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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

CARI BLAIN, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

SPRING EDUCATION GROUP, INC., a
Delaware Corporation; LEPORT SOLANA
BEACH LLC, a Delaware Limited Liability
Company; and DOES 1-100, inclusive,

Defendants.

Case No.: 24CV453685

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

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Superior Court of CA,
County of Santa Clara
24CV453685
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1 Plaintiff, CARI BLAIN, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants SPRING
3 EDUCATION GROUP, INC., a Delaware Corporation; LEPORT SOLANA BEACH LLC, a
4 Delaware Limited Liability Company; and DOES 1-100, inclusive (collectively referred to herein
5 as “DEFENDANTS”). PLAINTIFF is informed and 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 Santa Clara pursuant to
15 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
16 this judicial district and conduct alleged by PLAINTIFF herein occurred in this judicial district. *See*
17 *also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a
18 PAGA action is proper in any county where the defendants committed Labor Code violations against
19 some of its employees). Venue is also proper pursuant to section 393 of the California Code of Civil
20 Procedure because the cause, or some part of the cause, arose in the County of Santa Clara.

21 **THE PARTIES**

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

24 5. PLAINTIFF worked as a non-exempt employee with a job title(s) of administrative
25 assistant and/or a similar title(s) and/or job position(s) from in or around June 2023 through in or
26 around late August 2024. PLAINTIFF worked in Solana Beach, California, at a private school
27 operated by Defendant SPRING EDUCATION GROUP, INC.

28 6. PLAINTIFF was assigned to work at one of DEFENDANTS’ schools, locations,

1 and/or facilities located in Solana Beach, California, which operates under including but not limited
2 to the following name(s): “Leport Solana Beach” and/or “LePort Montessori Solana Beach.”

3 7. Defendant SPRING EDUCATION GROUP, INC. (“Spring Education Group”) is a
4 Delaware Corporation that, at all relevant times, was authorized to do business within the State of
5 California and is doing business in the State of California.

6 8. Defendant LEPORT SOLANA BEACH LLC (“Leport Solana Beach”) is a Delaware
7 Limited Liability Company that, at all relevant times, was authorized to do business within the State
8 of California and is doing business in the State of California.

9 9. DEFENDANTS own, operate, manage and/or staff its employees to work at the
10 schools, facilities and/or other location(s) in California, including but not limited to the following
11 California cities: Solana Beach, Dublin, Fremont, San Jose, Sunnyvale, Poway, San Marcos,
12 Carlsbad, Temecula, Murrieta, Oceanside, San Diego, Yorba Linda, Irvine, Huntington Beach,
13 Sacramento, Milpitas, Davis, Elk Grove, Roseville, Rocklin, Stockton, San Francisco, Santa Clara,
14 Altadena, and Los Gatos. DEFENDANTS, through its various locations, serve the education
15 industry.¹ Spring Education Group operates approximately 204 schools in California, including but
16 not limited to the school PLAINTIFF was assigned to work at, LePort Montessori Solana Beach.
17 Although DEFENDANTS may operate successful companies or have a noble mission,
18 DEFENDANTS do not comply with California’s labor laws.

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

25 11. PLAINTIFF is further informed and believes that, at all relevant times, each
26 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
27

28 ¹ See <https://www.springeducationgroup.com/find-a-school/?search=California> and
<https://www.leportschools.com/locations/>. Last visited on November 20, 2024.

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

9 **JOINT LIABILITY**

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

27 13. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
28 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of

1 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
2 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
3 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)
4 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
5 PLAINTIFF and Aggrieved Employees to work for them.

6 14. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
7 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
8 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
9 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
10 policies and practices regardless of the location(s) where they worked. Among other things,
11 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
12 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
13 over the day-to-day operations and employment matters, including the power to hire and fire, set
14 schedules, issue employee policies, and determine rates of compensation across its locations in
15 California; (3) DEFENDANTS utilize the same policies and procedures for all California
16 employees, including issuing the same employee handbooks and other form agreements; (4)
17 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
18 employment matters; and, (6) DEFENDANTS share employees.

19 15. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
20 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
21 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
22 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees’
23 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
24 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
25 Employees.

26 16. For example, based on information and belief, DEFENDANTS issued wage
27 statements to PLAINTIFF bearing the logo for “Spring Education Group” and/or “Spring Education
28 Group, Inc.” The same wage statements identify the following entity as the name of the legal entity

1 that is PLAINTIFF's employer: "Leport Solana Beach, LLC." Based on further information and
2 belief, DEFENDANTS, and each of them, share the same agent for service of process, principal
3 business office/headquarters and/or share some of the same attorneys and/or human resources
4 personnel to oversee employment-related matters.

5 17. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
6 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
7 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
8 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
9 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
10 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
11 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
12 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
13 and Aggrieved Employees' employment with or without cause. Upon information and belief,
14 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
15 writing the details of their compensation, and the manner in which they were to take meal and rest
16 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
17 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
18 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

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

24 19. By reason of their status as joint employers of PLAINTIFF and Aggrieved
25 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
26 Code and applicable Wage Orders as to all Aggrieved Employees.

27
28 **PAGA ALLEGATIONS**

1 20. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
2 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
3 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
4 following:

5 All current and former non-exempt employees that worked either directly or via a
6 staffing agency for Spring Education Group at any location in California at any time
7 from one year plus 65 days from the filing of the initial Complaint through the present
8 (“PAGA Period”).

9 21. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
10 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
11 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,
12 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the
13 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has
14 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
15 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
16 violations.

17 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

18 22. PLAINTIFF, on September 11, 2024, through counsel, gave written notice by online
19 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
20 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
21 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
22 certified mail.

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

26 24. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
27 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
28 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.

1 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
2 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

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

6 **FACTUAL ALLEGATIONS**

7
8 26. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
9 title(s) of administrative assistant and/or a similar title(s) and/or job position(s) from in or around
10 June 2023 through in or around late August 2024.

11 27. DEFENDANTS assigned PLAINTIFF to work at one of DEFENDANTS' schools,
12 locations, and/or facilities located in Solana Beach, California, which operates under including but
13 not limited to the following name(s): "Leport Solana Beach" and/or "LePort Montessori Solana
14 Beach."

15 28. PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) days
16 per week, at times working more than eight (8) hours in a workday and/or more than forty hours in
17 a workweek.

18 29. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
19 DEFENDANTS as hours worked.

20 30. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
21 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
22 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
23 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
24 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
25 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
26 below.

27 31. Based on information and belief, DEFENDANTS implemented a policy and/or
28 practice of rounding meal period start and end times and/or automatically deducting at least

1 thirty/sixty minutes per shift for meal periods, despite having actual and/or constructive knowledge
2 that PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
3 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
4 PLAINTIFF and Aggrieved Employees of all wages owed.

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

8 33. For example, DEFENDANTS required PLAINTIFF to complete off-the-clock work
9 tasks prior to clocking in for the start of PLAINTIFF's shift(s), after clocking out for the end of
10 PLAINTIFF's shift(s) and/or during unpaid meal periods, including but not limited to, running
11 errands for DEFENDANTS to pick up supplies off the clock and/or complete other off-the-clock
12 work tasks, resulting in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked
13 and the underpayment of wages owed to PLAINTIFF.

14 34. Based on information and belief, Aggrieved Employees were not compensated for
15 all time spent booting and/or initiating and/or reinitiating DEFENDANTS' computer/electronic
16 timekeeping system, resulting in pre-shift off-the-clock work and/or off-the-clock work during
17 unpaid meal periods and the underpayment of minimum wages and overtime wages owed to
18 Aggrieved Employees.

19 35. For example, based on information and belief, prior to being able to clock in for the
20 start of their scheduled shift each workday, Aggrieved Employees were required to start and/or boot
21 DEFENDANTS' computer systems and/or software and/or use a two-step authentication process to
22 log in so as to have the systems running at the start of the scheduled shift. As such, Aggrieved
23 Employees spent at least approximately several minutes before each scheduled shift preparing
24 different work applications and/or undergoing DEFENDANTS' authentication/verification
25 processes in order to clock in and begin their shift(s). This pre-shift work was off-the-clock and
26 uncompensated resulting in unpaid minimum and overtime wages.

27 36. Based on information and belief, at times, Aggrieved Employees were required to
28 complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-

1 related phone calls and/or messages they received to their phones/mobile devices and were required
2 to respond to, including but not limited to, communications from supervisors regarding scheduling
3 and/or other work tasks, resulting in the underpayment of wages owed to Aggrieved Employees.

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

14 38. Based on information and belief, DEFENDANTS failed to compensate Aggrieved
15 Employees for all time spent completing DEFENDANTS' required trainings and/or courses (e.g.,
16 education-related courses) and/or testings and/or certifications (e.g., education/teaching
17 certifications).

18 39. Based on information and belief, DEFENDANTS failed to pay Aggrieved
19 Employees for time they were required to spend completing orientation, policy questionnaires,
20 and/or time spent completing the onboarding process including but not limited to reviewing various
21 documents and policies provided by DEFENDANTS. Based on information and belief, this work
22 time was completed off-the-clock and was not compensated.

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

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

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

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

10 43. Based on further information and belief, DEFENDANTS implemented a time-
11 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
12 Employees of compensable time because the time-rounding system implemented by
13 DEFENDANTS would almost always, if not always, result in understating actual compensable work
14 time.

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

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

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

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

5 48. Based on information and belief, DEFENDANTS failed to incorporate all non-
6 discretionary remuneration, including but not limited to, shift differential pay, piece
7 rate/commission compensation, bonus pay/incentive pay, multiple base rates of pay and/or other
8 non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
9 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
10 Aggrieved Employees.

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

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

20 51. For example, based on information and belief, at times, Aggrieved Employees were
21 forced to skip their owed meal periods completely, take late meal periods in order to complete
22 assigned job duties and/or were interrupted during purported meal periods and/or had meal periods
23 cut short and/or restricted to DEFENDANTS' premises/their assigned work stations and/or were
24 otherwise required to remain on-duty during unpaid meal periods due to the need to continue
25 assigned job duties.

26 52. Based on information and belief, other Aggrieved Employees were consistently
27 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
28 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to

commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and expectations.

53. Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control during unpaid meal periods.

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

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

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

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

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

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

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

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

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

20 63. Based on information and belief, DEFENDANTS did not have a have a compliant
21 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
22 practice.

23 64. For example, based on information and belief, Aggrieved Employees were at times
24 unable to take compliant rest periods due to their need to complete assigned job duties and/or was
25 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods
26 restricted to DEFENDANTS' premises/their assigned work locations/workstations.

27 65. Based on information and belief, DEFENDANTS did not have a lawful policy,
28 instruction, or practice as to the taking, timing, or duty-free nature of rest periods.

1 66. For example, based on information and belief, DEFENDANTS failed to authorize
2 and permit rest periods that were a “net” ten minutes in a suitable rest area, and instead, to the extent
3 rest periods were provided, DEFENDANTS limited PLAINTIFF and other Aggrieved Employees
4 to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes
5 of leaving their work stations , in violation of California rest period law.

6 67. Based on information and belief, Aggrieved Employees’ rest periods were
7 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
8 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring
9 them to skip rest periods completely or otherwise take non-compliant rest periods.

10 68. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
11 lasting longer than ten hours.

12 69. 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 DEFENDANTS’ control during rest periods.

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

18 71. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
19 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
20 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
21 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
22 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
23 shift differential pay, and/or other non-discretionary compensation into the regular rate of
24 compensation for purposes of calculating the owed rest period premium.

25 72. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
26 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
27 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
28 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements

1 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
2 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
3 applicable hourly rates in effect during the pay period and the corresponding number of hours
4 worked at each hourly rate by the employee.

5 73. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
6 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
7 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
8 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
9 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
10 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
11 other off-the-clock work policies and practices) which results in a violation of Labor Code section
12 226(a).

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

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

21 76. Based on information and belief, DEFENDANTS issued wage statements to
22 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
23 226(a)(4).

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

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

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

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

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

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

22 83. Based on information and belief, DEFENDANTS shifted the costs of doing business
23 onto PLAINTIFF and other Aggrieved Employees requiring them to pay for business expenses,
24 including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear
25 (e.g., face masks) and the use of Aggrieved Employees' personal vehicle(s) and/or personal cell
26 phones/mobile devices, internet and/or data usage for work related purposes, including but not
27 limited to, to receive and respond to work related messages and/or phone calls. For example, based
28 on information and belief, Aggrieved Employees were required to receive and respond to work-

1 related calls and/or messages from including but not limited to supervisors and/or other Aggrieved
2 Employees regarding scheduling and/or other work tasks and/or were required to download and use
3 work-related applications on their personal cell phones/mobile devices but were not reimbursed by
4 DEFENDANTS at all and/or in full for these business expenses.

5 84. For example, prior to being able to clock in for a scheduled shift each workday,
6 DEFENDANTS required PLAINTIFF to use a two-step authentication process using PLAINTIFF's
7 personal cell phone/mobile device to log into DEFENDANTS' computer system(s) and/or
8 timekeeping system so as to have the system(s) running at the start of the scheduled shift, however,
9 DEFENDANTS did not provide PLAINTIFF with any and/or full reimbursement for the business
10 expenses PLAINTIFF incurred in connection with being required to use PLAINTIFF's personal cell
11 phone/mobile device to carry out PLAINTIFF's assigned job duties.

12 85. Based on information and belief, DEFENDANTS fail and continue to fail to
13 reimburse Aggrieved Employees for expenses Aggrieved Employees incurred in connection with
14 DEFENDANTS' mandated testing and/or licensing requirements, and/or expenses incurred in
15 obtaining certifications and/or re-certifications as required by DEFENDANTS.

16 86. As explained above, based on information and belief, Aggrieved Employees were
17 not reimbursed for the cost of using their personal phone(s) / personal device(s) for work-related
18 purposes and/or the cost of purchasing and/or maintaining work tools / equipment and/or use of
19 personal vehicle to carry out their assigned job duties.

20 87. Based on information and belief, DEFENDANTS regularly failed to reimburse and
21 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
22 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
23 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
24 assigned by DEFENDANTS.

25 88. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
26 for all reasonable expenses associated with carrying out their duties required that Aggrieved
27 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
28 2802.

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

6 **90.** Upon separation of employment, Aggrieved Employees' final paychecks were not
7 timely provided, and/or were not timely provided with all owed vacation pay/ and/or paid time off
8 and/or did not include all wages owed.

9 **91.** Upon separation of employment, Aggrieved Employees final paychecks were not
10 timely provided, were not timely provided with all owed vacation pay and/or paid time off and/or
11 did not include all wages owed as they were devoid of, including but not limited to, all owed
12 minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid
13 time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid
14 time off paid at the final rate including non-discretionary compensation, including but not limited
15 to, all owed shift differentials).

16 **92.** Based on further information and belief, DEFENDANTS failed to timely provide all
17 owed wages immediately upon discharge of employment. Based on information and belief, at times,
18 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
19 Aggrieved Employees would not be called in for work for longer than a single pay period due to
20 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
21 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
22 the end of such periods of employment, in violation of including but not limited to Labor Code
23 section 201-202. As such, DEFENDANTS violated Labor Code sections 201 and/or 202, subjecting
24 DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256.

25 **93. Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
26 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
27 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
28 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation

1 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
2 limited to, any owed shift differentials) to Aggrieved Employees upon separation of employment,
3 in violation of California law, including but not limited to, Labor Code section 227.3.

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

8 95. 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 96. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
14 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
15 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
16 from Aggrieved Employees paychecks during the relevant period including without limitation,
17 deducting tips/gratuities and/or business costs from Aggrieved Employees’ earned wages.

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

23 98. Such a practice is in violation of including but not limited to, Labor Code Sections
24 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

25 99. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
26 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
27 Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the
28 toilet rooms and shall be available to employees during work hours.”

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

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

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

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

23 104. DEFENDANTS have failed and continue to fail to keep accurate and complete
24 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
25 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
26 employer control during unpaid meal periods, failure to record the true start and end times of meal
27 periods, shift start times and shift end times, and other off-the-clock work policies and practices
28 described herein.

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

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

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

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

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

5 **110. Unlawful Agreements-Unlawful Criminal History Inquiries.**

6 Unlawful Agreements.

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

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

25 113. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
26 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
27 432.5.

1 Unlawful Inquires into Criminal History

2
3 114. Labor Code section 432.7 prohibits an employer from asking applicants about past
4 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
5 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
6 convictions on its employment application, in violation of California law.

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

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

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

23 **FIRST CAUSE OF ACTION**
24 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
25 **2698, ET SEQ.**
26 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
27 **Defendants)**

28 118. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

Failure to Keep Accurate Records

 119. California Labor Code § 1174 requires employers to keep “accurate and complete”

1 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
2 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
3 times during which all owed meal periods were provided each day.

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

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

15 **Meal Period Violations**

16 122. 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.

21 123. 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.*

24 124. 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 _____
28 ² Labor Code § 2699(f)

1 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
2 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
3 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
4 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
5 provided”).

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

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

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

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

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

1 130. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
2 periods in violation of California law and/or failed to pay the proper meal period premium for failure
3 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
4 differential pay and/or other non-discretionary compensation into the regular rate or compensation
5 for purposes of calculating the owed meal period premium.

6 131. These unlawful meal period policies and practices result in violations of Labor Code
7 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
8 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
9 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
10 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

11 **Rest Period Violations**

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

26 133. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
27 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
28 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest

1 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
2 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
3 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
4 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
5 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
6 “onus is on the employer to clearly communicate the authorization and permission [to take rest
7 periods] to its employees.”).

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

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

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

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

27 138. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
28 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties

1 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

2 **Minimum and Overtime Wage Violations**

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

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

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

23 142. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
24 Aggrieved Employees for all hours worked.

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

1 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
2 Employees.

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

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

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

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

23 148. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
24 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
25 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
26 Wage Orders, section 20.

27 **Statutory Wage Violations**

28 149. California Labor Code section 223 makes it unlawful for an employer to secretly pay
30

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

11 **Refusal to Make Payment**

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

20 **Failure to Provide Suitable Resting Facilities**

21
22 151. Per section 13 of all applicable IWC Wage Orders, employees shall be provided with
23 suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities
24 shall be provided in an area separate from the toilet rooms and shall be available to employees during
25 work hours."

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).

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

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

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

15 **Standard Conditions of Labor Violations**

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

24 **Business Expense Violations**

25 156. California law requires employers to indemnify their employees for all necessary
26 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
27 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
28 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary

1 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
2 incurred by the employee enforcing the rights granted by this section."

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

11 158. Further, "any contract or agreement, express or implied, made by any employee to
12 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
13 any employee or his personal representative of any right or remedy to which he is entitled to under
14 the laws of this State." *See* Cal. Lab. Code section 2804.

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

17 160. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
18 full reimbursement for all reasonable expenses associated with carrying out their duties required
19 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
20 expenses in violation of Labor Code section 2802.

21 161. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
22 Employees have suffered injury in that they were not completely reimbursed as mandated by
23 California law.

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

28 163. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved

1 Employees have suffered injury in that they were not completely reimbursed as mandated by
2 California law.

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

7 **Wage Statement Violations**

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

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

25 167. Moreover, due to violations detailed above, including but not limited to,
26 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
27 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
28 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish

1 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
2 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
3 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
4 compensation earned during the pay period into the regular rate of pay for purposes of calculating
5 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
6 overtime worked by PLAINTIFF and other Aggrieved Employees.

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

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

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

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

24 172. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
25 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
26 Employees over whether they received all wages owed to them.

27 173. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
28 they could not easily determine whether they received all wages owed to them and whether they

1 were paid for all hours worked.

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

5 175. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
6 Aggrieved Employees with accurate, itemized wage statements.

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

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

19 **Unlawful Deductions**

20 178. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
21 an employee any part of wages theretofore paid by said employer to said employee." Based on
22 information and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees
23 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
24 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
25 Section 2699.

26 179. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
27 each pay period during which the statute provisions were violated. See Lab. Code §225.5

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

1 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
2 provided in this article, every person who unlawfully withholds wages due any employee in
3 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
4 to pay each employee”).

5 **Sick Leave Violations**

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

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

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

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

26 184. Upon information and belief, DEFENDANTS failed and continue to fail to comply
27 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
28 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick

1 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
2 wages.

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

4 186. On information and belief, PLAINTIFF alleges that all of these practices were
5 experienced and continue to be experienced by other Aggrieved Employees.

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

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

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

16 189. Based on information and belief, DEFENDANTS had and continue to have a
17 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
18 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
19 to Aggrieved Employees upon separation of employment, in violation of California law, including
20 but not limited to, Labor Code section 227.3.

21 **Untimely Payment of Final Wages**

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

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

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

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

21 194. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
22 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
23 256.

24 **Violation of Labor Code Section 208**

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

1 196. Based on information and belief, DEFENDANTS have a policy and practice of
2 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
3 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
4 office or agency of DEFENDANTS in the county where the work was performed, in violation of
5 Labor Code Section 208.

6 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

7 *Unlawful Agreements.*

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

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

25 199. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
26 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
27 432.5.

28 **Unlawful Inquires into Criminal History**

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

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

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

15 **Violation of Labor Code Section 432.6**

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

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

23 205. Labor Code Section 432.6(b) provides in pertinent part:

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

26 207. Based on information and belief, DEFENDANTS require/required Aggrieved
27 Employees to waive their right to first and/or second meal periods as a condition of working for
28 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not

1 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
2 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
3 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
4 refusal to waive their meal period rights.

5 208. Under the provisions of PAGA and the above mentioned Labor Code sections,
6 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
7 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197,
8 1197.1, 1198, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
9 interpretations of these laws by California Courts and administrative bodies, as well as any other
10 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

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

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

17 209. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
18 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

19 **PRAYER FOR RELIEF**

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

- 22 1. For civil penalties under Labor Code Section 2699;
- 23 2. For an order temporarily, preliminarily and permanently enjoining and
24 restraining DEFENDANTS from engaging in similar unlawful conduct as set
25 forth herein;

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- 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 21, 2024 **CROSNER LEGAL, PC**

By: 

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