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Attorneys for Plaintiff TROY UMBERTUS  
on behalf of the State of California and all Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

TROY UMBERTUS, on behalf of the State  
of California and all Aggrieved Employees,

Plaintiff,

v.

SUPERBA BAKING LLC, a California  
Limited Liability Company; SUPERBA  
FOOD AND BREAD HOLLYWOOD LLC,  
a California Limited Liability Company;  
SUPERBA RESTAURANTS IP, LLC, a  
California Limited Liability Company;  
SUPERBA FB VENICE, LLC, a California  
Limited Liability Company; SUPERBA  
ROSE, LLC, a California Limited Liability  
Company; and DOES 1-100, inclusive,

Defendants.

Case No.: **24STCV33043**

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

1 Plaintiff, TROY UMBERTUS, (“PLAINTIFF”), on behalf of the State of California and all  
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants  
3 SUPERBA BAKING LLC, a California Limited Liability Company; SUPERBA FOOD AND  
4 BREAD HOLLYWOOD LLC, a California Limited Liability Company; SUPERBA  
5 RESTAURANTS IP, LLC, a California Limited Liability Company; SUPERBA FB VENICE, LLC,  
6 a California Limited Liability Company; SUPERBA ROSE, LLC, a California Limited Liability  
7 Company; and DOES 1-100, inclusive, (collectively referred to herein as “DEFENDANTS”).  
8 PLAINTIFF is informed and believes and thereon alleges as follows:

### 9 **INTRODUCTION**

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

### 14 **JURISDICTION AND VENUE**

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

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

### 25 **THE PARTIES**

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

28 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job

1 title(s) of bakehouse delivery driver and/or a similar title(s) and/or job position(s) from in or around  
2 June 2023 through in or around August 2024. PLAINTIFF regularly worked at least six (6) to twelve  
3 (12) hours per day, at least five (5) days per week. DEFENDANTS assigned PLAINTIFF to work  
4 out of its facilities located in including but not limited to, Venice, California, and DEFENDANTS  
5 assigned PLAINTIFF to complete routes throughout Los Angeles County.

6 6. Defendant, SUPERBA BAKING LLC, is a California Limited Liability Company,  
7 that, all relevant times, was authorized to do business within the State of California and is doing  
8 business in the State of California.

9 7. Defendant, SUPERBA FOOD AND BREAD HOLLYWOOD LLC, is a California  
10 Limited Liability Company, that, all relevant times, was authorized to do business within the State  
11 of California and is doing business in the State of California.

12 8. Defendant, SUPERBA RESTAURANTS IP, LLC, is a California Limited Liability  
13 Company, that, all relevant times, was authorized to do business within the State of California and  
14 is doing business in the State of California.

15 9. Defendant, SUPERBA FB VENICE, LLC, is a California Limited Liability  
16 Company, that, all relevant times, was authorized to do business within the State of California and  
17 is doing business in the State of California.

18 10. Defendant, SUPERBA ROSE, LLC, is a California Limited Liability Company, that,  
19 all relevant times, was authorized to do business within the State of California and is doing business  
20 in the State of California.

21 11. DEFENDANTS own, operate, manage and/or staff its employees to work at the  
22 bakeries, restaurants, stores, facilities and/or other location(s) in California, including but not limited  
23 to, bakeries, restaurants, stores, facilities and/or other locations at/in including but not limited to,  
24 Venice, North Hollywood, Hollywood, Pasadena, Carlsbad, Costa Mesa, Echo Park, Manhattan  
25 Beach, Mar Vista, Orange, Westwood, Woodland Hills, The Grove, Long Beach, and Silver Lake.  
26 DEFENDANTS operate business under including but not limited to, the following names:  
27 “American Gonzo Food Co.,” “Superba,” “PitFire Pizza,” “The Win-Dow,” “American Beauty,”  
28 and/or “Pie Society/Pie Society Bar.” Based on information and belief, American Gonzo Food Co.

1 functions as a parent company, which operates at least four (4) “Superba” locations in California, in  
2 including but not limited to, Venice, North Hollywood, Hollywood, and Pasadena, at least ten (10)  
3 “PitFire Pizza” locations in California, in including but not limited to, Carlsbad, Costa Mesa, Echo  
4 Park, Manhattan Beach, Mar Vista, North Hollywood, Orange, Pasadena, Westwood, and Woodland  
5 Hills, at least two (2) “American Beauty” locations in California, in including but not limited to,  
6 Venice and Los Angeles, at least five “The Win-Dow” locations in California, in including but not  
7 limited to, The Grove, Hollywood, Long Beach, Silver Lake and Venice, and at least one “Pie  
8 Society” location in California, in including but not limited to, Costa Mesa. DEFENDANTS,  
9 through its various locations, serve including but not limited to, the restaurant and/or food services  
10 industry.<sup>1</sup>

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

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

27  
28 <sup>1</sup> See <https://www.americangonzofoodcorp.com/>; <https://www.lifesuperba.com/>; <https://www.pitfirepizza.com/>;  
<https://www.thewin-dow.la/>; <https://www.americanbeauty.la/>; Last visited on December 11, 2024.

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PLAINTIFF'S REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS  
GENERAL ACT

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

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

18 18. For example, DEFENDANTS, and each of them, maintain the same individual agent  
19 for service of process and/or principal place of business as provided to the California Secretary of  
20 State, and share some of the same human resources personnel and/or attorneys to oversee  
21 employment-related matters.

22 19. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a  
23 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,  
24 time-keeping practices, meal and rest periods, reimbursement of business expenses and other  
25 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved  
26 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of  
27 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively  
28 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of

1 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's  
2 and Aggrieved Employees' employment with or without cause. Upon information and belief,  
3 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in  
4 writing the details of their compensation, and the manner in which they were to take meal and rest  
5 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked  
6 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS  
7 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

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

13         21. By reason of their status as joint employers of PLAINTIFF and Aggrieved  
14 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor  
15 Code and applicable Wage Orders as to all Aggrieved Employees.

16                                   **PAGA ALLEGATIONS**

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

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

25         23. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code  
26 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory  
27 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,  
28 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the

1 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has  
2 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as  
3 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged  
4 violations.

#### 5 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

6 24. PLAINTIFF, on September 27, 2024, through counsel, gave written notice by online  
7 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that  
8 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged  
9 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via  
10 certified mail.

11 25. The PAGA Notice outlined PLAINTIFF's claims for violations of the California  
12 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved  
13 Employees.

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

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

#### 22 **FACTUAL ALLEGATIONS**

23 28. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job  
24 title(s) of bakehouse delivery driver and/or a similar title(s) and/or job position(s) from in or around  
25 June 2023 through in or around August 2024. PLAINTIFF regularly worked at least six (6) to twelve  
26 (12) hours per day, at least five (5) days per week. DEFENDANTS assigned PLAINTIFF to work  
27 out of its facilities located in including but not limited to, Venice, California, and DEFENDANTS  
28

1 assigned PLAINTIFF to complete routes throughout Los Angeles County. DEFENDANTS paid  
2 PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked. Based on  
3 information and belief, Aggrieved Employees were also compensated with non-discretionary  
4 compensation, including but not limited to, shift differential pay, bonus/incentive pay and/or other  
5 non-discretionary compensation.

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

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

19       31.     For example, as explained herein, based on information and belief, DEFENDANTS  
20 would unlawfully edit the clock in and out times for PLAINTIFF's and other Aggrieved Employees'  
21 meal periods in order to display at least a thirty minute off-duty meal period during most if not all  
22 shifts worked, notwithstanding the fact that DEFENDANTS had actual and/or constructive  
23 knowledge that DEFENDANTS had required PLAINTIFF and other Aggrieved Employees' to  
24 perform work-related tasks during their meal periods, resulting in DEFENDANTS' failure to  
25 compensate Aggrieved Employees for all hours worked and the underpayment of wages owed to  
26 PLAINTIFF and other Aggrieved Employees.

27       32.     Based on information and belief, Aggrieved Employees were not paid for all hours  
28 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours

1 worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

2 33. For example, Aggrieved Employees were required to complete off-the-clock work  
3 outside of scheduled shifts due to including but not limited to, work-related phone calls and/or  
4 messages they received to their phones and/or mobile devices and were required to respond to,  
5 including but not limited to, communications from supervisors regarding scheduling and/or other  
6 work tasks, resulting in the underpayment of wages owed to Aggrieved Employees.

7 34. For example, DEFENDANTS required PLAINTIFF to make/send and/or respond to  
8 work-related calls and/or messages outside of PLAINTIFF's scheduled shift times resulting in  
9 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of  
10 wages owed to PLAINTIFF.

11 35. Based on information and belief, DEFENDANTS required Aggrieved Employees to  
12 be at their assigned workstations/assigned vehicles at the start of a scheduled shift, thereby forcing  
13 Aggrieved Employees to gather work-related equipment and/or safety gear, make any necessary  
14 adjustments to tools/equipment/their assigned vehicles and/or perform maintenance/cleaning tasks,  
15 don work clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to  
16 their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-  
17 clock work.

18 36. Based on information and belief, at times, DEFENDANTS required Aggrieved  
19 Employees to clock out for the end of their shifts but to continue working due to the need to  
20 return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates  
21 and/or debriefings and/or participate in work meetings, respond to work-related communications  
22 and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages  
23 and overtime wages owed to Aggrieved Employees.

24 37. Based on information and belief, DEFENDANTS did not compensate Aggrieved  
25 Employees for all time spent donning and doffing personal protective equipment, safety equipment  
26 and/or uniforms/work clothing (e.g., gloves, hats, and/or face masks) during meal periods, before  
27 the start of a scheduled shift, and after completing a scheduled shift, resulting in DEFENDANTS'  
28 failure to pay Aggrieved Employees for all work time and the underpayment of minimum wages

1 and overtime wages owed to Aggrieved Employees.

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

11       39. Based on information and belief, Aggrieved Employees were required to undergo  
12 security screenings and/or other mandated screenings before and/or after a scheduled shift and/or  
13 before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

14       40. Based on information and belief, DEFENDANTS failed to pay Aggrieved  
15 Employees the applicable minimum wage for the county and/or city within which the Aggrieved  
16 Employee worked in California.

17       41. Based on information and belief, DEFENDANTS failed to pay Aggrieved  
18 Employees for time they were required to spend completing orientation, policy questionnaires,  
19 and/or time spent completing the onboarding process including but not limited to reviewing various  
20 documents and policies provided by DEFENDANTS. Based on information and belief, this work  
21 time was completed off-the-clock and was not compensated. For example, based on information and  
22 belief, DEFENDANTS required Aggrieved Employees to review and sign various types of policies  
23 and documents, including but not limited to, safety guidelines/safety awareness certifications,  
24 among other documents, but they were not paid for all time spent reviewing and/or completing  
25 certification as directed by DEFENDANTS.

26       42. Based on further information and belief, DEFENDANTS implemented a time-  
27 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved  
28 Employees of compensable time because the time-rounding system implemented by

1 DEFENDANTS would almost always, if not always, result in understating actual compensable work  
2 time.

3 43. For example, as described herein, based on information and belief, DEFENDANTS  
4 rounded PLAINTIFF's total hours worked to at least the nearest quarter, half and/or whole hour  
5 during most if not all pay periods during PLAINTIFF's employment, resulting in DEFENDANTS'  
6 failure to compensate PLAINTIFF for all hours worked and the underpayment of wages owed to  
7 PLAINTIFF.

8 44. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding  
9 practices resulted in the underpayment of minimum wages owed to PLAINTIFF and Aggrieved  
10 Employees as well as unpaid overtime wages for those Aggrieved Employees who worked more  
11 than eight (8) hours in a day and/or more than forty (40) hours in a week. DEFENDANTS' failure  
12 to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for  
13 unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work  
14 practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and  
15 Aggrieved Employees as well as unpaid overtime wages for those Aggrieved Employees who  
16 worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

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

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

27 47. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,  
28 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal

1 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of  
2 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages  
3 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than  
4 forty (40) hours in a week.

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

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

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

17 51. Based on information and belief, DEFENDANTS calculated the owed overtime  
18 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)  
19 based on the minimum wage established for the cities and/or counties within which Aggrieved  
20 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to  
21 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates  
22 above the California minimum wage rate.

23 52. Based on information and belief, DEFENDANTS failed to incorporate all non-  
24 discretionary remuneration, including but not limited to, shift differential pay, piece  
25 rate/commission compensation, bonus pay/incentive pay, multiple base rates of pay and/or other  
26 non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),  
27 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other  
28 Aggrieved Employees.

1           53.     **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently  
2 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.  
3 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty  
4 (30) minute first and second meal periods.

5           54.     Based on information and belief, Aggrieved Employees were consistently unable to  
6 take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal  
7 periods, interrupted meal periods, and/or work through part or all their meal periods due to  
8 understaffing, the nature and constraints of their job duties and/or commentary from supervisors  
9 pressuring them to take non-compliant meal periods or skip meal periods completely.

10          55.     For example, based on information and belief, Aggrieved Employees were forced to  
11 take late meal periods in order to complete assigned job duties. Based on information and belief,  
12 Aggrieved Employees were at times interrupted during purported meal periods and/or had meal  
13 periods cut short and/or restricted to DEFENDANTS' premises/their assigned vehicles due to the  
14 need to complete assigned job duties.

15          56.     For example, at times, PLAINTIFF was required to take interrupted meal periods  
16 due to the need to complete deliveries on time / complete assigned job duties, resulting in denied  
17 meal periods as well as off-the-clock work and the underpayment of wages owed to PLAINTIFF.

18          57.     PLAINTIFF was also frequently forced to take his single meal period late (i.e. after  
19 working more than five (5) hours) due to the need to continue completing assigned job duties.

20          58.     Based on information and belief, DEFENDANTS would unlawfully edit the clock in  
21 and out times for PLAINTIFF's and other Aggrieved Employees' meal periods in order to display  
22 at least a thirty minute, timely, off-duty meal period during most if not all shifts worked,  
23 notwithstanding the fact that DEFENDANTS had actual and/or constructive knowledge that  
24 DEFENDANTS had required PLAINTIFF and other Aggrieved Employees' to perform work-  
25 related tasks during their meal periods.

26          59.     Also, per DEFENDANTS' unlawful meal period policies and practices, PLAINTIFF  
27 was only afforded a maximum of a single meal period per shift even when PLAINTIFF worked  
28 shifts lasting longer than ten (10) and/or twelve (12) hours.

1           60.     Based on information and belief, DEFENDANTS failed to pay PLAINTIFF and  
2 other Aggrieved Employees a proper meal period premium for each missed and/or otherwise legally  
3 noncompliant meal period, in violation of California meal period law.

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

9           62.     As explained herein, based on information and belief, DEFENDANTS implemented  
10 policies and/or practices that failed to relieve Aggrieved Employees of all duties and  
11 DEFENDANTS' control during unpaid meal periods.

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

16           64.     Based on information and belief, despite DEFENDANTS' failure to provide lawful  
17 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end  
18 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically  
19 deducting at least thirty/sixty minutes per shift for missed and/or otherwise unlawful meal periods  
20 despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved  
21 Employees did not receive lawful meal periods.

22           65.     Moreover, per DEFENDANTS' uniform policy and practice, Aggrieved Employees  
23 who worked shifts of more than ten hours did not receive a second legally compliant thirty (30)  
24 minute second meal period.

25           66.     Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and  
26 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further  
27 information and belief, DEFENDANTS did not have a written meal period policy, nor did  
28 DEFENDANTS have any sort of compliant policy in practice.

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

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

11           69.     DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an  
12 additional hour of wages at their respective regular rates of compensation for each workday a lawful  
13 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for  
14 each workday a lawful meal period was not provided and/or failed to pay the proper meal period  
15 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,  
16 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or  
17 compensation for purposes of calculating the owed meal period premium.

18           70.     **Rest Period Violations.** DEFENDANTS did not properly authorize and provide  
19 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every  
20 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the  
21 middle of the work period, as required by law.

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

26           72.     Based on information and belief, DEFENDANTS did not have a have a compliant  
27 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in  
28 practice.

1           73.     For example, based on information and belief, Aggrieved Employees were frequently  
2 if not always unable to take compliant rest periods due to their need to complete assigned job duties  
3 and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported  
4 rest periods restricted to DEFENDANTS' premises/their assigned vehicles.

5           74.     For example, PLAINTIFF was frequently, if not always, required to work through  
6 part or all of PLAINTIFF's owed rest periods each shift due to the need to complete assigned job  
7 duties, including but not limited to, complete assigned deliveries and/or return to DEFENDANTS'  
8 assigned location(s) according to DEFENDANTS' designated schedule.

9           75.     Based on information and belief, DEFENDANTS did not have a lawful policy,  
10 instruction, or practice as to the taking, timing, or duty-free nature of rest periods. For example,  
11 based on information and belief, DEFENDANTS failed to authorize and permit rest periods that  
12 were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods were provided,  
13 DEFENDANTS limited PLAINTIFF and other Aggrieved Employees to only ten-minute rest  
14 periods, requiring them to be back at their workstations within ten minutes of leaving their work  
15 stations , in violation of California rest period law.

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

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

23           78.     Moreover, based on information and belief, DEFENDANTS failed to provide any  
24 form of a third rest period and/or a legally noncompliant rest period on shifts lasting longer than ten  
25 hours.

26           79.     Based on information and belief, DEFENDANTS implemented policies and/or  
27 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and  
28 DEFENDANTS' control during rest periods. For example, based on information and belief, at times

1 Aggrieved Employees were required to monitor and respond to work-related communication  
2 devices, for example, work phones and/or other work-related communication devices during rest  
3 periods and thereby were not relieved of all duties and DEFENDANTS' control during rest periods.

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

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

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

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

1 226(a).

2 84. As described herein, based on information and belief, DEFENDANTS also failed to  
3 incorporate all forms of non-discretionary compensation earned during the pay period into the  
4 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour  
5 of overtime worked by PLAINTIFF and other Aggrieved Employees.

6 85. Separately, and independent of the above allegations, based on information and  
7 belief, DEFENDANTS issued wage statements to Aggrieved Employees that failed to list the total  
8 hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

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

13 87. Based on information and belief, DEFENDANTS issued wage statements to  
14 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section  
15 226(a)(4).

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

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

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

1           91.     For example, DEFENDANTS issued wage statements to PLAINTIFF for including  
2 but not limited to, the following pay period(s), which itemize categories for “Retro” Earnings and  
3 “Retro” Hours worked without identifying anywhere on the wage statement(s) the inclusive dates  
4 of the pay period for which those wages were earned: Pay period beginning on January 11, 2024  
5 and ending on January 24, 2024, showing “Retro” Earnings of \$98.23 for 5.17 “Retro” Hours  
6 worked, however, the wage statement does not identify the inclusive dates of the accurate pay period  
7 for those “Retro” Earnings, in violation of Labor Code Section 226(a)(6).

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

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

15           94.     **Unreimbursed Business Expenses.** Based on information and belief,  
16 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a  
17 direct consequence of the performance of their job duties without providing reimbursement, in  
18 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved  
19 Employees were improperly required to provide and maintain work tools that are supposed to be the  
20 responsibility of the employer.

21           95.     Based on information and belief, DEFENDANTS shifted the costs of doing business  
22 onto PLAINTIFF and other Aggrieved Employees requiring them to pay for business expenses,  
23 including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear  
24 and/or the use of Aggrieved Employees’ personal vehicles and/or personal cell phones/mobile  
25 devices, internet and/or data usage for work-related purposes, including but not limited to, to receive  
26 and respond to work-related messages and/or phone calls.

27           96.     For example, based on information and belief, Aggrieved Employees were required  
28 to receive and respond to work-related calls and/or messages from supervisors and/or other

1 employees regarding scheduling and/or other work tasks but were not reimbursed by  
2 DEFENDANTS at all and/or in full for these business expenses.

3 97. For example, DEFENDANTS required PLAINTIFF to use PLAINTIFF's personal  
4 cell phone/personal device(s) to carry out PLAINTIFF's assigned job duties, including without  
5 limitation, to receive and respond to work-related calls and/or messages from supervisors and/or  
6 other employees regarding scheduling and/or other work tasks but was not reimbursed by  
7 DEFENDANTS at all and/or in full for these business expenses.

8 98. DEFENDANTS also required PLAINTIFF to use PLAINTIFF's personal cell phone  
9 / mobile device(s) to download and use work-related application(s), including but not limited to,  
10 employee timekeeping applications (e.g., for clocking in and out for meal periods), however,  
11 DEFENDANTS did not provide PLAINTIFF with any and/or full reimbursement for the business  
12 expenses PLAINTIFF incurred in connection with being required to use PLAINTIFF's personal cell  
13 phone / mobile device(s) to carry out PLAINTIFF's assigned job duties, including but not limited  
14 to, increased data plan charges.

15 99. Based on information and belief, at times, Aggrieved Employees were not  
16 reimbursed for the cost of purchasing and/or maintaining their own tools and/or equipment required  
17 to perform their assigned job duties, the costs of purchasing and/or maintaining work  
18 uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks) and/or costs  
19 associated with being required to use their personal vehicles to carry out their assigned job duties.

20 100. For example, at times, DEFENDANTS required PLAINTIFF and other Aggrieved  
21 Employees to use their personal vehicles to carry out their assigned job duties without reimbursing  
22 PLAINTIFF and other Aggrieved Employees at all and/or in full for these business expenses,  
23 including without limitation, reimbursement for cost of fuel, mileage and/or wear and tear on the  
24 vehicle. At times, Aggrieved Employees also incurred business expenses, including but not limited  
25 to, cost of fuel when required to drive DEFENDANTS' company vehicles to carry out their assigned  
26 job duties, yet were not reimbursed at all and/or in full by DEFENDANTS for these vehicle-related  
27 business expenses.

28 101. As explained above, based on information and belief, Aggrieved Employees were

1 not reimbursed for vehicle expenses and/or personal phone(s)/personal device(s) for work-related  
2 purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work  
3 shoes, personal protective/safety gear.

4 102. Based on information and belief, DEFENDANTS regularly failed to reimburse and  
5 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section  
6 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable  
7 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties  
8 assigned by DEFENDANTS.

9 103. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement  
10 for all reasonable expenses associated with carrying out their duties required that Aggrieved  
11 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section  
12 2802.

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

18 105. Upon separation of employment, Aggrieved Employees final paychecks were not  
19 timely provided, were not timely provided with all owed vacation pay and/or paid time off and/or  
20 did not include all wages owed as they were devoid of, including but not limited to, all owed  
21 minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid  
22 time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid  
23 time off paid at the final rate including non-discretionary compensation, including but not limited  
24 to, all owed shift differentials).

25 106. Based on further information and belief, DEFENDANTS failed to timely provide all  
26 owed wages immediately upon discharge of employment. Based on information and belief, at times,  
27 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby  
28 Aggrieved Employees would not be called in for work for longer than a single pay period due to

1 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances  
2 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at  
3 the end of such periods of employment, in violation of including but not limited to Labor Code  
4 section 201-202. As such, DEFENDANTS violated Labor Code sections 201 and/or 202, subjecting  
5 DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256.

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

13       **108. Unlawful Deductions.** Labor Code section 221 prohibits an employer from  
14 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer  
15 to said employee." Based on information and belief DEFENDANTS made unlawful deductions  
16 from Aggrieved Employees paychecks during the relevant period including, without limitation,  
17 deducting wages for purported overpayments from previous pay periods and/or business costs from  
18 Aggrieved Employees' earned wages.

19       **109.** For example, as explained herein, DEFENDANTS regularly failed to reimburse  
20 Aggrieved Employees for business expenses incurred by Aggrieved Employees each pay period,  
21 thereby deducting business costs from Aggrieved Employees' earned wages each pay period, in  
22 violation of including but not limited to, Labor Code Section 221, and further failing to itemize these  
23 deductions for business costs, on PLAINTIFF's wage statements, in violation of Labor Code section  
24 226(a)(4).

25       **110.** Based on information and belief, DEFENDANTS also made unlawful deductions  
26 from Aggrieved Employees earned wages for purported overpayments from previous pay periods.  
27 For example, DEFENDANTS' issued wage statement(s) for PLAINTIFF for including but not  
28 limited to the following pay periods show DEFENDANTS unlawfully deducted wages for purported

1 overpayments from previous pay periods, which DEFENDANTS itemized as negative “Retro”  
2 Earnings: pay period beginning on July 27, 2023 and ending on August 9, 2023 showing “Retro”  
3 Earnings of -\$131.19, which DEFENDANTS unlawfully deducted from PLAINTIFF’s earned  
4 wages as a purported overpayments from previous pay periods. Such a practice is in violation of  
5 including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil  
6 penalties under Labor Code Section 2699.

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

15       **112.** DEFENDANTS have failed and continue to fail to keep accurate and complete  
16 records showing total hours worked by virtue of DEFENDANTS’ time rounding, automatic meal  
17 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and  
18 employer control during unpaid meal periods, failure to record the true start and end times of meal  
19 periods, shift start times and shift end times, and other off-the-clock work policies and practices  
20 described herein.

21       **113. Failure to Produce Employment Records.** Based on information and belief,  
22 DEFENDANTS have a uniform policy and practice of failing to produce or make available a current  
23 or former employee’s time, pay, and/or personnel records when requested pursuant to Labor Code  
24 sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF, through  
25 counsel, sent a written request for payroll and personnel records to DEFENDANTS on or around  
26 including but not limited to the following date(s): October 18, 2024. Yet, DEFENDANTS failed to  
27 timely produce complete records within the time periods delineated by California labor law. For  
28 example, DEFENDANTS failed to produce PLAINTIFF’s time records. Based on information and

1 belief, DEFENDANTS failed and continues to fail to timely produce complete payroll and personnel  
2 records when requested by other Aggrieved Employees.

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

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

20       116. Based on information and belief, throughout the relevant time period,  
21 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and  
22 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave.

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

28       118. As such, DEFENDANTS have violated California's paid sick leave laws and

1 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as  
2 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These  
3 unlawful practices and policies violate Labor Code sections 245-248.5.

4       **119. Unlawful Agreements-Unlawful Criminal History Inquiries.**

5       Unlawful Agreements.

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

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

24       122. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a  
25 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section  
26 432.5.

27       Unlawful Inquires into Criminal History

28       123. Labor Code section 432.7 prohibits an employer from asking applicants about past

1 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
2 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
3 convictions on its employment application, in violation of California law.

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

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

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

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

25 127. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

26 **Failure to Keep Accurate Records**

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

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

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

12           **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

13           131. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage  
14 Orders, section 7 require that employers keep the following information on file for each employee  
15 for a minimum of three years: The employee's dates of employment; the employee's hourly rates  
16 and the corresponding number of hours worked by the employee at each hourly rate, when the  
17 employee begins and ends each work period (including meal periods) and split intervals; total hours  
18 worked by the employee; all deductions; gross wages earned; and net wages earned.

19           132. Section (b) of Labor Code section 226 further requires employers to "afford current  
20 and former employees the right to inspect or receive a copy of records pertaining to their  
21 employment upon reasonable request to the employer." Section (c) of Labor Code section 226  
22 provides that, "an employer who receives a written or oral request to inspect or receive a copy of  
23 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with  
24 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A  
25 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe  
26 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from

27 \_\_\_\_\_  
28 <sup>2</sup> Labor Code § 2699(f)

1 the employer. Lab. Code section 226(f).

2 133. Personnel Records. In addition to their right to time and pay records, employees, and  
3 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to  
4 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code  
5 section 432 further specifies that employers must furnish copies of all employment records bearing  
6 the employee's signature. Labor Code section 1198.5 also requires that the file be made available  
7 for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days  
8 from the date the employer receives a written request." An employer's failure to comply within this  
9 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar  
10 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

11 134. Based on information and belief, DEFENDANTS fail to timely produce or make  
12 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant  
13 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations subject  
14 DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

15 **Meal Period Violations**

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

21 136. Employers must also provide employees with a second duty-free, uninterrupted thirty  
22 (30) minute meal period when an employee works more than (10) hours in a workday, and it must  
23 be provided before the end of the 10<sup>th</sup> hour of work. *Ibid*.

24 137. Employers covered by any and all applicable IWC Wage Orders have an obligation  
25 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),  
26 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is  
27 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)  
28 ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4<sup>th</sup> 1004, 1052-1053, citing

1 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a  
2 rebuttable presumption arises that the employee was not relieved of duty and no meal period was  
3 provided”).

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

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

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

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

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

27 143. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal  
28 periods in violation of California law and/or failed to pay the proper meal period premium for failure

1 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift  
2 differential pay and/or other non-discretionary compensation into the regular rate or compensation  
3 for purposes of calculating the owed meal period premium.

4 144. These unlawful meal period policies and practices result in violations of Labor Code  
5 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject  
6 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable  
7 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §  
8 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

9 **Rest Period Violations**

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

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

1 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what  
2 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in  
3 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the  
4 “onus is on the employer to clearly communicate the authorization and permission [to take rest  
5 periods] to its employees.”).

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

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

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

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

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

28 **Minimum and Overtime Wage Violations**

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

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

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

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

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

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

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

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

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

21           161. Based on information and belief, at times, Aggrieved Employees that were subject  
22 to an AWS, were sent home early and/or worked less hours than those that were scheduled under  
23 the AWS. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5 times  
24 the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid Aggrieved  
25 Employees their base rate for all hours worked on the shortened shift(s) in violation of the alternative  
26 workweek schedule, and in violation of California Labor Code section 510, the applicable Wage  
27 Order, and Labor Code section 1198. As such, Aggrieved Employees that were subject to an AWS  
28 were also deprived of all owed overtime wages when required to work shortened shifts.

1           162. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,  
2 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS  
3 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC  
4 Wage Orders, section 20.

5           **Statutory Wage Violations**

6           163. California Labor Code section 223 makes it unlawful for an employer to secretly pay  
7 wages lower than required by statute while purporting to pay legal wages. As described above,  
8 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all  
9 earned minimum and overtime compensation for all hours worked which resulted in the payment of  
10 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of  
11 statutory wages, including, but not limited to, minimum and overtime wages, to which they were  
12 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved  
13 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and  
14 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved  
15 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to  
16 Labor Code § 2699(f)-(g).

17           **Refusal to Make Payment**

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

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

1           **Standard Conditions of Labor Violations**

2           165. Together, Labor Code sections 1198 and 1199 make unlawful any employment of  
3 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,  
4 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including  
5 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS’  
6 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,  
7 minimum/overtime wages and other violations described herein result in separate violations of  
8 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections  
9 1197.1 and 2699.

10           **Business Expense Violations**

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

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

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

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

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

7           171. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved  
8 Employees have suffered injury in that they were not completely reimbursed as mandated by  
9 California law.

10          172. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with  
11 full reimbursement for all reasonable expenses associated with carrying out their duties required  
12 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business  
13 expenses in violation of Labor Code section 2802.

14          173. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved  
15 Employees have suffered injury in that they were not completely reimbursed as mandated by  
16 California law.

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

21           **Wage Statement Violations**

22          175. California law requires every employer semi-monthly or at the time of each payment  
23 of wages to furnish its employees with an accurate itemized wage statement in writing that contains  
24 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of  
25 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;  
26 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee  
27 is paid; (7) the name of the employee and only the last four digits of his or her social security number  
28 or an employee identification number other than a social security number; (8) the name and address

1 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay  
2 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

3 176. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees  
4 with meal and rest periods that complied with Labor Code section 226.7, the wage statements  
5 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail  
6 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)  
7 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net  
8 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in  
9 effect during the pay period and the corresponding number of hours worked at each hourly rate by  
10 the employee, in violation of Labor Code section 226(a)(9).

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

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

28 179. Based on information and belief, wage statements issued by DEFENDANTS failed

1 to list all applicable hourly rates in effect during the pay period and the corresponding number of  
2 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor  
3 Code section 226(a)(9).

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

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

10 182. DEFENDANTS' failure to accurately list all hours worked on all wage statements  
11 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved  
12 Employees over whether they received all wages owed to them.

13 183. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as  
14 they could not easily determine whether they received all wages owed to them and whether they  
15 were paid for all hours worked.

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

19 185. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and  
20 Aggrieved Employees with accurate, itemized wage statements.

21 186. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved  
22 Employees have suffered injury. The absence of accurate information on their wage statements has  
23 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and  
24 mathematical computations to determine the amount of wages owed, and will cause difficulty and  
25 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the  
26 submission of inaccurate information about wages and amounts deducted from wages to state and  
27 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to  
28 participate in this lawsuit and create more difficulty and expense from having to reconstruct time

1 and pay records than if DEFENDANT had complied with its legal obligations.

2 187. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.  
3 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period  
4 during which the statute provisions were violated. <sup>4</sup>

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

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

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

18 **Untimely Payment of Final Wages**

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

26 191. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages  
27 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty

28 <sup>4</sup> Labor Code § 226.3 (establishing that the civil penalty is \$100 per employee per violation").

1 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.  
2 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code  
3 section 256. See, *Iskanian v. CLS Transportation Orange, LLC*, 59 Cal.4th 348 (2014); see also,  
4 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

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

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

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

#### 21 **Unlawful Deductions**

22 195. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from  
23 an employee any part of wages theretofore paid by said employer to said employee." Based on  
24 information and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees  
25 paychecks during the relevant period, including without limitation, deducting business costs from  
26 Aggrieved Employees' earned wages/paychecks. Such a practice is in violation of including but not  
27 limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under  
28 Labor Code Section 2699.

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

7           **Sick Leave Violations**

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

15           198. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees  
16 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor  
17 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used  
18 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and  
19 Aggrieved Employees’ intelligent exercise of their paid sick leave.

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

24           200. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records  
25 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all  
26 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees  
27 were entitled to the maximum number of hours accruable.

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

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

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

6 203. On information and belief, PLAINTIFF alleges that all of these practices were  
7 experienced and continue to be experienced by other Aggrieved Employees.

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

11 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

12 *Unlawful Agreements.*

13 205. Labor Code section 432.5 provides that "no employer...shall require any employee  
14 or applicant for employment to agree, in writing, to any term or condition which is known by such  
15 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required  
16 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not  
17 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or  
18 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful  
19 meal period waivers, unlawful commissions agreements, unlawful forum selection clauses and/or  
20 choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition  
21 of obtaining and/or continuing employment in violation of Labor Code section 432.5.

22 206. Labor Code section 432.6(a), provides that "a person shall not, as a condition of  
23 employment, continued employment, or the receipt of any employment-related benefit, require any  
24 applicant for employment or any employee to waive any right..."Based on information and belief,  
25 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally  
26 signed as a condition of employment, including but not limited to, during the onboarding process.  
27 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining  
28 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these

1 invalid waivers are otherwise unlawful under Labor Code section 432.6.

2 207. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a  
3 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section  
4 432.5.

5 Unlawful Inquires into Criminal History

6 208. Labor Code section 432.7 prohibits an employer from asking applicants about past  
7 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
8 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
9 convictions on its employment application, in violation of California law.

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

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

20 **Violation of Labor Code Section 432.6**

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

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

28 213. Labor Code Section 432.6(b) provides in pertinent part:



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restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

- 3. For reasonable attorney’s fees and costs of suit; and
- 4. For such other and further relief that the Court deems just and proper.

Dated: December 12, 2024

**CROSNER LEGAL, PC**

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