirty (30) days.

23 127. At all relevant times, Defendants employed a policy and practice whereby
24 Plaintiffs and the Aggrieved Employees were not paid all wages due and owing upon separation
25 of employment within the time required by Labor Code §§ 201 and 202.

26 128. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
27 wages due and owing to Plaintiffs and the Aggrieved Employees upon separation of
28 employment, including, but not limited to, minimum and regular wages.

1 129. Plaintiffs allege that, at all times material to this action, Defendants had a planned
2 pattern and practice of failing to timely pay to Plaintiffs and the Aggrieved Employees all wages
3 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

4 130. As a result of the unlawful employment practices alleged herein, Plaintiffs, on
5 behalf of the State of California, seeks the assessment of all applicable and available PAGA
6 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
7 any other damages permitted under PAGA.

8 **THIRTEENTH CAUSE OF ACTION**

9 **PAGA ASSESSMENT FOR**

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

11 (Labor Code § 226)

12 131. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully
13 alleged herein.

14 132. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
15 who did not receive proper protections and benefits of the laws governing the provision of
16 accurate itemized wage statements.

17 133. Labor Code § 226(a) requires an employer to provide its employees with itemized
18 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
19 inclusive dates of the pay period, the employee's name and the last four digits of his or her
20 Social Security number (or employee identification number), the name and address of the legal
21 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate by the employee.

23 134. Defendants violates Labor Code § 226(a) every pay period with respect to
24 Plaintiffs and the Aggrieved Employees because Defendants failed to provide a document that
25 could constitute a wage statement within the meaning of Labor Code § 226.

26 135. Furthermore, Defendants violate Labor Code § 226(a) every pay period with
27 respect to the Aggrieved Employees due to violations including: failure to accurately state gross
28 wages earned, total hours worked, all deductions, net wages earned, the name and address of the

1 legal entity that is the employer, the inclusive dates of the pay period, and all applicable hourly
2 rates in effect during the pay period and the corresponding number of hours at each hourly rate
3 by the employee.

4 136. Labor Code § 226.2(a) also states “[f]or employees compensated on a piece-rate
5 basis during a pay period, the following shall apply for that pay period: [...] (2) the itemized
6 statement required by subdivision (a) of Section 226 shall, in addition to the other items specified
7 in that subdivision, separately state the following, to which the provisions of Section 226 shall
8 also be applicable: (A) the total hours of compensable rest and recovery periods, the rate of
9 compensation, and the gross wages paid for those periods during the pay period [and] (B) [...] the total hours of other nonproductive time, [...] the rate of compensation, and the gross wages
10 paid for that time during the pay period.”

12 137. At all relevant times, Defendants failed to provide a wage statement to Plaintiffs
13 and the Aggrieved Employees that complied with the requirements of Labor Code § 226.2(a)(2)
14 because the wage statements did not include any information regarding compensable
15 nonproductive time, or the rates of pay and compensation for the same. As such, Defendants
16 violate Labor Code § 226 and § 226.2 every pay period with respect to Plaintiffs and the
17 Aggrieved Employees.

18 138. Unlike class action claims, a PAGA plaintiff need not meet the “injury” and
19 “knowing and intentional” violation requirements of Labor Code § 226(e). See *Lopez v. Friant*
20 *& Associates, LLC* (2017) 15 Cal.App.5th 773, 788 (“a plaintiff seeking civil penalties under
21 PAGA for a violation of section 226(a) does not have to satisfy the “injury” and “knowing and
22 intentional” requirements of section 226(e)(1)”); see also, *Lawson v. ZB, N.A.* (2017) 18
23 Cal.App.5th 705, 722 (“the scienter requirement [of § 226(e)] has no application in a PAGA
24 claim for violation of [§ 226(a)]”).

25 139. As a result of the unlawful employment practices alleged herein, Plaintiffs, on
26 behalf of the State of California, seeks the assessment of all applicable and available PAGA
27 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys’ fees, costs, and/or
28 any other damages permitted under PAGA.

1 **VII. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs, on behalf of themselves, on a representative basis, and all
3 others similarly situated, prays for judgment and relief against Defendants, jointly and severally,
4 as follows:

5 1. As to the Seventh through Thirteenth Causes of Action, the assessment of all
6 remedies and/or penalties available under PAGA;

7 2. For reasonably attorneys' fees and costs as permitted under PAGA;

8 3. That the First through Sixth Causes of Action be certified as a class action;

9 4. That Plaintiffs be appointed as Class Representatives;

10 5. That counsel for Plaintiffs be appointed Class Counsel;

11 6. For all applicable statutory penalties recoverable under the First through Sixth
12 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
13 Orders of the Industrial Welfare Commission;

14 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
15 law, including those pursuant to the Labor Code;

16 8. For injunctive relief and/or restitution as provided by the Labor Code and
17 Business and Professions Code § 17200, *et seq.*;

18 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
19 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.2, 226.3, 226.8, 246, 256, 558, 1194, and
20 2802, among other sections inadvertently omitted;

21 10. For an award of damages in the amount of unpaid compensation including, but
22 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
23 thereon;

24 11. For pre- and post-judgment interest; and

25 12. For such other relief as the Court deems just and proper.

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Dated: February 9, 2026

BY:

Brian J. Mankin, Esq.
Peter J. Carlson, Esq.
Attorneys for Plaintiff

PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, CA 92504.

On March 6, 2026, I caused to be served the foregoing document(s) described as follows:

FIRST AMENDED COMPLAINT

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 6, 2026, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



Tracie Chiarito, Declarant

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