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on behalf of the State of California and all Aggrieved Employees

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 TERESA CARDENAS, on behalf of the State
of California and all Aggrieved Employees,

13 Plaintiff,

14 v.

15
16 SHIELDS SKILLED CARE LLC, a
California Limited Liability Company; and
17 DOES 1-100, inclusive,

18 Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By M. Schwenke ,Deputy Clerk

Case No.: 24CU025473C

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

1 Plaintiff, TERESA CARDENAS, (“PLAINTIFF”), on behalf of the State of California and
2 all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 SHIELDS SKILLED CARE LLC, a California Limited Liability Company; and DOES 1-100,
4 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
5 believes and thereon alleges as follows:

6 **INTRODUCTION**

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

11 **JURISDICTION AND VENUE**

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

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

22 **THE PARTIES**

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

25 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
26 title(s) of cook and/or a similar title(s) and/or job position(s) from in or around March 2024 through
27 in or around June 2024. DEFENDANTS assigned PLAINTIFF to work at DEFENDANTS’ skilled
28 nursing facilities, center(s), location(s) and/or facilities located in Fresno, California.

6. SHIELDS SKILLED CARE LLC is a California Limited Liability Company that, at all relevant times, was authorized to do business within the State of California and is doing business in the State of California.

7. DEFENDANTS own, operate, manage and/or staff its employees to work at the skilled nursing facilities, centers, facilities and/or other location(s) in California, including but not limited to the skilled nursing facilities, centers, facilities and/or other locations in including but not limited to, Fresno, California. DEFENDANTS operate its business under including but not limited to, the following name(s): “Covenant Post Acute” and/or “Shields Skilled Care.” DEFENDANTS, through its various locations, serve the healthcare, skilled nursing and/or senior services industry.¹

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

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

JOINT LIABILITY

¹ See <https://covenantpostacute.com/>. Last visited on November 26, 2024.

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

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

25 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
26 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
27 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
28 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same

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

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

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

1 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
2 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

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

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

11 **PAGA ALLEGATIONS**

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

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

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

28 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

19. PLAINTIFF, on September 16, 2024, through counsel, gave written notice by online filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via certified mail.

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

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

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

FACTUAL ALLEGATIONS

23. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title(s) of cook and/or a similar title(s) and/or job position(s) from in or around March 2024 through in or around June 2024. DEFENDANTS assigned PLAINTIFF to work at DEFENDANTS' skilled nursing facilities, center(s), location(s) and/or facilities located in Fresno, California. PLAINTIFF regularly worked at least approximately eight (8) to nine (9) hours per day. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked.

24. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid

1 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
2 below.

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

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

12 27. For example, based on information and belief, DEFENDANTS have a policy and
13 practice of requiring Aggrieved Employees to perform off-the-clock work outside of scheduled shift
14 times and/or prior to clocking in for the start of their shifts and/or after clocking out for the end of
15 their shifts, resulting in the underpayment of wages owed to Aggrieved Employees.

16 28. For example, DEFENDANTS required PLAINTIFF to consistently perform pre-
17 shift off-the-clock work on most, if not all days, PLAINTIFF worked during PLAINTIFF's
18 employment. For example, PLAINTIFF was required to complete pre-shift off-the-clock work,
19 including but not limited to, preparing and/or cooking food/breakfast for DEFENDANTS' residents
20 and/or other assigned work duties in order to meet DEFENDANTS' goals and expectations,
21 resulting in at least approximately fifteen (15) to thirty (30) minutes of pre-shift off-the-clock work
22 during most workdays if not all workdays PLAINTIFF worked during PLAINTIFF's employment
23 with DEFENDANTS, DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and
24 the underpayment of wages owed to PLAINTIFF.

25 29. Based on information and belief, DEFENDANTS also required other Aggrieved
26 Employees, to complete work tasks prior to clocking in for the start of their shifts, after clocking out
27 for the end of their shifts and/or while clocked out for unpaid purportedly off-duty meal periods,
28 resulting in DEFENDANTS' consistent failure to compensate Aggrieved Employees for all hours

1 worked and the underpayment of minimum wages and overtime wages owed to these Aggrieved
2 Employees, among other violations of the California Labor Code.

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

11 31. Based on information and belief, Aggrieved Employees were required to be at their
12 respective workstations at their scheduled shift start time or face discipline. As such, Aggrieved
13 Employees typically arrived at work prior to their scheduled shift start times so that they could
14 perform any required pre-shift work, including but not limited to, bestow personal items in employee
15 lockers/storage area, retrieve and/or compile work tools/equipment, make any necessary
16 adjustments to tools/equipment don work clothing/uniforms and/or protective equipment, and/or
17 complete other work tasks so as to be ready to be at their respective work stations at the their
18 scheduled shift start time as mandated by DEFENDANTS. This pre-shift off-the-clock work was
19 neither recorded nor compensated resulting in the substantial underpayment of wages owed to
20 Aggrieved Employees.

21 32. Based on information and belief, Aggrieved Employees were also required to
22 perform post-shift off-the-clock work that was neither recorded nor compensated. For example,
23 based on information and belief, Aggrieved Employees were required to put away their work
24 tools/equipment, provide shift debriefings/make/receive work-related communications, assist
25 patients, change out of their work clothing/uniforms and/or protective gear after clocking out for the
26 end of their shifts, resulting in DEFENDANTS' failure to compensate Aggrieved Employees for all
27 time worked and the underpayment of minimum wages and overtime wages owed to Aggrieved
28 Employees. For example, based on information and belief, Aggrieved Employees were at times

1 required to clock out for the end of their shifts but were required to return back to work off-the-
2 clock due to the need to assist patients and/or complete other assigned job duties.

3 33. Based on information and belief, DEFENDANTS did not compensate Aggrieved
4 Employees for time spent donning and doffing uniforms and/or personal protective equipment
5 and/or safety equipment (e.g., gloves and/or face masks and/or hair coverings and/or shoe coverings)
6 during meal periods, before the start of a scheduled shift, and after completing a scheduled shift,
7 resulting in off-the-clock work and the underpayment of wages owed to Aggrieved Employees.

8 34. Based on information and belief, DEFENDANTS required Aggrieved Employees to
9 obtain Covid-related testing outside of their scheduled shift times without compensating them for
10 the time spent completing DEFENDANTS' testing requirements.

11 35. Based on information and belief, DEFENDANTS performed an automatic deduction
12 for meal periods that were worked through, interrupted, cut short, and/or during which Aggrieved
13 Employees were not relieved of all duties and DEFENDANTS' control, resulting in
14 DEFENDANTS' failure to compensate Aggrieved Employees for all hours worked and the
15 underpayment of minimum wages and overtime wages owed to Aggrieved Employees.

16 36. Based on information and belief, Aggrieved Employees were required to complete
17 off-the-clock work outside of scheduled shifts due to, including but not limited to, work-related
18 phone calls and/or messages they received to their phones and were required to respond to, including
19 but not limited to, communications from supervisors regarding scheduling and/or other work tasks,
20 resulting in the underpayment of wages owed to Aggrieved Employees.

21 37. Based on information and belief, Aggrieved Employees were not compensated all
22 owed minimum and overtime wages for all time spent performing work duties outside of their
23 scheduled shift and/or time spent on call. For example, based on information and belief, PLAINTIFF
24 and other Aggrieved Employees were required to monitor and/or respond to work-communication
25 devices outside of their scheduled shifts, including but not limited to, on purported days off and/or
26 on what were supposed to be vacation days/days off, without being compensated for all time spent
27 on call/all time spent under DEFENDANTS' control.

28 38. Based on information and belief, DEFENDANTS required Aggrieved Employees to

1 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
2 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work
3 and the underpayment of wages owed to Aggrieved Employees.

4 39. Based on information and belief, at times, Aggrieved Employees also were required
5 to perform off-the-clock work duties at home/remotely, such as but not limited to, completing
6 trainings/continued education courses and/or reviewing policies and/or other documents remotely
7 as mandated by DEFENDANTS.

8 40. Based on information and belief, DEFENDANTS failed to pay AGGRIEVED
9 EMPLOYEES for time they were required to spend completing orientation, policy questionnaires,
10 and/or time spent completing the onboarding process including but not limited to reviewing various
11 documents and policies provided by DEFENDANTS.

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

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

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

27 44. Based on information and belief, DEFENDANTS had actual and/or constructive
28 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to

1 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
2 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
3 of California's minimum and overtime wage laws.

4 45. Based on further information and belief, DEFENDANTS implemented a time-
5 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
6 Employees of compensable time because the time-rounding system implemented by
7 DEFENDANTS would almost always, if not always, result in understating actual compensable work
8 time.

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

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

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

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

27 50. Based on information and belief, DEFENDANTS failed to incorporate all non-
28 discretionary remuneration, including but not limited to, shift differential pay, piece

1 rate/commission compensation, bonus pay/incentive pay, multiple base rates of pay and/or other
2 non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
3 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
4 Aggrieved Employees.

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

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

14 53. For example, based on information and belief, at times, Aggrieved Employees were
15 forced to skip their owed meal periods completely, take late meal periods and/or were interrupted
16 during purported meal periods and/or had meal periods cut short and/or restricted to
17 DEFENDANTS' premises and/or were otherwise required to remain on-duty during unpaid meal
18 periods due to the need to continue assigned job duties.

19 54. For example, PLAINTIFF was frequently required to clock out for meal periods but
20 to continue completing assigned job duties due to lack of coverage/lack of relief workers and/or the
21 need to complete assigned job duties, resulting in consistently denied meal periods as well as
22 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
23 wage owed to PLAINTIFF.

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

1 meal periods.

2 56. Based on information and belief, DEFENDANTS required Aggrieved Employees to
3 monitor work communication device(s)/work phone(s) and/or remain at their assigned
4 workstation(s)/tethered to their workstations during unpaid purportedly off-duty meal periods,
5 resulting in DEFENDANTS' failure to relieve Aggrieved Employees of all duties and
6 DEFENDANTS' control during unpaid meal periods and therefore consistently denied meal periods
7 and the underpayment of wages owed to Aggrieved Employees.

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

13 58. As explained herein, based on information and belief, DEFENDANTS implemented
14 policies and/or practices that failed to relieve Aggrieved Employees of all duties and
15 DEFENDANTS' control during unpaid meal periods.

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

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

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

1 62. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
2 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
3 information and belief, DEFENDANTS did not have a written meal period policy, nor did
4 DEFENDANTS have any sort of compliant policy in practice.

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

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

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

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

26 67. PLAINTIFF and other Aggrieved Employees were not adequately informed,
27 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
28 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to

1 the taking of duty-free rest periods.

2 68. Based on information and belief, DEFENDANTS did not have a have a compliant
3 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
4 practice.

5 69. For example, PLAINTIFF was frequently required to work through part or all of
6 PLAINTIFF's owed rest periods each shift due to lack of coverage/lack of relief workers and/or the
7 need to complete assigned job duties.

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

12 71. As such, Aggrieved Employees were rarely, if ever, relieved of all duties and
13 DEFENDANTS' control during any rest periods, resulting in consistently denied rest periods.

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

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

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

24 75. Based on information and belief, DEFENDANTS implemented policies and/or
25 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
26 DEFENDANTS' control during rest periods. For example, based on information and belief, at times
27 Aggrieved Employees were required to monitor and respond to work-related communication
28 devices, for example, work phones and/or other work-related communication devices during rest

1 periods and thereby were not relieved of all duties and DEFENDANTS' control during rest periods.

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

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

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

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

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

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

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

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

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

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

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

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

27 87. Separately, and independent from the above allegations, based on information and
28 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that

1 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
2 entity that is the employer.

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

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

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

22 91. Based on information and belief, at times, DEFENDANTS failed to reimburse
23 Aggrieved Employees for expenses Aggrieved Employees incurred in connection with
24 DEFENDANTS' mandated testing and/or licensing requirements, and/or expenses incurred in
25 obtaining certifications and/or re-certifications as required by DEFENDANTS.

26 92. As explained above, based on information and belief, Aggrieved Employees were
27 not reimbursed for the cost of using their personal phone(s)/personal devices for work-related
28 purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work

1 shoes, personal protective/safety gear.

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

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

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

16 96. Upon separation of employment, Aggrieved Employees' final paychecks were not
17 timely provided, and/or were not timely provided with all owed vacation pay/ and/or paid time off
18 and/or did not include all wages owed.

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

26 98. Based on further information and belief, DEFENDANTS failed to timely provide all
27 owed wages immediately upon discharge of employment. Based on information and belief, at times,
28 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby

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

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

14 **100.** For example, as explained herein, DEFENDANTS failed to pay PLAINTIFF all
15 owed paid time off and/or failed to pay PLAINTIFF all paid time off at the properly accrued rate(s)
16 (including but not limited to any owed shift differential pay).

17 **101. Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
18 employee who is discharged shall be paid at the place of discharge, and every employee who quits
19 shall be paid at the office or agency of the employer in the county where the employee has been
20 performing labor. All payments shall be made in the manner provided by law.

21 **102.** Based on information and belief, DEFENDANTS have a policy and practice of
22 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
23 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
24 office or agency of DEFENDANTS in the county where the work was performed, in violation of
25 Labor Code Section 208.

26 **103. Unlawful Deductions.** Labor Code section 221 prohibits an employer from
27 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
28 to said employee." Based on information and belief DEFENDANTS made unlawful deductions

1 from Aggrieved Employees paychecks during the relevant period including, without limitation,
2 business costs from Aggrieved Employees' earned wages.

3 104. For example, as explained herein, based on information and belief, DEFENDANTS
4 regularly failed to reimburse Aggrieved Employees for business expenses incurred by Aggrieved
5 Employees each pay period, thereby deducting business costs from Aggrieved Employees' earned
6 wages each pay period, in violation of including but not limited to, Labor Code Section 221, and
7 further failing to itemize these deductions for business costs, on PLAINTIFF's wage statements, in
8 violation of Labor Code section 226(a)(4).

9 105. Such a practice is in violation of including but not limited to, Labor Code Sections
10 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

11 106. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
12 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
13 Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the
14 toilet rooms and shall be available to employees during work hours."

15 107. DEFENDANTS' locations/facilities are generally similar in layout and design, and
16 there was, and continues to be, space that allows for a resting facility that employees may use to
17 cease work and recover during meal or rest periods. DEFENDANTS could have provided
18 PLAINTIFF and Aggrieved Employees with a resting facility within DEFENDANTS'
19 facilities/locations with reasonable or no modification, but instead denied and continues to deny,
20 employees with suitable areas to rest (e.g. a suitable breakroom). As a result, PLAINTIFF and other
21 Aggrieved Employees were forced to adjust to areas not conducive to resting, including but not
22 limited to leaning up against the wall, or search for facilities outside of DEFENDANTS' premises
23 which are not designated or reserved for their rest, such as their personal vehicles.

24 108. DEFENDANTS did not provide PLAINTIFF and Aggrieved Employees with
25 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

26 109. DEFENDANTS' failure to provide suitable resting facilities to PLAINTIFF and
27 Aggrieved Employees violated and continue to violate the applicable Wage Order, section 13(B)
28 and the California Labor Code, including but not limited to section 1198.

1 110. **Seating.** Per section 14(A-B) of all applicable IWC Wage Orders, employees shall
2 be provided with suitable seats when the nature of the work reasonably permits the use of seats and
3 when they are not actively engaged in the work duties that would not permit them to be seated.

4 111. All applicable IWC Wage Orders, Section 14(A-B) provides:

5 (A) All working employees shall be provided with suitable seats when the nature of the
6 work reasonably permits the use of seats.

7 (B) When employees are not engaged in the active duties of their employment and the
8 nature of the work requires standing, an adequate number of suitable seats shall be placed in
9 reasonable proximity to the work area and employees shall be permitted to use such seats when it
10 does not interfere with the performance of their duties.

11 112. Suitable seating is one of the worker protections covered by California's Wage
12 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
13 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker
14 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

15 113. Based on information and belief, DEFENDANTS failed to provide Aggrieved
16 Employees with suitable seating, and when such employees were not engaged in duties which
17 required them to stand, no seating was placed in reasonable proximity to their workstations.

18 114. For example, DEFENDANTS failed to provide PLAINTIFF with suitable seating,
19 and when PLAINTIFF was not engaged in duties which required PLAINTIFF to stand, no seating
20 was placed in reasonable proximity to PLAINTIFF's workstation.

21 115. Moreover, based on information and belief, the nature of the work reasonably
22 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
23 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
24 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
25 of seats would not interfere with the performance of their duties.

26 116. **Temperature Violations:** Section 15 of all applicable IWC Wage Orders, states as
27 follows:

28 117. (A) The temperature maintained in each work area shall provide reasonable comfort

1 consistent with industry-wide standards for the nature of the process and the work performed.

2 118. (B) If excessive heat or humidity is created by the work process, the employer shall
3 take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
4 comfort.

5 119. Based on information and belief, on various diverse dates during the one-year period
6 preceding the filing of Plaintiff's PAGA Notice to the present, PLAINTIFF and/or other Aggrieved
7 Employees were subjected to excessive heat and/or humidity resulting in temperatures exceeding
8 100° F.

9 120. Based on information and belief, on various diverse dates during the one-year period
10 preceding the filing of PLAINTIFF's PAGA Notice to the present, DEFENDANTS failed to provide
11 PLAINTIFF and Aggrieved Employees with reasonable comfort by failing to maintain the indoor
12 temperature within the range of industry standards by failing to provide adequate air conditioning,
13 and/or proper ventilation. For example, based on information and belief, temperatures in
14 DEFENDANTS' facilities where PLAINTIFF and other Aggrieved Employees worked were
15 excessively hot, especially in the summer, due to DEFENDANTS' practice of failing to provide
16 adequate air conditioning, ventilation and/or fans within the facilities and/or failing to implement
17 other methods necessary to provide reasonable comfort consistent with industry-wide standards for
18 the nature of the work PLAINTIFF and other Aggrieved Employees were required to perform. For
19 example, during including but not limited to, the summer months, PLAINTIFF recalls
20 DEFENDANTS' facilities where PLAINTIFF and other Aggrieved Employees worked were so
21 unbearably hot in the kitchen – with the heat and/or humidity resulting in temperatures exceeding
22 100° F – such that PLAINTIFF and other Aggrieved Employees came close to and/or did suffer
23 from symptoms of heat stroke.

24 121. As such, DEFENDANTS failed to maintain temperatures in each work area that
25 provide reasonable comfort consistent with industry-wide standards for the nature of the process
26 and the work performed, in violation of Section 15 of the IWC Wage Orders and the California
27 Labor Code, including but not limited to section 1198.

28 122. **Inaccurate Records.** Based on the above-described unlawful policies and practices,

1 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
2 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
3 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
4 required by law, including but not limited to the following records: total daily hours worked,
5 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
6 began and ended each work period, time records of meal periods, and accurate itemized wage
7 statements.

8 123. DEFENDANTS have failed and continue to fail to keep accurate and complete
9 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
10 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
11 employer control during unpaid meal periods, failure to record the true start and end times of meal
12 periods, shift start times and shift end times, and other off-the-clock work policies and practices
13 described herein.

14 124. **Failure to Produce Employment Records.** Based on information and belief,
15 DEFENDANTS have a uniform policy and practice of failing to produce or make available a current
16 or former employee's time, pay, and/or personnel records when requested pursuant to Labor Code
17 sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF, through
18 counsel, sent a written request for payroll and personnel records to DEFENDANTS on or around
19 including but not limited to the following date(s): August 2, 2024. Yet, DEFENDANTS failed to
20 timely produce complete records within the time periods delineated by California labor law. For
21 example, DEFENDANTS failed to produce PLAINTIFF's time records. Based on information and
22 belief, DEFENDANTS failed and continues to fail to timely produce complete payroll and personnel
23 records when requested by other Aggrieved Employees. Based on information and belief,
24 DEFENDANTS failed and continue to fail to timely produce complete time, pay, and personnel
25 records when requested by other Aggrieved Employees.

26 125. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
27 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
28 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the

1 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
2 accrued sick leave hours on the correct number of hours worked (as a result of the
3 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
4 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
5 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
6 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
7 compensation into the sick leave pay rate calculation.

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

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

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

26 129. As such, DEFENDANTS have violated California's paid sick leave laws and
27 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
28 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These

1 unlawful practices and policies violate Labor Code sections 245-248.5.

2 **130. Unlawful Agreements-Unlawful Criminal History Inquiries.**

3 Unlawful Agreements.

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

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

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

25
26 Unlawful Inquires into Criminal History

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

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.

4 135. 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.

9 136. **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.

16 137. 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)**

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

26 **Failure to Keep Accurate Records**

27 139. 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.

1 140. 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.

6 141. 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.²

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

13 142. *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.

19 143. 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 ² Labor Code § 2699(f)

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

2 144. 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).

11 145. 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**

16 146. 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.4th 1004.

21 147. 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 10th hour of work. *Ibid*.

24 148. 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.4th 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”).

4 149. 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.

11 150. 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.

17 151. 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.

21 152. 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.

23 153. 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.

27 154. 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.

4 155. 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**

10 156. 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.4th 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.5th
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).

24 157. 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.”).

6 158. 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.

12 159. 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.

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

19 161. 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.

25 162. 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**

1 163. 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.

8 164. 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.*

14 165. 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.

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

23 167. 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.

1 168. 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.

7 169. 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.

10 170. 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.

14 171. 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.

21 172. 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.

1 173. 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**

6 174. 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**

18 175. 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.³

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

1 **Failure to Provide Suitable Resting Facilities**

2 176. Per section 13 of all applicable IWC Wage Orders, employees shall be provided with
3 suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
4 shall be provided in an area separate from the toilet rooms and shall be available to employees during
5 work hours.”

6 177. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
7 there was, and continues to be, space that allows for a resting facility that employees may use to
8 cease work and recover during meal or rest periods. DEFENDANTS could have provided
9 PLAINTIFF and Aggrieved Employees with a resting facility within DEFENDANTS’
10 facilities/locations with reasonable or no modification, but instead denied and continues to deny,
11 employees with suitable areas to rest (e.g. a suitable breakroom). As a result, PLAINTIFF and other
12 Aggrieved Employees were forced to adjust to areas not conducive to resting, including but not
13 limited to leaning up against the wall, or search for facilities outside of DEFENDANTS’ premises
14 which are not designated or reserved for their rest, such as their personal vehicles.

15 178. DEFENDANTS did not provide PLAINTIFF and Aggrieved Employees with
16 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

17 179. DEFENDANTS’ failure to provide suitable resting facilities to PLAINTIFF and
18 Aggrieved Employees violated and continue to violate the applicable Wage Order, section 13(B)
19 and the California Labor Code, including but not limited to section 1198.

20 **Seating Violations.**

21 180. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be
22 provided with suitable seats when the nature of the work reasonably permits the use of seats and
23 when they are not actively engaged in the work duties that would not permit them to be seated.

24 181. All applicable IWC Wage Orders, Section 14(A-B) provides:

25 (A) All working employees shall be provided with suitable seats when the nature of the
26 work reasonably permits the use of seats.

27 (B) When employees are not engaged in the active duties of their employment and the
28 nature of the work requires standing, an adequate number of suitable seats shall be placed in

1 reasonable proximity to the work area and employees shall be permitted to use such seats when it
2 does not interfere with the performance of their duties.

3 182. Suitable seating is one of the worker protections covered by California's Wage
4 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
5 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker
6 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

7 183. Based on information and belief, DEFENDANTS failed to provide Aggrieved
8 Employees with suitable seating, and when such employees were not engaged in duties which
9 required them to stand, no seating was placed in reasonable proximity to their workstations.

10 184. For example, DEFENDANTS failed to provide PLAINTIFF with suitable seating,
11 and when PLAINTIFF was not engaged in duties which required PLAINTIFF to stand, no seating
12 was placed in reasonable proximity to PLAINTIFF's workstation.

13 185. Moreover, based on information and belief, the nature of the work reasonably
14 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
15 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
16 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
17 of seats would not interfere with the performance of their duties.

18 **Temperature Violations**

19 186. Section 15 of all applicable IWC Wage Orders, states as follows:

20 187. (A) The temperature maintained in each work area shall provide reasonable comfort
21 consistent with industry-wide standards for the nature of the process and the work performed.

22 188. (B) If excessive heat or humidity is created by the work process, the employer shall
23 take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
24 comfort.

25 189. Based on information and belief, on various diverse dates during the one-year period
26 preceding the filing of PLAINTIFF's PAGA Notice to the present, PLAINTIFF and other Aggrieved
27 Employees were subjected to excessive heat and/or humidity resulting in temperatures exceeding
28 100° F.

1 190. Based on information and belief, on various diverse dates during the one-year period
2 preceding the filing of PLAINTIFF's PAGA Notice to the present, DEFENDANTS failed to provide
3 PLAINTIFF and Aggrieved Employees with reasonable comfort by failing to maintain the indoor
4 temperature within the range of industry standards by failing to provide adequate air conditioning,
5 and/or proper ventilation. For example, based on information and belief, temperatures in
6 DEFENDANTS' facilities where PLAINTIFF and other Aggrieved Employees worked were
7 excessively hot, especially in the summer, due to DEFENDANTS' practice of failing to provide
8 adequate air conditioning, ventilation and/or fans within the facilities and/or failing to implement
9 other methods necessary to provide reasonable comfort consistent with industry-wide standards for
10 the nature of the work PLAINTIFF and other Aggrieved Employees were required to perform. For
11 example, during including but not limited to, the summer months, PLAINTIFF recalls
12 DEFENDANTS' facilities where PLAINTIFF and other Aggrieved Employees worked were so
13 unbearably hot in the kitchen – with the heat and/or humidity resulting in temperatures exceeding
14 100° F – such that PLAINTIFF and other Aggrieved Employees came close to and/or did suffer
15 from symptoms of heat stroke.

16 191. As such, DEFENDANTS failed to maintain temperatures in each work area that
17 provide reasonable comfort consistent with industry-wide standards for the nature of the process
18 and the work performed, in violation of Section 15 of the IWC Wage Orders and the California
19 Labor Code, including but not limited to section 1198.

20 **Standard Conditions of labor Violations**

21 192. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
22 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
23 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
24 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
25 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
26 minimum/overtime wages and other violations described herein result in separate violations of
27 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
28 1197.1 and 2699.

1 **Business Expense Violations**

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

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

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

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

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

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

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

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

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

12 **Wage Statement Violations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **Unlawful Deductions**

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

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is ~~43~~ per employee per violation").

1 paychecks during the relevant period, including without limitation, deducting business costs from
2 Aggrieved Employees' earned wages/paychecks. Such a practice is in violation of including but not
3 limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under
4 Labor Code Section 2699.

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

11 **Sick Leave Violations**

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

19 218. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
20 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
21 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
22 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
23 Aggrieved Employees' intelligent exercise of their paid sick leave.

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

28 220. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records

1 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
2 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
3 were entitled to the maximum number of hours accruable.

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

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

10 223. On information and belief, PLAINTIFF alleges that all of these practices were
11 experienced and continue to be experienced by other Aggrieved Employees.

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

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

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

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

28 **Untimely Payment of Final Wages**

1 227. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
2 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
3 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
4 employee not having a written contract for a definite period quits his or her employment, his or her
5 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
6 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
7 to his or her wages at the time of quitting.”

8 228. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
9 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
10 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
11 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
12 section 256. See, *Iskanian v. CLS Transportation Orange, LLC*, 59 Cal.4th 348 (2014); see also,
13 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

14 229. Based on information and belief, upon separation of employment, Aggrieved
15 Employees’ final paychecks were not timely provided, and/or were not timely provided with all
16 owed vacation pay/ and/or paid time off and/or did not include all wages owed, in violation of Labor
17 Code section 201-202. Based on information and belief, PLAINTIFF’s and other Aggrieved
18 Employees’ final paychecks did not include all wages owed as they are devoid of, including but not
19 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay and/or all paid
20 time off wages at the properly accrued rates (including but not limited to any owed shift differential
21 pay).

22 230. Based on information and belief, at times, Aggrieved Employees experienced breaks
23 in employment caused by DEFENDANTS whereby Aggrieved Employees would not be called in
24 for work for longer than a single pay period due to including but not limited to DEFENDANTS’
25 lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
26 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in
27 violation of including but not limited to Labor Code section 201-202.

28 231. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These

1 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
2 256.

3 **Violation of Labor Code Section 208**

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

8 233. Based on information and belief, DEFENDANTS have a policy and practice of
9 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
10 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
11 office or agency of DEFENDANTS in the county where the work was performed, in violation of
12 Labor Code Section 208.

13 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

14 *Unlawful Agreements.*

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

24 235. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
25 employment, continued employment, or the receipt of any employment-related benefit, require any
26 applicant for employment or any employee to waive any right...”Based on information and belief,
27 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
28 signed as a condition of employment, including but not limited to, during the onboarding process.

1 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
2 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
3 invalid waivers are otherwise unlawful under Labor Code section 432.6.

4 236. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
5 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
6 432.5.

7 Unlawful Inquires into Criminal History

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

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

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

22 **Violation of Labor Code Section 432.6**

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

27 241. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
28 employment, continued employment, or the receipt of any employment-related benefit, require any

1 applicant for employment or any employee to waive any right...”

2 242. Labor Code Section 432.6(b) provides in pertinent part:

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

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

12 245. Under the provisions of PAGA and the above mentioned Labor Code sections,
13 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
14 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197,
15 1197.1, 1198, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
16 interpretations of these laws by California Courts and administrative bodies, as well as any other
17 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

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

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

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

26 **PRAYER FOR RELIEF**

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

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1. For civil penalties under Labor Code Section 2699;
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney’s fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: November 27, 2024

CROSNER LEGAL, PC

By: 

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