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Superior Court of California,

County of San Diego

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Clerk of the Superior Court

By J. Walters ,Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA** 25CU005348C

11 **FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION**

12 **(UNLIMITED JURISDICTION)**

13 ALBERTO SALAZAR, as an “aggrieved
14 employee” on behalf of himself and other
15 similarly situated “aggrieved employees” under
16 the Labor Code Private Attorneys General Act
17 of 2004,

18 *Plaintiff,*

19 vs.

20 TJ PROCESSORS, LLC dba HAMILTON
21 MEATS & PROVISIONS; and DOES 1 to 25,
22 inclusive,

23 *Defendants.*

Case No. 25CU005348C

**COMPLAINT FOR VIOLATIONS
OF THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED

1 Plaintiff, Alberto Salazar (hereafter “Plaintiff”), on behalf of himself, the State of
2 California, and the other Aggrieved Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action under the Labor Code Private Attorneys
5 General Act of 2004, § 2698, *et seq.* (“PAGA”) based on alleged violations of the California
6 Labor Code and Industrial Welfare Commission Order No. 7-2001 (hereafter “the Wage Order”),
7 against Defendants TJ PROCESSORS, LLC dba HAMILTON MEATS & PROVISIONS, and
8 DOES 1 to 25, inclusive (collectively “TJ PROCESSORS” or “Defendants”).

9 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
10 him, the State of California, and the Aggrieved Employees (defined below), for civil penalties
11 and other related relief. These claims are based on Defendants’ failures to: 1) pay all wages,
12 including minimum, regular, overtime, and doubletime wages earned for all hours worked at the
13 correct rates of pay; 2) provide meal periods or pay correctly-calculated premium wages in lieu
14 thereof; 3) authorize and permit rest periods or pay correctly-calculated premium wages in lieu
15 thereof; 4) indemnify for business expenses; 5) issue only accurate and complete itemized wage
16 statements; 6) timely pay wages during employment; 7) timely pay wages upon separation from
17 employment; and 8) maintain accurate employment records. Accordingly, Plaintiff now seeks to
18 recover civil penalties and related relief through this representative action.

19 **JURISDICTION AND VENUE**

20 3. Jurisdiction and Venue are proper in this Court and this action is properly filed in
21 the County of San Diego in this judicial district because Defendants TJ PROCESSORS, LLC dba
22 HAMILTON MEATS & PROVISIONS and DOES 1 to 25, inclusive do business in the County
23 of San Diego and because Defendants’ obligations and liabilities arise therein, and because the
24 work that was performed by Plaintiff and the Aggrieved Employees in the County of San Diego
25 is the subject of this action.

26 **THE PARTIES**

27 4. Plaintiff Alberto Salazar is resident of San Diego, California.

28 5. Defendant TJ PROCESSORS, LLC dba HAMILTON MEATS & PROVISIONS

1 is a limited liability company that at all relevant times mentioned herein conducted and continues
2 to conduct substantial business in California. As such, it is a citizen of California based on
3 Plaintiff's information and belief.

4 6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
5 participation in the conduct alleged herein of the Defendants sued as DOES 1-25, inclusive, but
6 is informed and believes and thereon alleges that said Defendants are legally responsible for the
7 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
8 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
9 when ascertained.

10 7. The "Aggrieved Employees" are all individuals the Defendants have employed or
11 otherwise contracted with in California as hourly, non-exempt employers, during the period
12 beginning one year before the Plaintiff's notice of October 28, 2024 to the California Labor and
13 Workforce Development Agency ("LWDA") and ending on the date judgment is entered (the
14 "PAGA Period").

15 8. Plaintiff is informed and believes and thereon alleges that, at all relevant times
16 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
17 remaining defendants, and in doing the things hereinafter alleged, were acting within the course
18 and scope of such agency or employment, and with the approval and ratification of each of the
19 other Defendants.

20 9. At all relevant times, in perpetrating the acts and omissions alleged herein,
21 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
22 of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved
23 Employees in accordance with applicable California labor laws as alleged herein.

24 10. Plaintiff is informed and believes and thereon alleges that each and every one of
25 the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants,
26 each acting as agents and/or employees, and/or under the direction and control of each of the other
27 defendants, and that said acts and failures to act were within the course and scope of said agency,
28 employment, and/or direction and control.

1 **FACTUAL ALLEGATIONS**

2 11. The Wage Order applies to “all persons employed in the mercantile industry
3 whether paid on a time, piece rate, commission, or other basis[.]” § 1. The Wage Order defines
4 “mercantile industry” to include: “any industry, business, or establishment operated for the
5 purpose of purchasing, selling, or distributing goods or commodities at wholesale or retail; or for
6 the purpose of renting goods or commodities.” § 2(I). At all relevant times during the applicable
7 limitations period, TJ PROCESSORS engaged in distribution of meats. Accordingly, Plaintiff and
8 the Aggrieved Employees are entitled to the protections provided under the Wage Order.

9 12. TJ PROCESSORS is in the business of meat distribution. TJ PROCESSORS first
10 began to employ Plaintiff on or around June 12, 2024 to work at its facility located at 3515 Main
11 St., Suite 208, Chula Vista, CA 91911. Plaintiff’s job title was “Second Shift Sanitation.”
12 Plaintiff’s job tasks included assisting with production, meat packaging, taking out the trash,
13 cleaning the transportation vehicles, and cleaning the drains, among others. Plaintiff generally
14 worked 5 days a week and his schedule varied, from approximately 11:00 a.m./12:00 p.m./1:00
15 p.m. to approximately 10:00 p.m./11:00 p.m. Plaintiff’s employment ended on or around July 12,
16 2024.

17 13. At all relevant times, TJ PROCESSORS issued wages to Plaintiff and all of the
18 other Aggrieved Employees on a biweekly basis and paid them by the hour. At all relevant times,
19 TJ PROCESSORS classified Plaintiff and all of the other Aggrieved Employees as non-exempt
20 employees entitled to the protections of the Labor Code and the Wage Order. Plaintiff’s latest rate
21 of pay was \$19.00/hour.

22 14. TJ PROCESSORS failed to pay Plaintiff and the other Aggrieved Employees for
23 all time worked or subject to its control. To the extent employees such as Plaintiff and others
24 worked through their meal periods while “off the clock”, and those meal periods were interrupted,
25 they were not compensated for that time, which would be akin to a minimum wage violation.

26 15. Due to the above “off the clock” violations, TJ PROCESSORS failed to pay
27 Plaintiff and the Aggrieved Employees properly-calculated overtime wages. The Aggrieved
28 Employees’ actual work hours, which included the “off the clock” work as described above,

1 entitled them to overtime, however, it was not company policy to keep accurate track of all hours
2 worked and to pay employees the accurate amount of overtime, especially since the “off the
3 clock” work was not factored into the equation. Furthermore, any non-discretionary incentive pay
4 were not factored into employees’ regular rate of pay for purposes of deciphering the correct
5 overtime rate of pay. In addition, any bonus and/or incentive payments were not factored into the
6 correct meal and rest break premium pay per *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11
7 Cal. 5th 858, 863.

8 16. TJ PROCESSORS failed to authorize and permit Plaintiff and the other Aggrieved
9 Employees with 10-minute rest periods for every four hours of work, or majority portion thereof,
10 throughout their employment. TJ PROCESSORS did not completely relieve Plaintiff and others
11 of all duty during said rest periods. Throughout his employment, Plaintiff only received one rest
12 break, although he worked more than eight (8) hours during each shift. TJ PROCESSORS did not
13 pay to Plaintiff and others one additional hour of pay at their regular rate of compensation for
14 each workday that one or more statutory rest periods was not provided.

15 17. TJ PROCESSORS failed to provide Plaintiff and the other Aggrieved Employees
16 the requisite 30-minute, timely and uninterrupted meal periods for every five (5) hours of work
17 throughout their employment. Due to the workload, Plaintiff would not be able to take his meal
18 periods before the end of his fifth hour of work. For example, if Plaintiff clocked in for the start
19 of his shift at 11:00 a.m. or 12:00 p.m., he would not be able to take his meal period until 6:00
20 p.m. or later. TJ PROCESSORS did not completely relieve Plaintiff and other employees of all
21 duty during said meal periods. TJ PROCESSORS did not pay to Plaintiff and its hourly, non-
22 exempt employees one additional hour of pay at their regular rate of compensation for each
23 workday that one or more statutory meal periods was not provided. To the extent that TJ
24 PROCESSORS argues that employees receive meal break premium pay for missed meal periods,
25 that argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for
26 the violations themselves, irrespective of whether an employee received the premium payment
27 for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court
28 stated, “section 226.7 does not give employers a lawful choice between providing either meal and

1 rest breaks or an additional hour of pay.” See *Kirby v. Immoos Fire Protection, Inc.*, (2012) 53
2 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the
3 violation; the employer has still committed a violation even if the remedy for the violation has
4 been paid. See *Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4).
5 Moreover, any meal or rest break premiums paid were not compensated at the weighted average
6 regular rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

7 18. TJ PROCESSORS failed to reimburse Plaintiff and the other Aggrieved
8 Employees for business expenses they incurred in direct consequence of the discharge of their
9 duties. TJ PROCESSORS required Plaintiff and the other Aggrieved Employees to purchase
10 certain uniform items, including but not limited to, work boots. TJ PROCESSORS did not
11 reimburse Plaintiff or the other employees for these uniform expenses. Accordingly, TJ
12 PROCESSORS was in violation of California Labor Code sections 2800 and 2802.

13 19. TJ PROCESSORS failed to pay its employees all wages due to them within any
14 time period specified by California Labor Code section 204, including the minimum wages and
15 overtime as described above as well as meal/rest break premiums.

16 20. Moreover, TJ PROCESSORS failed to provide paid sick leave to Plaintiff and the
17 other Aggrieved Employees in violation of Labor Code sections 233 and 246. TJ PROCESSORS
18 also failed to provide Plaintiff and all of the other Aggrieved Employees with an itemized wage
19 statement or separate writing that set forth the amount of paid sick leave available.

20 21. TJ PROCESSORS did not provide Plaintiff and the other Aggrieved Employees
21 accurate, itemized wage statements. Wage statements must include all hours worked, overtime
22 hours worked, all applicable hourly rates, the correct legal name and correct address of employer
23 entity, gross wages earned, all deductions, net wages earned, reimbursement for business
24 expenses, the correct start and end of the applicable pay period, the employee ID numbers or
25 social security numbers, among other items. Labor Code § 226(a)(2). TJ PROCESSORS issued
26 wage statements that inaccurately reflected total hours worked, gross and net wages earned, and
27 the number of hours worked at each hourly rate because of TJ PROCESSORS’s failure to properly
28 pay wages as explained herein. Labor Code §§ 226(a)(1), (2), (5), (9). TJ PROCESSORS’s failure

1 to maintain accurate records as to the hours worked daily by employees also constitutes a violation
2 of Labor Code section 1174(d).

3 22. Finally, because TJ PROCESSORS did not properly pay all wages earned as
4 explained herein, TJ PROCESSORS also failed to pay final wages owed to Plaintiff and the other
5 Aggrieved Employees in violation of Labor Code section 203. These earned but unpaid wages
6 include minimum wages and compensation for all hours worked, overtime compensation,
7 premium pay for missed meal and rest breaks, and business expense reimbursement, among
8 others.

9 23. TJ PROCESSORS has also violated Labor Code section 558 and engaged in
10 business practices which violate Business and Professions Code Section 17200.

11 24. Accordingly, Plaintiff now seeks civil penalties on behalf of himself and the
12 Aggrieved Employees based on Defendants' alleged violations of the California Labor Code and
13 the Wage Order.

14 **FIRST (AND ONLY) CAUSE OF ACTION**

15 **CIVIL PENALTIES**

16 **(Lab. Code §§ 2698, *et seq.*)**

17 **(By Plaintiff, on behalf of himself and the other Aggrieved Employees, against all
18 Defendants)**

19 25. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

20 26. At all relevant times, Plaintiff and the Aggrieved Employees have been non-
21 exempt employees entitled to the protections of both the Labor Code and the Wage Order.

22 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT
23 THE CORRECT RATES OF PAY**

24 27. Section 2(H) of the Wage Order defines "hours worked" as "the time during which
25 an employee is subject to the control of an employer, and includes all the time the employee is
26 suffered or permitted to work, whether or not required to do so."

27 28. Section 3 of the Wage Order states:

28 The following overtime provisions are applicable to employees 18 years of age or
over and to employees 16 or 17 years of age who are not required by law to attend
school and are not otherwise prohibited by law from engaging in the subject work.
Such employees shall not be employed more than eight (8) hours in any workday

1 or more than 40 in a workweek unless the employee receives one and one half
2 (1½) times such employee's regular rate of pay for all hours worked over 40 hours
3 in the workweek. Eight (8) hours of labor constitutes a day's work. Employment
4 beyond eight (8) hours in any workday or more than six (6) days in any workweek
is permissible provided the employee is compensated for such overtime at not less
than:

- 5 (a) One and one-half (1½) times the employee's regular rate of pay for all
6 hours worked in excess of eight (8) hours up to and including twelve (12)
7 hours in any workday, and for the first eight (8) hours worked on the
8 seventh (7th) consecutive day of work in a workweek;
- 9 (b) Double the employee's regular rate of pay for all hours worked in excess
10 of 12 hours in any workday and for all hours worked in excess of eight (8)
11 hours on the seventh (7th) consecutive day of work in a workweek.
- 12 (c) The overtime rate of compensation required to be paid to a nonexempt
full-time salaried employee shall be computed by using the employee's
regular hourly salary as one fortieth (1/40) of the employee's weekly
salary.

13 29. Section 4 of the Wage Order requires an employer to pay non-exempt employees
14 at least the minimum wage set forth therein for all hours worked, which consists of all hours that
15 an employer has actual or constructive knowledge that employees are working.

16 30. Labor Code section 510 states:

17 Eight hours of labor constitutes a day's work. Any work in excess of eight hours
18 in one workday and any work in excess of 40 hours in any one workweek and the
19 first eight hours worked on the seventh day of work in any one workweek shall be
20 compensated at the rate of no less than one and one-half times the regular rate of
21 pay for an employee. Any work in excess of 12 hours in one day shall be
22 compensated at the rate of no less than twice the regular rate of pay for an
23 employee. In addition, 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. Nothing in this section requires an employer to combine more
than one rate of overtime compensation in order to calculate the amount to be paid
to an employee for any hour of overtime work.

24 31. Labor Code section 1194 invalidates any agreement between an employer and an
25 employee to work for less than the minimum wage required under the applicable Wage Order.

26 32. Labor Code section 1197 makes it unlawful for an employer to pay an employee
27 less than the minimum wage required under the applicable Wage Order for all hours worked
during a payroll period.

28 33. Labor Code section 1198 makes it unlawful for an employer to employ an

1 employee under conditions that violate the Wage Order.

2 34. In conjunction, these provisions of the Labor Code require employers to pay non-
3 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
4 worked, including unrecorded hours when the employer knew or reasonably should have known
5 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
6 Cal.4th 575, 585.)

7 35. At all relevant times during the applicable limitations period, Defendants failed to
8 compensate Plaintiff and the Aggrieved Employees for all hours worked, including, but not
9 limited to overtime wages for all overtime hours they worked at the correct rates of pay.

10 36. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
11 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
12 failure to compensate Plaintiff and the other Aggrieved Employees for all hours worked as
13 required by California law.

14 **B. FAILURE TO PROVIDE MEAL PERIODS**

15 37. In relevant part, California Labor Code § 1198 states:

16 The maximum hours of work and the standard conditions of labor fixed by the
17 commission shall be the maximum hours of work and the standard conditions of
18 labor for employees. The employment of any employee for longer hours than those
19 fixed by the order or under conditions of labor prohibited by the order is unlawful.

20 38. In relevant part, In relevant part, California Labor Code § 512 states:

21 An employer shall not employ an employee for a work period of
22 more than five hours per day without providing the employee with
23 a meal period of not less than 30 minutes, except that if the total
24 work period per day of the employee is no more than six hours, the
25 meal period may be waived by mutual consent of both the
26 employer and employee.

27 An employer shall not employ an employee for a work period of
28 more than 10 hours per day without providing the employee with
a second meal period of not less than 30 minutes, except that if the
total hours worked is no more than 12 hours, the second meal
period may be waived by mutual consent of the employer and the
employee only if the first meal period was not waived.

39. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

1 (A) No employer shall employ any person for a work period of
2 more than five (5) hours without a meal period of not less than
3 30 minutes, except that when a work period of not more than
4 six (6) hours will complete the day's work the meal period may
5 be waived by mutual consent of the employer and employee.
6 Unless the employee is relieved of all duty during a 30 minute
7 meal period, the meal period shall be considered an "on duty"
8 meal period and counted as time worked. An "on duty" meal
9 period shall be permitted only when the nature of the work
prevents an employee from being relieved of all duty and when
by written agreement between the parties an on-the-job paid
meal period is agreed to. The written agreement shall state that
the employee may, in writing, revoke the agreement at any
time.

10 (B) If an employer fails to provide an employee a meal period in
11 accordance with the applicable provisions of this Order, the
12 employer shall pay the employee one (1) hour of pay at the
13 employee's regular rate of compensation for each work day that
the meal period is not provided.

14 40. In relevant part, California Labor Code § 226.7 states:

15 (b) An employer shall not require an employee to work during
16 a meal or rest period mandated pursuant to an applicable
17 statute, or applicable regulation, standard, or order of the
18 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.

19 (c) If an employer fails to provide an employee a meal period
20 or rest period in accordance with a state law, including, but
21 not limited to, an applicable statute or applicable
22 regulation, standard, or order of the Industrial Welfare
23 Commission, the Occupational Safety and Health
24 Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest
period is not provided.

25 41. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
26 Aggrieved Employees were entitled to uninterrupted meal periods of at least 30 minutes for each
27 day they worked five or more hours. Pursuant to California Labor Code § 512, they were also
28 entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

1 42. Defendants intentionally failed to provide Plaintiff and the Aggrieved Employees
2 with all required timely 30-minute meal periods free from any work duties in accordance with the
3 Wage Order.

4 43. At all relevant times, Defendants failed to provide Plaintiff and the Aggrieved
5 Employees with all timely and uninterrupted meal periods. Furthermore, Defendants failed to pay
6 premium wages for days on which they failed to provide Plaintiff and the other Aggrieved
7 Employees with timely meal periods.

8 44. Plaintiff is informed and believes and thereon alleges that, at all relevant times
9 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
10 which resulted in Defendants not providing the and the Aggrieved Employees with all off-duty
11 meal periods required by California law.

12 **C. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

13 45. In relevant part, California Labor Code § 1198 states:

14 The maximum hours of work and the standard conditions of labor
15 fixed by the commission shall be the maximum hours of work and
16 the standard conditions of labor for employees. The employment
17 of any employee for longer hours than those fixed by the order or
18 under conditions of labor prohibited by the order is unlawful.

19 46. In relevant part, Section 12 of the Wage Order states:

20 Rest Periods:

21 (A) Every employer shall authorize and permit all employees to take
22 rest periods, which insofar as practicable shall be in the middle of
23 each work period. The authorized rest period time shall be based
24 on the total hours worked daily at the rate of ten (10) minutes net
25 rest time per four (4) hours or major fraction thereof. However, a
26 rest period need not be authorized for employees whose total daily
27 work time is less than three and one-half (3 ½) hours. Authorized
28 rest period time shall be counted as hours worked for which there
shall be no deduction from wages.

 (B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this order, the
employer shall pay the employee one (1) hour of pay at the
employee's regular rate of compensation for each workday
that the rest period is not provided.

 47. In relevant part, California Labor Code § 226.7 states:

1 (b) An employer shall not require an employee to work during
2 a meal or rest period mandated pursuant to an applicable
3 statute, or applicable regulation, standard, or order of the
4 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.

5 (c) If an employer fails to provide an employee a meal period
6 or rest period in accordance with a state law, including, but
7 not limited to, an applicable statute or applicable
8 regulation, standard, or order of the Industrial Welfare
9 Commission, the Occupational Safety and Health
10 Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
11 additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest
period is not provided.

12 48. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled
13 to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour
14 period of work, or major fraction thereof.

15 49. Defendants intentionally failed to authorize and permit Plaintiff and the Aggrieved
16 Employees to take all 10-minute rest periods free from any work duties in accordance with the
Wage Order.

17 50. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
18 Aggrieved Employees to take all timely rest periods. Furthermore, Defendants failed to pay
19 premium wages to Plaintiff and the Aggrieved Employees for days on which they failed to
20 authorize and permit Plaintiff and the other Aggrieved Employees to take timely rest periods.

21 51. At all relevant times, due to high workload, Defendants failed to authorize and
22 permit Plaintiff and the Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every
23 four hours worked or major fraction thereof. Defendants did not seek an exemption from the rest
24 period protections of the Wage Order from the California Division of Labor Standards
25 Enforcement. Moreover, Defendants failed to pay Plaintiff and the Aggrieved Employees
26 premium wages on workdays they failed to authorize and permit them to take 10-minute rest
periods every four hours worked or major fraction thereof.

27 52. Plaintiff is informed and believes and thereon alleges that, at all relevant times
28 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy

1 which resulted in Defendants not authorizing and permitting Plaintiff and the Aggrieved
2 Employees to take all rest breaks required by California law.

3 **D. FAILURE TO INDEMNIFY**

4 53. In pertinent part, California Labor Code section 2802(a) states, “An employer shall
5 indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct
6 consequence of the discharge of his or her duties.”

7 54. Labor Code section 1198 prohibits employers from employing their employees
8 under conditions prohibited by the Wage Order.

9 55. At all relevant times during the applicable limitations period, as a condition for
10 employment, Defendants required Plaintiff and the Aggrieved Employees to incur certain
11 business expenses. These costs include, but are not limited to, certain uniform items, including
12 work boots. However, TJ PROCESSORS did not reimburse Plaintiff and the others for these
13 business expenses.

14 56. Therefore, Defendants failed to indemnify Plaintiff and the Aggrieved Employees
15 for expenditures incurred as a direct consequence of discharging their duties in violation of
16 California Labor Code sections 2800 and 2802.

17 57. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
18 Defendants maintained a policy and/practice, or lack thereof, which resulted in Defendants’
19 failure to indemnify Plaintiff and the Aggrieved Employees for the reasonable expenses they
20 incurred during the course of performing their duties.

21 **E. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
22 **STATEMENTS**

23 58. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved
24 Employees were entitled to receive, bi-weekly or at the time of each payment of wages, an
25 accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable
26 hourly rates in effect during the pay period; and d) the corresponding number of hours worked at
27 each hourly rate by the employee.

28 59. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
the employer fails to provide accurate and complete information as required by California Labor
Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement

1 alone one or more of the following:

2 A. The amount of the gross wages or net wages paid to the employee during
3 the pay period or any of the other information required to be provided on the itemized wage
4 statement pursuant to California Labor Code § 226(a);

5 B. Which deductions the employer made from gross wages to determine the
6 net wages paid to the employee during the pay period;

7 C. The name and address of the employer and, if the employer is a farm labor
8 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
9 and address of the legal entity that secured the services of the employer during the pay period;

10 D. The name of the employee and only the last four digits of his or his social
11 security number or an employee identification number other than a social security number; and

12 E. The number of piece-rate units earned and the piece rate.

13 60. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
14 means a reasonable person would be able to readily ascertain the information without reference
15 to other documents or information.

16 61. As alleged herein, at all relevant times during the applicable limitations period,
17 Defendants violated California Labor Code section 226 because they did not properly and
18 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
19 the corresponding number of hours worked at each rate by the employee and other requirements
20 of California Labor Code section 226. Defendants failed to state in the wage statements they
21 issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned,
22 including, but not limited to, regular and overtime wages for work they performed off-the-clock
23 (as described above).

24 62. Defendants’ failure to provide Plaintiff and the other Aggrieved Employees with
25 accurate wage statements was knowing and intentional. Defendants had the ability to provide
26 Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally
27 provided wage statements that Defendants knew were not accurate.

28 63. As a result of being provided with inaccurate wage statements by Defendants,
Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive
accurate wage statements were violated and they were misled about the amount of wages they
had actually earned and were owed. In addition, the absence of accurate information on their wage

1 statements prevented immediate challenges to Defendants' unlawful pay practices, has required
2 discovery and mathematical computations to determine the amounts of wages owed, has caused
3 difficulty and expense in attempting to reconstruct time and pay records and/or has led to the
4 submission of inaccurate information about wages to state and federal government agencies.
5 Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage
6 statements whether Defendants complied with their obligations under California Labor Code
section 226(a).

7 **F. UNTIMELY WAGES DURING EMPLOYMENT**

8 64. Labor Code § 204 states:

- 9 (a) All wages, other than those mentioned in Section 201,
10 201.3, 202, 204.1, or 204.2, earned by any person in any
11 employment are due and payable twice during each
12 calendar month, on days designated in advance by the
13 employer as the regular paydays. Labor performed
14 between the 1st and 15th days, inclusive, of any calendar
15 month shall be paid for between the 16th and the 26th day
of the month during which the labor was performed, and
labor performed between the 16th and the last day,
inclusive, of any calendar month, shall be paid for
between the 1st and 10th day of the following month. ...
- 16 (b) (1) Notwithstanding any other provision of this
17 section, all wages earned for labor in excess of the normal
18 work period shall be paid no later than the payday for the
next regular payroll period.
- 19 (2) An employer is in compliance with the
20 requirements of subdivision (a) of Section 226
21 relating to total hours worked by the employee, if
22 hours worked in excess of the normal work period
23 during the current pay period are itemized as
24 corrections on the paystub for the next regular pay
25 period. Any corrections set out in a subsequently
issued paystub shall state the inclusive dates of
the pay period for which the employer is
correcting its initial report of hours worked.
- 26 (c) However, when employees are covered by a collective
27 bargaining agreement that provides different pay
28 arrangements, those arrangements shall apply to the
covered employees.

1 (d) The requirements of this section shall be deemed satisfied
2 by the payment of wages for weekly, biweekly, or
3 semimonthly payroll if the wages are paid not more than
4 seven calendar days following the close of the payroll
5 period.

6 65. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all
7 hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff
8 and the Aggrieved Employees with all meal and rest periods in compliance with California laws.
9 Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages
10 on workdays they failed to provide them with one or more meal or rest periods in compliance
11 with California laws. As a result, Defendants failed to timely pay all earned minimum, overtime,
12 and premium wages due during employment within the time periods set by California Labor Code
13 section 204.

14 **G. UNTIMELY FINAL WAGES**

15 66. Labor Code § 201 provides that all earned and unpaid wages of an employee who
16 is discharged are due and payable immediately at the time of discharge.

17 67. Labor Code § 202 provides that all earned and unpaid wages of an employee who
18 quits after providing at least 72-hours notice before quitting are due and payable at the time of
19 quitting and that all earned and unpaid wages of an employee who quits without providing at least
20 72-hours notice before quitting are due and payable within 72 hours.

21 68. By failing to pay earned minimum and premium wages to Plaintiff and the
22 Aggrieved Employees, Defendants failed to timely pay them all earned and unpaid wages in
23 violation of Labor Code § 201 or § 202.

24 69. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
25 and the Aggrieved Employees all of their earned and unpaid wages (described above) have been
26 willful in that, at all relevant times, Defendants have deliberately maintained policies and
27 practices that violate the requirements of the Labor Code and the Wage Order, even though at all
28 relevant times, they have had the ability to comply with those legal requirements.

///

1 **H. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

2 70. Labor Code § 1174 states:

3 Every person employing labor in this state shall:

4 ...

5 (c) Keep a record showing the names and addresses of all employees
employed and the ages of all minors.

6 (d) Keep, at a central location in the state or at the plants or establishments
7 at which employees are employed, payroll records showing the hours
8 worked daily by and the wages paid to, and the number of piece-rate
9 units earned by and any applicable piece rate paid to, employees
10 employed at the respective plants or establishments. These records shall
11 be kept in accordance with rules established for this purpose by the
12 commission, but in any case shall be kept on file for not less than three
years. An employer shall not prohibit an employee from maintaining a
personal record of hours worked, or, if paid on a piece-rate basis, piece-
rate units earned.

13 71. Labor Code § 1174.5 states:

14 Any person employing labor who willfully fails to maintain the records required
15 by subdivision (c) of Section 1174, or to allow any member of the commission
16 or employees of the division to inspect records pursuant to subdivision (b) of
Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

17 72. Section 7 of the Wage Order states:

18 (A) Every employer shall keep accurate information with respect to
19 each employee including the following:

20 (1) Full name, home address, occupation and social security
number.

21 (2) Birth date, if under 18 years, and designation as a minor.

22 (3) Time records showing when the employee begins and ends
23 each work period. Meal periods, split shift intervals and
24 total daily hours worked shall also be recorded. Meal
25 periods during which operations cease and authorized rest
periods need not be recorded.

26 (4) Total wages paid each payroll period, including value of
27 board, lodging, or other compensation actually furnished to
28 the Employee.

1 (5) Total hours worked in the payroll period and applicable
2 rates of pay. This information shall be made readily
3 available to the employee upon reasonable request.

4 (6) When a piece rate or incentive plan is in operation, piece
5 rates or an explanation of the incentive plan formula shall
6 be provided to employees. An accurate production record
7 shall be maintained by the employer.

8 73. Labor Code § 1198 prohibits employers from employing their employees under
9 conditions prohibited by the Wage Order.

10 74. On information and belief, Defendants have willfully failed to maintain the records
11 required by § 1174 and Wage Order, including, but not limited to, the total premium wages earned
12 for missed meal and rest periods, and records pertaining to all unpaid hours worked by Plaintiff
13 and the Aggrieved Employees.

14 75. Accordingly, Plaintiff seeks an award of civil penalties against the Defendants on
15 behalf of himself and all of the other Aggrieved Employees as follows: (1) \$500 for each
16 aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code
17 section 1174.5); and (2) \$100 for each aggrieved employee for each initial violation of Labor
18 Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per
19 pay period (penalties set by Labor Code section 2699(f)(2)).

20 **I. FAILURE TO PROVIDE NOTICE OF AVAILABLE SICK LEAVE**

21 76. Labor Code section 233 states,

22 Any employer who provides sick leave for employees shall permit an employee to
23 use in any calendar year the employee's accrued and available sick leave
24 entitlement, in an amount not less than the sick leave that would be accrued during
25 six months at the employee's then current rate of entitlement, for the reasons
26 specified in subdivision (a) of Section 246.5.

27 77. Labor Code § 246 states,

28 An employer shall provide an employee with written notice that sets forth the
amount of paid sick leave available, or paid time off leave an employer provides
in lieu of sick leave, for use on either the employee's itemized wage statement
described in Section 226 or in a separate writing provided on the designated pay
date with the employee's payment of wages.

78. Labor Code section 246(a)(1) states,

1 An employee who, on or after July 1, 2015, works in California for the same
2 employer for 30 or more days within a year from the commencement of
3 employment is entitled to paid sick days as specified in this section.

4 79. Labor Code section 246.5 states,

5 (a) Upon the oral or written request of an employee, an employer shall provide
6 paid sick days for the following purposes:

7 (1) Diagnosis, care, or treatment of an existing health condition of, or
8 preventive care for, an employee or an employee’s family member.

9 ...

10 (c) (1) An employer shall not deny an employee the right to use accrued
11 sick days ...

12 80. An employer must pay its non-exempt employees for paid sick leave at the
13 employees’ regular rate of pay. Labor Code § 246(l). An Employer must calculate this pay either
14 “in the same manner as the regular rate of pay for the workweek in which the employee uses paid
15 sick leave, whether or not the employee actually works overtime in that workweek” or “by
16 dividing the employee’s total wages, not including overtime premium pay, by the employee’s
17 total hours worked in the full pay periods of the prior 90 days of employment.” Labor Code §§
18 246(l)(1)-(2).

19 81. Defendants failed to provide Plaintiff and all of the other Aggrieved Employees
20 with paid sick leave and/or failed to pay sick leave wages to Salazar and other Aggrieved
21 Employees at the employees’ regular rates of pay because TJ PROCESSORS failed to incorporate
22 all applicable forms of compensation, including non-discretionary bonuses, into the regular rates
23 of pay. TJ PROCESSORS also failed to provide Salazar and all of the other Aggrieved Employees
24 with an itemized wage statement or separate writing that set forth the amount of paid sick leave
25 available. Accordingly, Plaintiff seeks civil penalties on behalf of himself and all of the other
26 Aggrieved Employees as follows: (1) For violations of Labor Code section 233, \$100 per
27 aggrieved employee for each of the pay periods in which initial violations of section 233 occurred,
28 and \$200 per aggrieved employee per pay period in which subsequent violations of section 233
 occurred (penalties set by Labor Code section 2699(f)(2)); (2) For violations of Labor Code §

246, \$100 per Aggrieved Employee for each of the pay periods in which initial violations of § 246 occurred, and \$200 per Aggrieved Employee per pay period in which subsequent violations of § 246 occurred (penalties set by Labor Code § 2699(f)(2)); (3) For violations of Labor Code section 246.5, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246.5 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246.5 occurred (penalties set by Labor Code section 2699(f)(2)).

J. CIVIL PENALTIES SOUGHT

82. During the applicable time period, Defendants violated California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 246.5, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802, and related Labor Code statutes.

83. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

84. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved Employees are entitled to recover civil penalties for each of the Defendants' violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 246.5, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the following amounts:

A. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for each aggrieved employee for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee for each subsequent, willful or intentional violation (penalty amounts established by California Labor Code § 210).

B. For violations of California Labor Code § 226, two hundred fifty dollars (\$250.00) per employee for initial violation and one thousand dollars (\$1,000.00) per employee for each subsequent violation (penalty amounts established by California Labor Code § 226.3).

C. For violations of California Labor Code §§ 510 and 512, fifty dollars (\$50.00) for each aggrieved employee for each initial violation for pay period for which the employee was underpaid and one hundred dollars (\$100.00) for each underpaid employee for each pay period for which the employee was underpaid (penalty amounts established by

1 California Labor Code § 558).

2 D. For violations of California Labor Code § 1174, five hundred dollars
3 (\$500.00) for each Aggrieved Employee for each initial violation (penalty amounts established
4 by Labor Code § 1174.5).

5 E. For violations of California Labor Code § 1197, one hundred dollars
6 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred
7 fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
8 (regardless of whether the initial violations were intentionally committed) (penalty amounts
9 established by California Labor Code § 1197.1).

10 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
11 1198, and 2802, one hundred dollars (\$100.00) for each aggrieved employee per pay period for
12 each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay
13 period for each subsequent violation (penalty amounts established by California Labor Code
14 § 2699(f)(2)).

15 **K. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS**

16 85. Plaintiff has complied with the procedures for bringing suit specified in California
17 Labor Code § 2699.3. By letter dated October 28, 2024, Plaintiff gave written notice by certified
18 mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific
19 provisions of the California Labor Code alleged to have been violated, including the facts and
20 theories to support the alleged violations. The LWDA has failed to take action in response within
21 65 days of Plaintiff’s notice.

22 86. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
23 Employees are entitled to an award of civil penalties, reasonable attorneys’ fees, and costs in
24 connection with their claims for civil penalties.

25 **PRAYER FOR RELIEF**

26 87. WHEREFORE, Plaintiff, on behalf of himself and the Aggrieved Employees,
27 prays for relief and judgment against Defendants as follows:

28 A. Civil penalties;

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- B. Costs of suit;
- C. Reasonable attorneys’ fees; and
- D. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and all other Aggrieved Employees, hereby demands a jury trial on all issues so triable.

Respectfully submitted,

MM LAW, APC

Dated: January 29, 2025

By: Maralle Messrelia
Maralle Messrelia, Esq.
Attorney for Plaintiff,
ALBERTO SALAZAR, and all others
similarly situated