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9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF FRESNO**

11 LUIS GOMEZ, on behalf of the State of  
12 California and Aggrieved Employees,

13 *Plaintiff,*

14 vs.

15 INSTALLED BUILDING PRODUCTS, LLC;  
16 BROKEN DRUM INSULATION VISALIA,  
INC.; and DOES 1 through 100, inclusive,

17 *Defendants.*

Case No. **25CECG00159**

**COMPLAINT FOR PENALTIES PURSUANT  
TO §§ 2699(a) AND (f) OF THE CALIFORNIA  
LABOR CODE PRIVATE ATTORNEYS  
GENERAL ACT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Luis Gomez ("Plaintiff"), on behalf of the State of California and Aggrieved  
2 Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendants Installed Building Products,  
5 LLC ("IBP"), and Broken Drum Insulation Visalia, Inc. ("BDI") (Collectively "Defendants") on  
6 behalf of the State of California to collect penalties as a result of Defendants' systematic violations of  
7 California labor law with respect to Defendants' non-exempt hourly workers in the State of California  
8 (the "Aggrieved Employees").

9 2. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers  
10 employed by Defendants in California.

11 3. Plaintiff challenges Defendants' policies and practices of: (1) failing to provide or make  
12 available to Plaintiff and Aggrieved Employees the meal periods to which they are entitled by law, and  
13 failing to pay premium compensation payment for non-compliant meal breaks; (2) failing to authorize  
14 and permit rest periods, and failing to pay premium compensation payment for non-compliant rest  
15 periods; (3) failing to provide Plaintiff and Aggrieved Employees with accurate, itemized wage  
16 statements and to maintain accurate payroll records; and (4) failing to pay all wages due timely  
17 throughout employment.

18 4. Plaintiff, on behalf of the State of California, seeks to recover penalties and reasonable  
19 attorneys' fees for these violations pursuant to § 2699(a) and (f) of the California Labor Code Private  
20 Attorneys General Act ("PAGA").

21 **PARTIES**

22 5. Plaintiff and Aggrieved Employees are all current and former non-exempt, hourly  
23 employees of Installed Building Products, LLC and/or Broken Drum Insulation Visalia, Inc. in the  
24 State of California. The Aggrieved Employees work as, among other positions, hourly paid installers,  
25 technicians, and other hourly non-exempt roles in California.

26 6. Plaintiff Luis Gomez is an individual over the age of eighteen and, at all times  
27 mentioned, was a resident of the State of California.  
28

1           7. Plaintiff has been employed by Defendants as an Insulation Installer since  
2 approximately August 2022.

3           8. Plaintiff is informed, believes, and thereon alleges that Installed Building Products,  
4 LLC is a Delaware limited liability company headquartered in Columbus, Ohio. IBP is registered to  
5 do business in, and employs and/or employed hourly non-exempt employees, including Plaintiff and  
6 the Aggrieved Employees in, the State of California and does business in the State of California. IBP  
7 may be served with process by serving its registered agent, CT Corporation System, 330 N. Brand  
8 Blvd, Suite 700, Glendale, California 91203.

9           9. Plaintiff is informed, believes, and thereon alleges that Broken Drum Insulation Visalia,  
10 Inc. is a California corporation with its headquarters located in Columbus, Ohio, and a subsidiary of  
11 IBP. BDI is registered to do business in the State of California and does business in, and employs  
12 and/or employed hourly non-exempt employees, including Plaintiff and the Aggrieved Employees in,  
13 the State of California. BDI may be served with process by serving its registered agent, CT Corporation  
14 System, 330 N. Brand Blvd, Suite 700, Glendale, California 91203.

15           10. The true names and capacities, whether individual, corporate, associate, or otherwise,  
16 of DOES 1-100, inclusive, are unknown to Plaintiff, who therefore sues the DOE Defendants by  
17 fictitious names. Plaintiff is informed, believes, and thereon alleges that each of these fictitiously  
18 named Defendants are responsible in some manner for the occurrences and violations as herein  
19 alleged. Plaintiff will amend this Complaint to show their true names and capacities when they have  
20 been ascertained.

21           11. Plaintiff is informed, believes, and thereon alleges that Defendants employ and/or  
22 employed hundreds of hourly, non-exempt workers similarly situated to Plaintiff in California.  
23 Plaintiff is informed, believes, and thereon alleges that, in California, Defendants own, operate, and/or  
24 manage locations in this county. Plaintiff is informed, believes, and thereon alleges that Defendants  
25 employ Aggrieved Employees, among other hourly employees, in this County and throughout  
26 California.

27           12. Plaintiff is informed, believes, and thereon alleges that each and every one of the acts  
28 and omissions alleged herein were performed by, and/or are attributable to, Defendants, acting through

1 their agents, alter egos, and/or employees, and/or under the direction and control of each of the other,  
2 and that said acts and failures to act were within the course and scope of said agency, alter ego  
3 relationship, employment, and/or direction and control.

4 13. Plaintiff is informed, believes, and thereon alleges that Defendants directly control the  
5 operations of their agents, alter egos, managers, and employees throughout all of their locations in  
6 California.

7 14. At all material times, Defendants do business under the laws of California, have places  
8 of business in the State of California and employ Aggrieved Employees in this County. Defendants  
9 are a “person” as defined in Cal. Lab. Code § 18 and Cal. Bus. & Prof. Code § 17201. Defendants are  
10 also an “employer” as that term is used in the California Labor Code and the IWC Wage Orders.

11 15. Defendants employ Plaintiff and Aggrieved Employees because Defendants, directly  
12 or indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of  
13 Plaintiff and Aggrieved Employees.

#### 14 **SUBJECT MATTER JURISDICTION AND VENUE**

15 16. Venue is proper in this County pursuant to Cal. Code Civ. Proc. §§ 393 and/or 395.5.  
16 Defendants conduct business and employ Aggrieved Employees in this County, and therefore the  
17 liability and the cause, or some part of the cause, arose in this County.

18 17. This Court has jurisdiction over Plaintiff’s claims for penalties pursuant to the PAGA.  
19 The Court also has jurisdiction over Defendants because they are corporations authorized to do  
20 business in the State of California, and because Defendants do in fact do business and employ workers  
21 in the State of California.

#### 22 **FACTUAL ALLEGATIONS**

23 18. Upon information and belief, Installed Building Products, LLC (“IBP”) the parent  
24 company of Broken Drum Insulation Visalia, Inc., installs insulation and other building products in  
25 residential and commercial construction projects. IBP installs insulation in new and existing homes,  
26 offices, and commercial buildings throughout California.

27 19. Upon information and belief, Broken Drum Insulation Visalia Inc. (“BDI”) is a  
28 construction company that offers insulation and other services for residential and commercial

1 buildings. These services include insulation, window coverings, insulation removal, air sealing, garage  
2 doors, and energy audits.

3 20. Plaintiff has worked for Defendants as an Insulation Installer in Visalia, California,  
4 since approximately August 2022. Plaintiff is classified as a non-exempt employee and is paid a rate  
5 of \$18.50 per hour most recently.

6 21. Plaintiff's weekly hours vary, but on average, Plaintiff works approximately fifty (50)  
7 hours per week, or more. Plaintiff and Aggrieved Employees, routinely work in excess of eight (8)  
8 hours in a day and in excess of forty (40) hours in a week.

9 22. Plaintiff is informed, believes, and thereon alleges that Defendants employ and have  
10 employed hundreds of hourly, non-exempt workers similarly situated to Plaintiff in California.

11 23. Plaintiff is informed, believes, and based thereon, alleges that Aggrieved Employees are  
12 employed by Defendants in a similar manner throughout the State of California, including in this  
13 County, and perform work materially similar to Plaintiff.

14 24. Aggrieved Employees perform their jobs under Defendants' supervision using materials  
15 and technology approved and supplied by Defendants.

16 25. Aggrieved Employees are required to follow and abide by Defendants' common work,  
17 time, and pay policies and procedures in the performance of their jobs.

18 26. At the end of each pay period, Aggrieved Employees receive wages from Defendants  
19 that are determined by common systems and methods that Defendants select and control.

20 27. On information and belief, Defendants pay Aggrieved Employees on an hourly rate  
21 basis.

22 28. Plaintiff is informed, believes, and thereon alleges that Defendants' policies and  
23 practices have at all relevant times been similar for Plaintiff and Aggrieved Employees, regardless of  
24 location in the State of California.

25 29. Upon information and belief, Aggrieved Employees worked more than eight (8) hours  
26 per day and more than forty (40) hours in at least one workweek during the one (1) year before this  
27 Complaint was filed.

1           30. Defendants regularly deny and fail to provide Plaintiff and Aggrieved Employees with  
2 compliant 30-minute uninterrupted meal periods before the end of the fifth hour of work. Defendants'  
3 policies, practices, and procedures prevent Plaintiff and Aggrieved Employees from taking their meal  
4 period prior to the end of their fifth hour of work. Defendants schedule and direct Plaintiff and  
5 Aggrieved Employees to take their first meal breaks at the beginning of their sixth scheduled hour of  
6 work, rather than at the end of their fifth actual hour. This directive is communicated by management  
7 as a matter of policy, including, but not limited to, in schedules distributed to Aggrieved Employees,  
8 and when managers announce a lunch break at the beginning of the sixth scheduled hour of each shift.  
9 Employees are expected to continue working until released for the lunch break. In addition, Plaintiff  
10 and Aggrieved Employees routinely arrive and begin working at least several minutes before the  
11 beginning of their scheduled shift. Defendants are aware of this and nonetheless fail to adjust the  
12 timing of scheduled meal breaks to begin within Plaintiff and Aggrieved Employees' fifth actual hour  
13 of work. Finally, Plaintiff and Aggrieved Employees' workloads also do not permit them to take full-  
14 length, compliant meal breaks before their sixth actual hour of work. As a result, Plaintiff and  
15 Aggrieved Employees' meal breaks routinely begin after the end of their fifth hour of work.

16           31. For each day Plaintiff and Aggrieved Employees work over ten hours, Defendants  
17 regularly deny, and fail to provide Plaintiff and Aggrieved Employees with, compliant second 30-  
18 minute uninterrupted meal periods before the end of the tenth hour of work. Defendants' policies,  
19 practices, and procedures prevent Plaintiff and Aggrieved Employees from taking a second meal  
20 period at any time. Defendants do not give Plaintiff and putative Aggrieved Employees the option to  
21 take a second meal period on days where they work over ten (10) hours. While Defendants schedule  
22 Plaintiff and Aggrieved Employees' first meal period, albeit belatedly every day, Defendants do not  
23 schedule a time for Plaintiff and Aggrieved Employees to take second meal periods and managers do  
24 not announce, or otherwise allow time for, a second break. Instead, Plaintiff and Aggrieved Employees  
25 are expected to and do continue working through the rest of their shift without a second meal break.  
26 Plaintiff and Aggrieved Employees' workloads also do not permit them to take full-length, compliant  
27 second meal breaks. Plaintiff and Aggrieved Employees do not voluntarily or validly agree to waive  
28 their second meal breaks.

1           32. Defendants fail to pay Plaintiff and Aggrieved Employees meal period premiums to  
2 which they are entitled for these missed, late, and otherwise non-compliant first and second meal  
3 breaks.

4           33. Plaintiff is informed, believes, and thereon alleges that these meal period policies and  
5 practices have at all relevant times been similar for Plaintiff and Aggrieved Employees regardless of  
6 location and assignment in California.

7           34. In addition, Defendants fail to authorize or permit off duty, paid rest periods of at least  
8 10 minutes of rest time for every 4 hours of work. Plaintiff and Aggrieved Employees' workload and  
9 Defendants' work expectations frequently prevent employees from taking full, uninterrupted rest  
10 breaks. In addition, for a period of time, Defendants did not inform Plaintiff and Aggrieved Employees  
11 that they could take rest breaks, and Defendants' work expectations did not permit Plaintiff and  
12 Aggrieved Employees an opportunity to rest, while off-duty, for 10 minutes during each 4-hour work  
13 period or major fraction thereof. As a result, despite regularly working shifts of eight hours or longer,  
14 Plaintiff and Aggrieved Employees did not receive rest breaks, during this period. Plaintiff and  
15 Aggrieved Employees suffer injury as a result of these defects.

16           35. Defendants fail to pay Plaintiff and Aggrieved Employees rest period premiums to  
17 which they are entitled for these missed, late, and otherwise non-compliant rest breaks.

18           36. Plaintiff is informed, believes, and thereon alleges that these rest period policies and  
19 practices have at all relevant times been similar for Plaintiff and Aggrieved Employees regardless of  
20 location and assignment in California.

21           37. Defendants also knowingly and intentionally fail to provide Plaintiff and Aggrieved  
22 Employees with accurate itemized wage statements that contain the information required by California  
23 law. As a result of the policies and practices described herein, the wage statements provided to Plaintiff  
24 and Aggrieved Employees do not state accurate gross wages earned, net wages earned, and all  
25 applicable hours and hourly rates. They do not identify or account for missed and non-compliant meal  
26 and rest periods and corresponding earnings and rates of pay for meal and rest period premiums. In  
27 addition, the wage statements provided to Plaintiff and Aggrieved Employees fail to state the inclusive  
28

1 dates of the period for which the employee is paid because they do not include the beginning date for  
2 each pay period. Plaintiff and Aggrieved Employees suffer injury as a result of these defects.

3 38. As a result of the foregoing, Defendants willfully fail to maintain accurate records as  
4 required by Cal. Lab. Code § 226 and Cal. Lab. Code § 1174.

5 39. Plaintiff is informed, believes, and thereon alleges that these wage statement policies  
6 and practices have at all relevant times been similar for Plaintiff and Aggrieved Employees regardless  
7 of location and assignment in California.

8 40. Defendants' conduct has been knowing, willful, and carried out in bad faith, and has  
9 caused significant damages to Plaintiff and Aggrieved Employees in an amount to be determined at  
10 trial. Defendants did not take requisite reasonable steps to ensure that Plaintiff and Aggrieved  
11 Employees were provided timely and compliant meal and rest breaks, premium pay for missed or non-  
12 compliant breaks, or accurate wage statements, and to maintain accurate records. Plaintiff is informed,  
13 believes, and thereon alleges that Defendants knew or should have known that Plaintiff and Aggrieved  
14 Employees regularly do not receive timely and compliant meal and rest breaks, premium pay for  
15 missed or non-compliant breaks, or accurate wage statements, and that Defendants do not maintain  
16 accurate records. Thus, Defendants' denial of wages and compliant meal and rest periods and related  
17 premium pay, failure to provide complete and accurate wage statements, and failure to maintain  
18 accurate records is and/or was deliberate and willful.

19 41. Plaintiff is informed, believes, and thereon alleges that Defendants' unlawful conduct  
20 has been widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendants'  
21 operations in the State of California.

## 22 **FIRST CAUSE OF ACTION**

### 23 **Penalties Pursuant to Cal. Lab. Code § 2699(a) & (f)**

#### 24 **(Meal Breaks and Meal Break Premiums)**

#### 25 **(On Behalf of the State of California and Aggrieved Employees)**

26 42. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth  
27 herein.

28 43. Cal. Lab. Code § 2699(a) provides:

1 Notwithstanding any other provision of law, any provision of this code that provides  
2 for a civil penalty to be assessed and collected by the Labor and Workforce  
3 Development Agency or any of its departments, divisions, commissions, boards,  
4 agencies, or employees, for a violation of this code, may, as an alternative, be recovered  
5 through a civil action brought by an aggrieved employee on behalf of himself or herself  
6 and to other current or former employees.

7 44. Cal. Lab. Code § 2699(f) provides:

8 For all provisions of this code except those for which a civil penalty is specifically  
9 provided, there is established a civil penalty for a violation of these provisions, as  
10 follows: . . . (2) If, at the time of the alleged violation, the person employs one or more  
11 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee  
12 per pay period for the initial violation and two hundred dollars (\$200) for each  
13 aggrieved employee per pay period for each subsequent violation.

14 45. Cal. Lab. Code § 200 defines wages as “all amounts for labor performed by employees  
15 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,  
16 commission basis or method of calculation.”

17 46. Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under  
18 conditions that violate the Wage Orders.

19 47. Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 16-2001 require Defendants to  
20 authorize, permit, and/or make available timely and compliant meal to their employees. Cal. Lab. Code  
21 §§ 226.7 and 512 and IWC Wage Order 16-2001 prohibit employers from employing an employee for  
22 more than five (5) hours without a meal period of not less than thirty (30) minutes, and from employing  
23 an employee more than ten (10) hours per day without providing the employee with a second meal  
24 period of not less than thirty (30) minutes.

25 48. Cal. Lab. Code § 226.7 and IWC Wage Order 16-2001 require Defendants to pay  
26 employees one additional hour of pay at their regular rate of compensation for each workday that a  
27 timely, compliant meal or rest period is not provided.

28 49. Defendants’ policies and practices result in meal periods violations and Defendants’  
failure to pay proper premium payments for non-compliant meal breaks.

50. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(a) and pursuant to Cal. Lab.  
Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved Employee was aggrieved, in  
the amounts established by those sections. Plaintiff seeks penalties pursuant to Cal. Lab. Code §  
2699(a) and Cal. Lab. Code § 2699(f) for Plaintiff and Aggrieved Employees for violations of Cal.

1 Lab. Code provisions including, but not limited to, Cal. Lab. Code §§ 226.7, 512, 1198, IWC Wage  
2 Order 16-2001 for failing to authorize, permit, and/or make available second meal periods to Plaintiff  
3 and Aggrieved Employees, failing to authorize, permit, and/or make available first meal periods to  
4 Plaintiff and Aggrieved Employees before the end of their fifth hour of work, and failing to pay  
5 required meal break premiums.

6 51. Pursuant to Cal. Lab. Code §§ 2699.3(a) and (c), on October 24, 2024, Plaintiff  
7 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to  
8 file this claim. On October 24, 2024, Plaintiff mailed Defendants a copy of such notice via certified  
9 mail. At least sixty-five (65) calendar days have passed without response from the LWDA. Plaintiff  
10 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.  
11 Code § 2699.3(a) and (c).

12 52. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
13 Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

14 53. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for  
15 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees  
16 and costs as set forth below.

17 54. Wherefore, Plaintiff requests relief as hereinafter provided.

18 **SECOND CAUSE OF ACTION**

19 **Penalties Pursuant to Cal. Lab. Code § 2699(a) & (f)**

20 **(Rest Breaks and Rest Break Premiums)**

21 **(On Behalf of the State of California and Aggrieved Employees)**

22 55. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth  
23 herein.

24 56. Cal. Lab. Code § 2699(a) provides:

25 Notwithstanding any other provision of law, any provision of this code that provides  
26 for a civil penalty to be assessed and collected by the Labor and Workforce  
27 Development Agency or any of its departments, divisions, commissions, boards,  
28 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 himself or herself  
and to other current or former employees.

1           57.     Cal. Lab. Code § 2699(f) provides:

2           For all provisions of this code except those for which a civil penalty is specifically  
3           provided, there is established a civil penalty for a violation of these provisions, as  
4           follows: . . . (2) If, at the time of the alleged violation, the person employs one or more  
5           employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee  
6           per pay period for the initial violation and two hundred dollars (\$200) for each  
7           aggrieved employee per pay period for each subsequent violation.

8           58.     Cal. Lab. Code § 200 defines wages as “all amounts for labor performed by employees  
9           of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,  
10          commission basis or method of calculation.”

11          59.     Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under  
12          conditions that violate the Wage Orders.

13          60.     Cal. Lab. Code §§ 226.7 and IWC Wage Order 16-2001 require Defendants to  
14          authorize, permit, and/or make available timely and compliant rest periods to its employees. Cal. Lab.  
15          Code §§ 226.7 and IWC Wage Order 16-2001 require that the employer authorize and permit  
16          employees to take rest breaks of ten (10) minutes net rest time for every four (4) hours worked.

17          61.     Cal. Lab. Code § 226.7 and IWC Wage Order 16-2001 require Defendants to pay  
18          employees one additional hour of pay at their regular rate of compensation for each workday that a  
19          timely, compliant meal or rest period is not provided.

20          62.     Defendants’ policies and practices result in rest periods violations and Defendants’  
21          failure to pay proper premium payments for non-compliant rest breaks.

22          63.     Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(a) and pursuant to Cal. Lab.  
23          Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved Employee was aggrieved, in  
24          the amounts established by those sections. Plaintiff seeks penalties pursuant to Cal. Lab. Code §  
25          2699(a) and Cal. Lab. Code § 2699(f) for Plaintiff and Aggrieved Employees for violations of Cal.  
26          Lab. Code provisions including, but not limited to, Cal. Lab. Code §§ 226.7, 1198, IWC Wage Order  
27          16-2001 for failing to authorize, permit, and/or make available rest periods to Plaintiff and Aggrieved  
28          Employees and failing to pay required rest break premiums.

        64.     Pursuant to Cal. Lab. Code §§ 2699.3(a) and (c), on October 24, 2024, Plaintiff  
provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to

1 file this claim. On October 24, 2024, Plaintiff mailed Defendants a copy of such notice via certified  
2 mail. At least sixty-five (65) calendar days have passed without response from the LWDA. Plaintiff  
3 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.  
4 Code § 2699.3(a) and (c).

5 65. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
6 Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

7 66. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for  
8 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees  
9 and costs as set forth below.

10 67. Wherefore, Plaintiff requests relief as hereinafter provided.

11 **THIRD CAUSE OF ACTION**

12 **Penalties Pursuant to Cal. Lab. Code § 2699(a) & (f)**

13 **(Untimely Payment of Wages)**

14 **(On Behalf of the State of California and Aggrieved Employees)**

15 68. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth  
16 herein.

17 69. Cal. Lab. Code § 2699(a) provides:

18 Notwithstanding any other provision of law, any provision of this code that provides  
19 for a civil penalty to be assessed and collected by the Labor and Workforce  
20 Development Agency or any of its departments, divisions, commissions, boards,  
21 agencies, or employees, for a violation of this code, may, as an alternative, be recovered  
22 through a civil action brought by an aggrieved employee on behalf of himself or herself  
23 and to other current or former employees.

24 70. Cal. Lab. Code § 2699(f) provides:

25 For all provisions of this code except those for which a civil penalty is specifically  
26 provided, there is established a civil penalty for a violation of these provisions, as  
27 follows: . . . (2) If, at the time of the alleged violation, the person employs one or more  
28 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee  
per pay period for the initial violation and two hundred dollars (\$200) for each  
aggrieved employee per pay period for each subsequent violation.

71. Cal. Lab. Code § 200 defines wages as "all amounts for labor performed by employees  
of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,  
commission basis or method of calculation."

1           72.     Cal. Lab. Code § 204(a) provides that “[a]ll wages ... earned by any person in any  
2 employment are due and payable twice during each calendar month....” and “[l]abor performed  
3 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th  
4 and the 26th day of the month during which the labor was performed, and labor performed between  
5 the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th  
6 day of the following month.”

7           73.     IWC Wage Order 16-2001(2)(J) defines hours worked as “the time during which an  
8 employee is subject to the control of an employer and includes all the time the employee is suffered  
9 or permitted to work, whether or not required to do so.”

10          74.     Cal. Lab. Code § 1198 makes it unlawful for employers to employ employees under  
11 conditions that violate the Wage Orders.

12          75.     Defendants’ policies and practices result in failure to pay all wages, including meal and  
13 rest period premiums, timely under the timeframes set forth in § 204.

14          76.     Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(a) and pursuant to Cal. Lab.  
15 Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved Employee was aggrieved, in  
16 the amounts established by those sections. Plaintiff seeks penalties pursuant to Cal. Lab. Code §  
17 2699(a) and Cal. Lab. Code § 2699(f) for Plaintiff and Aggrieved Employees for violations of Cal.  
18 Lab. Code provisions including, but not limited to, Cal. Lab. Code §§ 204, 1198, IWC Wage Order  
19 16-2001, and any other violation alleged herein which does not carry penalties under Cal. Lab. Code  
20 § 2699(a).

21          77.     Pursuant to Cal. Lab. Code §§ 2699.3(a) and (c), on October 24, 2024, Plaintiff  
22 provided the Labor and Workforce Development Agency (“LWDA”) with notice of his intention to  
23 file this claim. On October 24, 2024, Plaintiff mailed Defendants a copy of such notice via certified  
24 mail. At least sixty-five (65) calendar days have passed without response from the LWDA. Plaintiff  
25 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.  
26 Code § 2699.3(a) and (c).

27          78.     Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
28 Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

79. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

80. Wherefore, Plaintiff requests relief as hereinafter provided.

#### **FOURTH CAUSE OF ACTION**

##### **Penalties Pursuant to Cal. Lab. Code § 2699(a) & (f)**

##### **(Itemized Wage Statements and Records)**

##### **(On Behalf of the State of California and Aggrieved Employees)**

81. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

82. Cal. Lab. Code § 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 himself or herself and to other current or former employees.

83. Cal. Lab. Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

84. Cal. Lab. Code § 226(a) provides:

An employer, semimonthly or at the time of each payment of wages, shall furnish to their employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of their social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during

the pay period and the corresponding number of hours worked at each hourly rate by the employee...

85. Cal. Lab. Code § 226(e)(1) provides, in relevant part:

An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

86. Cal. Lab. Code § 226.3 provides:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

87. Cal. Lab. Code § 226 also requires employers to keep records required to be maintained under § 226(a) for at least three (3) years.

88. Cal. Lab. Code § 1174(d) provides, in relevant part:

[Employers shall] [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, 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. These records shall be kept in accordance with rules established for this purpose by the commission...

89. Cal. Lab. Code § 1174.5 provides, in relevant part:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission 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).

90. IWC Wage Order 16-2001, Section 6, provides, in relevant part:

(A) Every employer who has control over wages, hours, or working conditions shall keep accurate information with respect to each employee, including the following:

(1) ... Time records showing when the employee begins and ends each work period...

(2) Total wages paid each payroll period...

(3) Total hours worked during the payroll period and applicable rates of pay...

(B) Every employer who has control over wages, hours, or working conditions shall semimonthly or at the time of each payment of wages furnish each employee an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made

1 on written orders of the employee may be aggregated and shown as one item. (See  
2 Labor Code Section 226.) This information shall be furnished either separately or as a  
detachable part of the check, draft, or voucher paying the employee's wages....

3 91. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(a) and pursuant to Cal. Lab.  
4 Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved Employee was aggrieved, in  
5 the amounts established by those section, including but not limited to penalties under § 226.3,  
6 226(e)(1), and 1174.5. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(a) and Cal. Lab.  
7 Code § 2699(f) for Plaintiff and Aggrieved Employees for each failure by Defendants, alleged above,  
8 to provide Plaintiff and Aggrieved Employees an accurate, itemized wage statement in compliance  
9 with Cal. Lab. Code § 226(a). Plaintiff also seeks civil penalties pursuant to Cal. Lab. Code § 2699(a)  
10 and Cal. Lab. Code § 2699(f) for each failure by Defendants, alleged above, to maintain records in  
11 compliance with Cal. Lab. Code §§ 226 and 1174 and IWC Wage Order 16-2001.

12 92. Pursuant to Cal. Lab. Code §§ 2699.3(a) and (c), on October 24, 2024, Plaintiff  
13 provided the Labor and Workforce Development Agency ("LWDA") with notice of his intention to  
14 file this claim. On October 24, 2024, Plaintiff mailed Defendants a copy of such notice via certified  
15 mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff  
16 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.  
17 Code § 2699.3(a) and (c).

18 93. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved  
19 Employees, and himself as set forth in Cal. Lab. Code § 2699.

20 94. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for  
21 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys' fees  
22 and costs as set forth below.

23 95. Wherefore, Plaintiff requests relief as hereinafter provided.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays for relief as follows:

- 26 1. For the Court to declare, adjudge, and decree that Defendants have violated the Cal.  
27 Lab. Code as alleged herein;  
28

2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided under the PAGA;
3. For an award of reasonable attorneys' fees as provided by the Cal. Lab. Code § 2699(g)(1); Cal. Code Civ. Proc. § 1021.5; and/or any other applicable law;
4. For injunctive relief;
5. For all costs of suit; and
6. For such other and further relief as this Court deems just and proper.

Respectfully Submitted,

Date: January 9, 2025

  
Carolyn H. Cottrell  
Ori Edelstein  
Danielle Fuschetti  
**SCHNEIDER WALLACE  
COTTRELL KONECKY LLP**

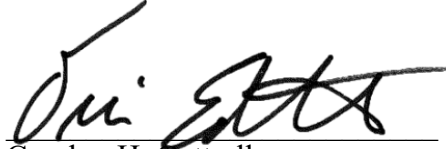
*Attorneys for Plaintiff, on behalf of the State of  
California and Aggrieved Employees*

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Respectfully Submitted,

Date: January 9, 2025



Carolyn H. Cottrell

Ori Edelstein

Danielle Fuschetti

**SCHNEIDER WALLACE**

**COTTRELL KONECKY LLP**

*Attorneys for Plaintiff, on behalf of the State of California and Aggrieved Employees*