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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

LUIS CRUZ, on behalf of others similarly situated and the State of California under the Private Attorneys General Act, Plaintiffs, vs. QUANTIX SCS, LLC and DOES 1 through 50, inclusive, Defendants.	Case No. 24CU021959C *Hon. Blaine K. Bowman* *Dept. 74* **CLASS ACTION** **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** 1. Minimum Wage Violations 2. Failure to Pay All Overtime Wages 3. Meal Period Violations 4. Failure to Pay for Authorized Rest Periods/Non-Productive Time 5. Untimely Payment of Wages 6. Wage Statement Violations 7. Waiting Time Penalties 8. Failure to Reimburse Business Expenses 9. Unlawful Wage Deductions 10. Unfair Competition 11. Civil Penalties under the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*)

Plaintiff LUIS CRUZ, on behalf of all others similarly situated and the State of California under the Private Attorneys General Act ("Plaintiff") brings this FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants QUANTIX SCS, LLC and DOES 1 through 50, inclusive (collectively "Defendants"), alleging as follows:

INTRODUCTION

1. This is a class and representative action for wage and hour violations of the California Labor Code.

2. Defendant failed to compensate Plaintiff and class members for all hours suffered or permitted to work in violation of the applicable IWC Wage Orders.

3. Plaintiff and class members were not always authorized or permitted to take compliant meal and rest breaks, yet Defendant did not pay the class members all corresponding meal or rest period premiums.

4. Defendant failed to reimburse Plaintiff and class members for all business expenses.

5. Defendant unlawfully deducted wages from Plaintiffs and class members.

6. Defendant is further liable for derivative claims for wage statements, untimely payment, and other associated violations.

7. Defendant's employment policies and practices, as well as their payroll administration systems, enabled and facilitated these violations on a company-wide basis with respect to class members.

8. Plaintiff seeks to recover the underpaid damages, plus associated penalties, interests, attorney's fees and costs.

JURISDICTION & VENUE

9. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the California Constitution as the causes of action are premised upon violations of California law.

10. The monetary damages and restitution sought exceed the minimal jurisdiction limits of the Superior Court.

11. This Court has jurisdiction over Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California, or otherwise intentionally avail

themselves to the California economy so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

12. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conducted business and committed some of the alleged violations in this County.

PARTIES

A. Plaintiff Luis Cruz

13. Plaintiff Cruz is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about November 2015 to December 2023. Plaintiff worked as a Truck Driver.

14. The State of California, via the Labor and Workforce Development Agency ("LWDA"), is the real party in interest in this action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff files suit is always the real party in interest."]) To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.*, Court of Appeals Case No. B326759 (2nd App. Dist.) ____ Cal. App. 5th _____ (Mar. 20, 2024, *as modified* Apr. 18, 2024), the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

B. Defendants

15. Defendant Quantix SCS, LLC is an Illinois limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

16. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

17. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised

control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

18. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

19. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

20. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

21. Plaintiff reserves the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

22. The class is ascertainable and shares a well-defined community of interest in this litigation:

a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of class members are ascertainable by inspection of Defendants' employment and payroll records.

b. Typicality: Plaintiff's claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiff experienced, will establish the right of the class to recover on the causes of action alleged herein.

c. Adequacy: Plaintiff is an adequate class representative; will take all necessary steps to protect the class members' interests adequately and fairly; has no interest antagonistic to other class members; and is represented by attorneys who have substantial experience prosecuting, defending, resolving, and litigating wage and hour class, collective, and representative actions in California state and federal courts.

d. Superiority: A class action is superior to other means for adjudicating this dispute. Individual joinder is impractical. Class treatment will allow for common issues to be resolved in a single forum, simultaneously, and without duplication of effort and expense.

e. Public Policy Considerations: Certification of this lawsuit as a class action advances the State of California's strong public interest in ensuring its approximately millions of employed residents are properly paid the wages they earned for the hours they worked. Class actions provide a mechanism for enforcement of labor laws and allow for vindication of employee rights by unnamed class members.

23. Common questions of law and fact as to the class members predominate over questions affecting only individual members. The common questions of law and fact exist as to whether the employment policies and practices formulated by Defendants and applied to the class members constitute violations of California law.

GENERAL ALLEGATIONS

24. Plaintiff and class members worked for Defendant as non-exempt employees and were compensated on an hourly basis.

25. Defendant required Plaintiff and class members to incur costs for work-related purposes without full reimbursement. Plaintiff and class members were required to use their personal

cell phones to communicate with dispatch and their managers via phone calls and text messages. Plaintiff and class members also used their personal cell phones to send dispatch photos of required trip documentation for trips to Tijuana or Mexicali, Baja California, Mexico. Additionally, Plaintiff and class members were required to use the GPS on their cell phones for navigation to their destination. However, Defendant did not reimburse Plaintiff and class members for using their personal cell phone for work-related purposes.

26. Defendant did not pay Plaintiff and class members for all work completed, resulting in unpaid minimum and overtime wages. Defendant failed to compensate Plaintiff and class members for all time spent loading and unloading trucks and for work performed before or after driving the trick. In between trips, Plaintiff and class members were responsible for loading/unloading their truck, weighing it, checking its proper functioning, maintaining it, and filling out trip and truck documentation. However, Plaintiff and class members were not compensated for all time spent completing these tasks because Defendant only paid its employees up to a pre-determined amount of time for these pre and post trip tasks. If Plaintiff spent more than the pre-determined amount of time loading and unloading the truck, Defendant would not account for the extra time spent loading and unloading the truck.

27. Moreover, Plaintiff and class members were required to wait at the border crossing when making trips across the Mexico-United States border. Plaintiff and class members would often sit in border-crossing traffic for two or more hours. However, due to Defendant's practice of setting a pre-determined amount of time for border crossings, Plaintiff and class members would not be paid for all time spent in traffic if the time exceeded Defendant's predetermined time allotment. Likewise, Plaintiff and class members were responsible for filling up their trucks with diesel fuel. Yet, Defendant did not pay employees for all time spent waiting to fuel their trucks. Plaintiff and class members were forced to wait in long lines at fuel stations for their turn but they were not permitted to the log the time spent waiting in line to fuel, rather they were only compensated for the time at the pump. These practices resulted in unpaid minimum and overtime wages.

28. Defendant also maintained an unlawful wage deduction practice. As illustrated on Plaintiff's wage statement from October 22, 2023, to October 28, 2023, Defendant repeatedly deducted

wages. Up to that date, Defendant had deducted wages as follows: $798.26 for “Motel,” $86.50 for “Reimbursement,” $28.93 for “Repairs,” $50.00 for “Returned Direct Deposit,” and $72.00 for “Scale.” Plaintiff was unaware of these deductions and did not authorize Defendant to deduct these amounts from his pay.

29. Defendant also had a common practice of failing to timely pay all wages owed. For the pay period from October 22, 2023, through October 28, 2023, the corresponding check date was November 10, 2023, which was 13 days after the pay period ended.

30. Defendant also had a practice of issuing inaccurate wage statements. First, Defendant failed to list employees’ “total hours worked” because employees completed off the clock work when they performed pre or post trip tasks, rendering the total hours listed on wage statements as inaccurate reflections of hours worked. Second, Defendant listed remuneration for “Load/Unload Time” and other forms of pay but did not include the corresponding hourly rate or number of units at which or for which those sums were earned, nor did Defendants list total number of hours worked or units earned at the particular rate. As a result, Plaintiff and class members cannot ascertain the method or computation (using hourly rates and hours worked at each rate) for these earning categories, in violation of California law. As illustrated in Plaintiff’s wage statement for the pay period ending on November 25, 2023, Plaintiff earned $44.00 for “Loading/Unloading” but no corresponding hourly rate is listed.

31. Plaintiff and class members routinely experienced missed, late, short, and interrupted meal periods due to the demands of the job. Specifically, Plaintiff and class members were contacted by dispatch or their managers regarding any issues during the trip that needed be addressed, plans for the following day, or changes in the schedule. Plaintiff and class members were expected to answer immediately when contacted by Defendant, therefore, their meal periods were often cut short. Additionally, Defendant incorrectly informed Plaintiff and class members that meal periods should be taken before the eighth hour of work. As a result, Plaintiff and class members regularly took late meal periods, well past the fifth hour of work. Plaintiff did not pay Plaintiff and class members meal period premiums each time they experienced a non-compliant meal period.

32. These violations create derivative liability for failure to timely pay all wages owed each payday or upon separation of employment.

33. Defendant did not pay final wages in a timely manner. In fact, Plaintiff did not receive his final wages until 7 days after he was terminated.

34. Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. As described above, Defendants failed to pay Plaintiff and other similarly-situated employees for all the time that they worked. These payments were not made in time periods set forth in Labor Code section 204 and remain owing to this day.

35. Because Defendants have not paid all wages and premiums owed to class members to this day, even after they separated from employment, Defendants are also liable for waiting time penalties under Labor Code section 203. However, Defendants have not paid all waiting time penalties owed.

36. Defendants failed to provide accurate itemized wage statements to class members in each pay period as a result of the policies and practices set forth above. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements.

37. Plaintiff and other similarly-situated employees cannot and could not promptly and easily determine from their wage statements alone the wages paid or earned without reference to other documents or information, and therefore could not determine what amounts they were actually owed.

FIRST CAUSE OF ACTION

MINIMUM WAGE VIOLATIONS

Violation of Labor Code §§ 1194, 1194.2 and 1197

(All Claims Alleged by Plaintiff and Class Members Against All Defendants)

38. All outside paragraphs of this Complaint are incorporated into this section.

39. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours and Days of Work" and "Minimum Wages" sections of the applicable orders), which require non-exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of work, and further provide a private right of action for an employer's failure to pay all minimum wages (plus liquidated damages).

40. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class members at least the lawful minimum wage for each hour worked in violation of Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours and Days of Work" and "Minimum Wages" sections of the applicable orders), including payment at the lawful local and county minimum wage ordinances in effect. As a result, Defendants are liable for all associated damages, including liquidated damages for the minimum wage violations pursuant to Labor Code § 1194.2.

41. Defendants' unlawful acts and omissions deprived Plaintiff and class members of minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and class members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

Violation of Labor Code §§ 510 and 1194

42. All outside paragraphs of this Complaint are incorporated into this section.

43. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

44. Defendants failed in their affirmative obligation to pay Plaintiff and class members no less than one and one-half times their respective "regular rate of pay" for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective "regular rate of pay" for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the "Hours and Days of Work" sections of the applicable orders).

45. Plaintiff and class members are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

<u>THIRD CAUSE OF ACTION</u>

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

46. All outside paragraphs of this Complaint are incorporated into this section.

47. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful regular rate of compensation.

48. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiff and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in

violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

49. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

50. Plaintiff and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

FOURTH CAUSE OF ACTION

FAILURE TO PAY FOR AUTHORIZED REST PERIODS/NON-PRODUCTIVE TIME

51. All outside paragraphs of this Complaint are incorporated into this section.

52. Because Plaintiff and class members were not separately compensated for rest periods (a rate required by statute) and non-productive time, Plaintiff and class members are owed wages for this time.[1]

53. The IWC Wage Orders state Plaintiff and class members must be paid for all "hours worked" for time they are "subject to the control of the employer, and includes all the time the employee is suffered or permitted to work." Cal. Code Regs., tit. 8, § 11040, subd. 2(k).

54. The IWC Wage Orders state rest periods are "hours worked for which there will be no deduction from wages." Cal. Code Regs., tit. 8, § 11040, subd. 12(a).

55. Labor Code section 226.2 applies to employees who are compensated in whole, or in part, on a piece-rate basis. Section 226.2(a)(1) requires employers to compensate employees for "rest and recovery periods and other non-productive time spent separate from any piece rate compensation."

56. Non-productive time must be compensated at a rate no less than the applicable state or local minimum wage. Cal. Lab. Code § 226.2(a)(4).

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[1] *See Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal. App. 5th 98; *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872.

57. Rest and recovery periods must be compensated the *higher* of (1) an average hourly rate taken by dividing an employee's total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee's total hours worked or (2) the applicable minimum wage. Cal. Lab. Code § 226.2(a)(3)(A).

58. Section 226.2 expressly requires that any employees paid in whole or in part on a piece rate basis must receive at least minimum wage for all hours worked as well as any required overtime compensation.

59. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class members at least the lawful minimum wage for each hour worked (including all non-productive time) in violation of Labor Code sections 226.2, 1182.12, 1194, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours and Days of Work" and "Minimum Wages" sections of the applicable orders), including payment at the lawful local and county minimum wage ordinances in effect.

60. Defendants also failed in their affirmative obligation to pay Plaintiff and class members for rest periods at the rate required by section 226.2(a)(3)(A), resulting in unpaid wages to Plaintiff and class members.

61. Defendants' unlawful acts and omissions deprived Plaintiff and class members of minimum, regular and overtime, and premium wages in amounts to be determined at trial. Plaintiff and class members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

FIFTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

Violation of Labor Code §§ 204, 210, 218

62. All outside paragraphs of this Complaint are incorporated into this section.

63. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay period, and which further provide a private right of action for an employer's failure to comply with

this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

64. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiff and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the "Minimum Wages" sections of the applicable orders).

65. Plaintiff and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of $100 for the initial violation for each failure to pay each employee and $200 for all subsequent violations and for all willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

SIXTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226, 226.2

66. All outside paragraphs of this Complaint are incorporated into this section.

67. This cause of action is brought by a wage statement subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation.

68. Defendants knowingly and intentionally failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiff and class members resulting in injury to Plaintiff and class members. Specifically, the wage statements issued to Plaintiff and class members did not accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

69. Labor Code §§ 226.2(a)(2)(A) and (B) require that wage statements for employees compensated on a piece-rate basis must, in addition to listing the items specified in section 226(a),

also state the total hours of compensable rest and recovery periods and other non-productive time, the applicable rates of compensation, and the wages paid for those periods.

70. Defendants knowingly and intentionally failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiff and class members resulting in injury to Plaintiff and class members. Specifically, the wage statements issued to Plaintiff and class members did not accurately state each pay period all of the information required by Labor Code §§ 226.2(a)(2)(A) and (B).

71. Defendants' unlawful acts and omissions deprived Plaintiff and class members of accurate itemized wage statements, causing confusion and concealing wage and premium underpayments.

72. As a result, Plaintiff and class members are entitled to recover the statutory penalty of $50 per employee for the initial pay period in which a violation occurred and $100 per employee for each violation in a subsequent pay period, up to an aggregate penalty of $4,000 per employee, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 226(e).

<u>SEVENTH CAUSE OF ACTION</u>

WAITING TIME PENALTIES

Violation of Labor Code §§ 201 *et seq*.

73. All outside paragraphs of this Complaint are incorporated into this section.

74. This cause of action is brought by a waiting time subclass pursuant to Labor Code §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of employment, and which further provide a private right of action to recover statutory waiting time penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days wages.

75. Defendants willfully failed and continue to fail in their affirmative obligation to pay all wages earned and unpaid to Plaintiff and class members immediately upon termination of employment or within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his

or her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

76. Plaintiff and class members are entitled to recover a waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

EIGHTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

Violation of Labor Code § 2802

77. All outside paragraphs of this Complaint are incorporated into this section.

78. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff and a reimbursement subclass for all necessary expenditures, losses, expenses, and costs incurred by them in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

79. Defendants' unlawful acts and omissions deprived Plaintiff and class members of lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff and class members are entitled to recover the amount unreimbursed expenses of Plaintiff and class members in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 2802.

NINTH CAUSE OF ACTION

UNLAWFUL WAGE DEDUCTIONS

Violation of Labor Code §§ 221 through 225

80. All outside paragraphs of this Complaint are incorporated into this section.

81. Labor Code section 221 renders it "unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

82. Labor Code section 222 renders it illegal to unlawfully withhold any part of wages agreed upon from the employee.

83. Labor Code section 222.5 renders it unlawful to deduct from employee compensation, or require employee payment, for pre-employment medical or physical examination taken as a condition of employment.

84. Labor Code section 223 states "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract."

85. As described above, Defendants maintained an unlawful policy and practice of deducting wages and earnings from Plaintiff and other class members by deducting wages rightfully owed to the class for gift cards, reimbursements, repairs, motels, hospitals, and alignment advances.

86.

TENTH CAUSE OF ACTION

UNFAIR COMPETITION

Violation of Business and Professions Code §§ 17200 *et seq.*

87. All outside paragraphs of this Complaint are incorporated into this section.

88. Defendants have engaged and continue to engage in unfair and/or unlawful business practices in the State of California in violation of California Business and Professions Code § 17200 by committing the foregoing wage and hour violations alleged throughout this Complaint.

89. Defendants' dependence on these unfair and/or unlawful business practices deprived Plaintiff and continue to deprive other class members of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to Defendants over competitors who have been and/or are currently employing workers in compliance with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

90. Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged in this Complaint, and Plaintiff, as an individual and on behalf of others similarly situated, seeks full restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

91. Plaintiff does not have an adequate remedy at law for past or future violations, to the extent the statute of limitations on each of the alleged causes of action do not extend to the four year limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order violations do not provide a private right of action.

92. Plaintiff and class members are entitled to injunctive relief against Defendants, restitution, and other equitable relief to return all funds over which Plaintiff and class members have an ownership interest and to prevent future damage and the public interest under Business and Professions Code § 17200 *et seq.* Plaintiff and class members are further entitled to recover interest, attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

ELEVENTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)

93. All outside paragraphs of this Complaint are incorporated into this section.

94. Plaintiff brings this cause of action as a proxy for the State of California on behalf of the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"), codified as Labor Code section 2698 *et seq.*:

a. All current and former non-exempt employees who worked for Defendants in California at any time from one year prior to the postmark date of the initial PAGA notice through date of trial.

95. Plaintiff reserves the right to amend, supplement, or add to this description of the aggrieved employees, according to proof.

96. The State of California, via the Labor and Workforce Development Agency ("LWDA"), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The "government entity on whose behalf the plaintiff files suit is always the real party in interest."])

97. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law,, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of the employee and other current or former

employees against whom a violation of the same provision was committed pursuant to the procedures specified in Section 2699.3. "

98. Any allegations regarding violations of the IWC Wage Orders are enforceable as violations of Labor Code section 1198, which states: "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

99. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil penalties under the PAGA.

100. On or about **October 28, 2024**, Plaintiff paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support the alleged violations.

101. A true and correct copy of Plaintiff's written PAGA notice, entitled "Notice of Labor Code Violations" is attached hereto as <u>Exhibit 1</u> and incorporated by reference as though fully set forth herein (the "<u>PAGA notice</u>").

102. To date, neither Plaintiff nor Plaintiff's counsel has received a response to Plaintiff's written PAGA notice from the LWDA.

103. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither Plaintiff nor Plaintiff's counsel has received written notice by certified mail from any defendant providing a description of any actions taken to cure the alleged violations.

104. Now that at least 65 days have passed from Plaintiff notifying Defendants of these violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

105. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders.

b. ***Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods.*** Violation of Labor Code §§ 226.2; IWC Wage Orders.

c. ***Unlawful Wage Deductions.*** Violation of Labor Code §§ 221 through 225.

d. ***Unpaid Overtime***. Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.

e. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.

f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.

g. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.

h. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.2, 226.3.

i. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.

j. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

106. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(k).

PRAYER

Plaintiff prays for judgment as follows:

a. For certification of this action as a class action;

b. For appointment of Plaintiff as the class representative;

c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;

d. For division of class members into appropriate classes and/or subclasses according to proof;

e. For recovery of all statutory penalties and liquidated damages;

f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;

g. For restitution and injunctive relief;

h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2802 and Code of Civil Procedure § 1021.5.;

i. For recovery of damages in amount according to proof;

j. For all recoverable pre- and post-judgment interest;

k. For this action to be maintained as a representative action under the PAGA;

l. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;

m. For recovery of all civil penalties and other recoverable amounts under the PAGA;

n. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, associated with the PAGA claims pursuant to Labor Code § 2699, and Code of Civil Procedure section 1021.5 and any other applicable sections; and

o. For such other relief the Court deems just and proper.

Dated: January 3, 2025 ***Ferraro Vega Employment Lawyers, Inc.***

Nicholas J. Ferraro

Nicholas J. Ferraro
Attorney for Plaintiff Luis Cruz

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA
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October 28, 2024

NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Quantix SCS, LLC
24 Waterway Avenue, Suite 450
The Woodlands, TX 77380

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **LUIS CRUZ** ("Plaintiff(s)") and all other "aggrieved employees" of the following "Defendant(s)":

QUANTIX SCS, LLC

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency ("LWDA") does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act ("PAGA"). "PAGA allows an 'aggrieved employee'—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer." *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants as an aggrieved employee.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Truck Driver from about November 2015 to December 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The "aggrieved employees" include Plaintiff and the following individuals:

> All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the "aggrieved employees" and the "PAGA Period").

Plaintiff reserves the right to expand or narrow the definition of the "aggrieved employees" in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants' violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unreimbursed Employee Expenses
Violation of Labor Code §§ 2802, 2804

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that "[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

Specifically, Plaintiff and the aggrieved employees were required to use their personal cell phones to communicate with dispatch and their manager, including phone calls and text messages. Plaintiff and the aggrieved employees were required to contact dispatch and their manager for any issues that arose during the trip. Further, Plaintiff and the aggrieved employees were required to send photos to dispatch of the required trip documentation for trips to Tijuana or Mexicali, Baja California, Mexico.

Additionally, Defendants required Plaintiff and the aggrieved employees to use the GPS on their cell phones to navigate to each destination. Defendants did not reimburse Plaintiff and the aggrieved employees for using their personal cell phone for work-related purposes. Plaintiff and aggrieved employees incurred expenses as part of their job duties and were not reimbursed by Defendants for those costs.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods
Violation of Labor Code §§ 226.2; IWC Wage Orders

In addition to the foregoing unpaid wage violations, Defendants also violated Labor Code sections 226.2 and the "Hours and Days of Work," "Minimum Wages," and "Rest Periods" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 226.2(a)(1) also requires employers to compensate employees for "rest and recovery periods and other non-productive time spent separate from any piece rate compensation." Under Labor Code section 226.2(a)(3), rest and recovery periods must be paid at an hourly rate that is no less than the higher of (i) an average hourly rate taken by dividing an employee's total compensation for the workweek (exclusive of overtime and rest and recovery compensation) by the employee's total hours worked and (ii) the applicable minimum wage. Under Labor Code section 226.2(a)(4), other nonproductive time must be paid at an hourly rate that is no less than the applicable minimum wage.

Furthermore, the "Hours and Days of Work," "Minimum Wages," and "Rest Periods" sections of the applicable IWC Wage Orders—as addressed in *Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal. App. 5th 98—require employers to separately compensate all employees, not just piece-rate employees, for all hours worked, including rest periods and nonproductive time, to comply with California's minimum wage obligations.

Plaintiff and the aggrieved employees were not paid for all hours worked and non-productive periods.

Defendants failed to pay Plaintiff and all the aggrieved employees for all hours suffered or permitted to work. Specifically, Defendants failed to compensate Plaintiff and the aggrieved employees for all time spent loading and unloading trucks and for work performed before or after driving the truck. In between trips, Plaintiff and the aggrieved employees were responsible for loading and/or unloading their truck, weighing it, checking its proper functioning, maintaining it, and filling out trip and truck documentation. However, Plaintiff and the aggrieved employees were not paid for all time spent completing these tasks because Defendants only paid Plaintiff and the aggrieved employees up to a pre-determined amount of time for these pre and post trip tasks. If Plaintiff spent more than the pre-determined amount of time loading and unloading the truck, Defendant would not account for the extra time spent loading and unloading.

Additionally, Plaintiff and the aggrieved employees were required to wait at the border crossing when making trips across the Mexico-United States border. Plaintiff and the aggrieved employees would often sit in traffic waiting to cross for two or more hours. However, Defendants had a pre-determined amount of time this would take. Thus, even if the traffic to cross the border would take longer, Defendants would only compensate Plaintiff and the aggrieved employees for the pre-determined amount of time. This resulted in unpaid wages to Plaintiff and the aggrieved employees.

Likewise, Plaintiff and the aggrieved employees were responsible for filling up their trucks with diesel fuel. However, Defendant did not pay employees for all the time spent waiting to fuel their trucks. Plaintiff and aggrieved employees were often required to wait in long lines at fuel stations for their turn. However, they were not permitted to log the time spent waiting in line to fuel, rather they were only compensated for the time at the pump, resulting in unpaid minimum wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unlawful Wage Deductions
Violation of Labor Code §§ 221 through 225

Defendants violated Labor Code sections 221 through 225 with respect to the aggrieved employees.

Labor Code section 221 renders it "unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." Labor Code section 222 renders it illegal to unlawfully withhold any part of wages agreed upon from the employee. Labor Code section 222.5 renders it unlawful to deduct from employee compensation, or require employee payment, for pre-employment medical or physical examination taken as a condition of employment. Labor Code section 223 states "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract."

Defendants maintained an unlawful policy and practice of deducting wages and earnings from Plaintiff and the aggrieved employees. Defendants unlawfully deducted wages from Plaintiff as shown below:

Check Date	**November 10, 2023**	Voucher Number	**115019**
Period Beginning	**October 22, 2023**	Net Pay	**1,031.87**
Period Ending	**October 28, 2023**	Total Hours Worked	**0.00**

Deductions	**Amount**	**YTD**
401k	142.45	6,559.18
Alignment Advance		1,142.32
Gift Card		50.00
Hospital		7,200.00
Motel		-798.26
Reimbursement		-86.50
Repairs		-28.93
Returned Direct Deposit		-50.00
Scale		-72.00
Vision		177.57
Deductions	**142.45**	**14,093.38**

Extract from Plaintiff's wage statement from 10/22/23 to 10/28/23 showing unlawful deductions from his pay.

Here, Defendants deducted $798.26 for "Motel," $86.50 for "Reimbursement," $28.93 for "Repairs," $50.00 for "Returned Direct Deposit," and $72.00 for "Scale." Plaintiff was unaware of these deductions and did not authorize Defendants to deduct these amounts from his pay. Upon information and belief, these deductions occurred with other aggrieved employees.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section … 204 … shall be subject to a civil penalty" of $100 for an initial violation and $200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Defendants had a common policy and practice of failing to timely pay all wages owed as shown below:

Check Date	**November 10, 2023**	Voucher Number	**115019**
Period Beginning	**October 22, 2023**	Net Pay	**1,031.87**
Period Ending	**October 28, 2023**	Total Hours Worked	**0.00**

Extract from Plaintiff's wage statement from 10/22/23 to 10/28/23.

Here, Defendants did not pay Plaintiff and the aggrieved employees for the pay period from October 22, 2023 to October 28, 2023 until November 10, 2023. This was 13 days after the pay period ended in violation of Labor Code section 204.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

<u>Non-Compliant Wage Statements/Piece-Rate</u>
Violation of Labor Code §§ 226, 226.2, 226.3

Defendants violated Labor Code section 226(a) with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

<u>Labor Code section 226(a)</u> requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

In addition to the foregoing wage statement violations Defendants also violated Labor Code sections 226.2 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by that statute.

<u>Labor Code sections 226.2</u>(a)(2)(A) and (B) state that wage statements for employees compensated on a piece-rate-basis must, in addition to listing the items specified in section 226(a), also state the total hours of compensable rest and recovery periods and other non-productive time, the applicable rates of compensation, and the wages paid for those periods.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

Specifically, Defendants violated Labor Code section 226(a)(2) by failing to list employees' "total hours worked," as aggrieved employees worked off-the-clock while performing pre or post-trip tasks, rending the total hours listed as an inaccurate reflection of hours worked.

Furthermore, Defendants violated Labor Code section 226(a)(9) because Defendants included forms of remuneration such as "Load/Unload Time," among other forms of pay, but did not include the corresponding hourly rate or number of units at which or for which those sums were earned, nor did Defendants list total number of hours worked or units earned at the particular rate. Thus, Plaintiff and other aggrieved employees cannot ascertain the method or computation (using hourly rates and hours worked at each rate) for these earning categories, in violation of California law. An illustrative example is below:

Quantix SCS LLC

Luis Cruz — **Earnings Statement**

Employee ID	120654	Fed Taxable Income	228.10	Check Date	December 1, 2023	Voucher Number	124353
Location	111-5060-50000	Fed Filing Status	M-0	Period Beginning	November 19, 2023	Net Pay	204.88
Hourly	$0.00	State Filing Status	M-2	Period Ending	November 25, 2023	Total Hours Worked	0.00

Earnings	Rate	Hours	Amount	YTD
Additional				23,884.25
Bonus				750.00
Driver Bre				2,048.70
Fuel Hours				15.60
Gift Card				50.00
Holiday				880.00
Hourly		0.00	100.00	1,670.00
Load/Unloa		0.00	44.00	13,094.00
Logged Ho				0.00
PTO				4,273.50
PTO Payout		0.00	210.67	210.67
Regular		0.00	80.00	18,623.47
Safety Mee				80.00
SB Term F/				448.80
SB Term Fu				0.45
Sick				600.00
Vehicle In				298.20
Gross Earnings		0.00	434.67	66,927.64

Deductions	Amount	YTD
401k	43.47	6,679.80
Alignment Advance		1,142.32
Gift Card		50.00
Hospital	160.00	7,520.00
Misc Reimbursement		-40.29
Motel		-798.26
Reimbursement		-86.50
Repairs		-28.93
Returned Direct Deposit		-50.00
Scale		-72.00
Vision	3.10	183.77
Deductions	206.57	14,499.91

Direct Deposits	Type	Account	Amount
J.P. MORGAN CHASE BANK, N.A.	C	***3717	204.88
Total Direct Deposits			204.88

Time Off	Available to Use	Plan Year Used
Volunteer	8.00	0.00

Extract of Plaintiff's wage statement for the pay period ending on November 25, 2024, where he earned $44 for "Loading/Unloading" but no corresponding hourly rate is listed.

Thus, Plaintiff may recover civil penalties on behalf of himself, the State of California and the aggrieved employees as provided under Labor Code sections 226.3 ($250/$1,000), to the extent permitted by law, and/or 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law

<u>Untimely Payment of Wages Upon Separation of Employment</u>
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

<u>Labor Code section 201</u> requires that if an employer fires an employee, the wages must be paid immediately. <u>Labor Code section 202</u> requires that if an employee quits without providing 72 hours' notice, his or her wages must be paid no later than 72 hours thereafter. <u>Labor Code section 202</u> states that if an employee provides 72 hours' notice, the final wages are payable upon his or her final day of employment. <u>Labor Code section 203</u> requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Moreover, Plaintiff did not receive his final wages until 7 days after he was terminated, in direct violation of Labor Code section 201.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and other aggrieved employees routinely experienced, missed, late, short, and interrupted meal periods due to the demands of the job. Specifically, Plaintiff and the aggrieved employees would be contacted by dispatch or their manager regarding any issues during the trip that needed to be addressed, plans for the following day, or changes in the schedule. When Defendants contacted Plaintiff and the aggrieved employees, they would be required to answer immediately. This resulted in Plaintiff and the aggrieved employees cutting their meal periods short.
Additionally, Defendant incorrectly informed Plaintiff and the aggrieved employees that meal periods should be taken before the eighth hour of work. Thus, Plaintiff and the aggrieved employees regularly took late meal periods well past the fifth hour of work. As a result, Plaintiff and the aggrieved employees suffered from non-compliant meal periods.

Each time Plaintiff and the aggrieved employees experienced a noncompliant meal period, they were owed a meal period premium. As a matter of policy and practice, Plaintiff and the aggrieved employees were not provided meal period premiums in lieu of missed meal periods as required by Labor Code section 226.7.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

<u>Unpaid Hours Worked/Minimum Wage</u>
Violation of Labor Code §§ 200, 201-204, 210, 558, 1182.12, 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 201-204, 210, 558, 1182.12, 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the "Hours and Days of Work" and "Minimum Wages" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

<u>Labor Code section 1194</u> renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. <u>Labor Code section 1197</u> further mandates that "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful." <u>Labor Code section 1198</u> renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The <u>California Minimum Wage Order</u> and the applicable sections of the <u>IWC Wage Orders</u> further require payment of minimum wages for all hours worked. The "Minimum Wages" sections of the applicable IWC Wage Order provide that "[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the

remuneration is measured by time, piece, commission, or otherwise." The foregoing California wage laws require payment of "not less than the applicable minimum wage *for all hours worked* in the payroll period" and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

As stated in the "Unpaid Hours Worked/Non-Productive, Rest, and Recovery Periods", Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages. Defendants failed to pay Plaintiff and the aggrieved employees for all time spent loading and unloading trucks, for work performed before or after driving the truck, for all time spent waiting at the border crossing when making trips across the Mexico-United States border, and time spent in traffic while waiting to fill up their trucks with diesel fuel.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 ($50/$100), 1197.1 ($100/$250), 1199 / "Penalties" section of the IWC Wage Orders ($50/$100), and 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

Defendants violated Labor Code sections 510, 1194, and 1198, along with the "Hours and Days of Work" sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;" and "any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;" and "any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the "Hours and Days of Work" sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

Defendants unlawfully paid overtime to Plaintiff and the aggrieved employees at 1.5x their straight hourly rate. For each overtime hour worked during the period in which Plaintiff and the aggrieved employees earned the additional forms of remuneration, Defendants should have (but failed to) pay overtime "at a rate no less than ***one and one-half times the regular rate of pay*** for an employee" and "twice the regular rate of pay" for double time hours as required by the plain language of Labor Code section 510(a) and the IWC Wage Orders.

As stated in the "Unpaid Hours Worked" section above, Defendants engaged in an unlawful policy and practice of requiring off-the-clock work. To the extent that these unlawful practices resulted in unpaid hours worked over 8 hours in a day or 40 hours in a week, this resulted in unpaid overtime.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 ($50/$100), 1199 / "Penalties" section of the IWC Wage Orders) ($50/$100), and 2699 ($100/$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate "payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments." Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

<u>Attorneys' Fees and Costs</u>
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys' fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE –

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold <u>must be suspended immediately</u>.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

Mariela Romo

Cc Plaintiff Luis Cruz

Quantix SCS, LLC Human Resources
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