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Per local Rule, This case is assigned to
Judge Douglas, Danielle K, for all purposes.

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

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA**

ANGEL VILLAFAN, on behalf of the State
of California and Aggrieved Employees,

Plaintiff,

vs.

ONPOINT INDUSTRIAL SERVICES,
LLC; and DOES 1 to 100, inclusive,

Defendant.

Case No. C25-00790

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

DEMAND FOR JURY TRIAL

SUMMONS ISSUED

1 Plaintiff Angel Villafan (“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 Defendant OnPoint Industrial Services,
5 LLC (“OnPoint” or “Defendant”), on behalf of the State of California to collect penalties as a result
6 of Defendant’s systematic violations of California labor law with respect to Defendant’s non-exempt
7 hourly workers in the State of California (the “Aggrieved Employees”).

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

10 3. Plaintiff challenges Defendant’s policies and practices of: (1) failing to compensate
11 Plaintiff and Aggrieved Employees for all hours worked; (2) failing to pay Plaintiff and Aggrieved
12 Employees minimum wages; (3) failing to pay Plaintiff and Aggrieved Employees overtime and
13 double time wages; (4) failing to authorize and permit Plaintiff and Aggrieved Employees to take
14 compliant meal and rest periods to which they are entitled by law, and failing to pay premium
15 compensation for missed or otherwise noncompliant breaks; (5) failing to reimburse Plaintiff and
16 Aggrieved Employees for necessary business expenditures; (6) failing to provide Plaintiff and
17 Aggrieved Employees true and accurate itemized wage statements; and (7) failure to timely pay
18 Plaintiff and Aggrieved Employees all wages due upon termination of employment.

19 4. Plaintiff, on behalf of the State of California, seeks to recover penalties, injunctive
20 relief, and reasonable attorneys’ fees for these violations pursuant to Sections 2699(a) and (f) of the
21 California Labor Code Private Attorneys General Act (“PAGA”).

22 **PARTIES**

23 5. Plaintiff and Aggrieved Employees are all current and former non-exempt, hourly
24 employees of OnPoint Industrial Services LLC in the State of California. The Aggrieved Employees
25 work as, among other positions, hourly paid laborers, safety attendants, foremen, and other hourly
26 non-exempt employees in California.

27 6. Plaintiff Angel Villafan is an individual over the age of eighteen and, at all times
28 relevant to this Complaint, was a resident of the State of California.

1 7. Plaintiff has been employed by OnPoint for various projects as a Laborer or Safety
2 Attendant and Foreman since approximately 2009 to the present. After each assigned project, Plaintiff,
3 like other Aggrieved Employees, is terminated after each project, then rehired for subsequent projects.
4 Plaintiff has worked for OnPoint in, among other places, Benicia, California.

5 8. Plaintiff is informed, believes, and alleges that OnPoint provides skilled safety
6 personnel to clients operating oil refineries. OnPoint provides services to clients with oil refineries
7 throughout California. Plaintiff is further informed, believes, and thereon alleges that OnPoint employs
8 hourly, non-exempt employees throughout the United States, including in California.

9 9. Plaintiff is informed, believes, and thereon alleges that OnPoint Industrial Services
10 LLC is a Delaware limited liability company with its principal place of business located in Deer Park,
11 Texas. OnPoint is registered to do business in the State of California and does business in the State of
12 California, including in the County of Contra Costa. OnPoint may be served with process by serving
13 its registered agent, CT Corporation System, 330 N. Brand Blvd, Suite 700, Glendale, California
14 91203.

15 10. Plaintiff is informed, believes, and thereon alleges that Defendant employs hundreds
16 of hourly, non-exempt workers similarly situated to Plaintiff in California. Plaintiff is informed,
17 believes, and thereon alleges that, in California, Defendant owns, operates, and/or manages locations
18 in this county. Plaintiff is informed, believes, and thereon alleges that Defendant employs Aggrieved
19 Employees, among other hourly employees, in this County and throughout California.

20 11. At all material times, Defendant does business under the laws of California, has places
21 of business in the State of California, including in this County, and employs Aggrieved Employees in
22 this County. Defendant is a “person” as defined in Cal. Lab. Code § 18 and Cal. Bus. & Prof. Code §
23 17201. Defendant is also an “employer” as that term is used in the California Labor Code and the IWC
24 Wage Orders.

25 12. Defendant employs Plaintiff and Aggrieved Employees because Defendant, directly or
26 indirectly, controls the employment terms, pay practices, timekeeping practices, and daily work of
27 Plaintiff and Aggrieved Employees.

28 13. In addition to Defendant, Plaintiff sues fictitiously defendants DOES 1 through 100,

1 inclusive, pursuant to *Code of Civil Procedure* §474, because their names, capacities, status, or facts
2 showing them to be liable are not presently known. Plaintiff is informed and believes, and thereon
3 alleges that defendants, and each of them, designated herein as DOES 1 through 100, are responsible
4 in some manner for the occurrences and happenings herein alleged, and that Plaintiff's damages, as
5 herein alleged, were and are the direct and proximate result of the actions of said defendants, and each
6 of them. Plaintiff will amend this complaint to show their true names and capacities, together with
7 appropriate charging language, when such information has been ascertained.

8 **SUBJECT MATTER JURISDICTION AND VENUE**

9 14. Venue is proper in this County pursuant to Cal. Code Civ. Proc. §§ 393 and/or 395.5.
10 Defendant conducts business and employs Aggrieved Employees in this County, and therefore the
11 liability and the cause, or some part of the cause, arose in this County.

12 15. This Court has jurisdiction over Plaintiff's claims for penalties pursuant to the PAGA.
13 The Court also has jurisdiction over Defendant because they are a company authorized to do business
14 in the State of California, and because Defendant does in fact do business and employs workers in the
15 State of California.

16 **FACTUAL ALLEGATIONS**

17 16. OnPoint Industrial Services LLC provides services include turnaround management,
18 materials management, workforce transportation, and safety and logistics. It also offers training and
19 consulting services for planning, organizing, controlling, and executing industrial projects. OnPoint
20 provides services throughout the United States, including in California.

21 17. OnPoint partners with various companies to offer project planning and coordination,
22 transportation and logistics, materials management, and confined space technology, including
23 engineered ventilation and remote monitoring. To conduct its operations, OnPoint maintains a
24 corporate structure in which there are various groups that handle specific subsets of tasks within the
25 company. The groups and departments are largely staffed by hourly, non-exempt employees that
26 handle a variety of tasks. This operation structure is uniform and standardized throughout OnPoint's
27 operations. The employment conditions for the non-exempt, hourly employees are substantially
28 similar, if not identical, at OnPoint work locations throughout United States, including in California.

1 18. Plaintiff and Aggrieved Employees are current and former employees who worked for
2 OnPoint as non-exempt hourly employees throughout California. These employees provide support
3 for OnPoint's partners by removing waste material and the overall upkeep of designated areas. Among
4 other tasks, Plaintiff and Aggrieved Employees are responsible for proper cleaning, and the safe
5 handling of disposal of waste, and adherence to safety protocols.

6 19. Plaintiff works for OnPoint as a Laborer since approximately 2009, and last worked on
7 projects for OnPoint in California in 2024.¹ Plaintiff's primary duties include, but are not limited to:
8 monitoring and recording air pressure to ensure that oxygen levels are safe for other workers at the
9 drilling site; cleaning and organizing the drilling site; monitoring and recording the amount of
10 employees entering and exiting the work site; and supervising hot work to prevent combustion near
11 drilling sites.

12 20. Plaintiff is classified as an hourly, non-exempt employee and is paid an hourly rate for
13 her services. Plaintiff works at various work sites operated by clients of OnPoint in California.

14 21. OnPoint dispatches Plaintiff and other Aggrieved Employees to various client locations
15 throughout the United States, including in California. For each assignment, OnPoint determines the
16 hourly rate to be paid and the duration of the project. Defendant pays Aggrieved Employees, including
17 Plaintiff, on an hourly rate basis. Plaintiff was compensated at an hourly rate of \$41.35.

18 22. Plaintiff and Aggrieved Employees are typically scheduled to work twelve (12) hour
19 shifts for thirteen (13) consecutive days, followed by one (1) day off, and then another thirteen (13)
20 consecutive days of ten (10) or twelve (12) hour shifts. Additionally, because OnPoint expects
21 employees to stay on-site until the job is complete, Plaintiff and Aggrieved Employees regularly work
22 seven or more consecutive days. Despite this demanding work schedule, Plaintiff and Aggrieved
23 Employees are often denied compensation for all hours worked, including overtime for work in excess
24 of eight (8) hours per day and forty (40) hours per week. Plaintiff and Aggrieved Employees are also
25 routinely denied double time for work over twelve hours in one day and over eight hours on the seventh
26 consecutive day of work. Defendant's failure to timely pay all wages is willful and/or intentional.

27
28 ¹ Plaintiff anticipates being hired for further assignments from OnPoint. For ease of reading, allegations are presented in the present tense for Plaintiff.

1 23. Plaintiff and Aggrieved Employees generally work one (1) of two (2) twelve (12) hour
2 shifts in a twenty-four (24) hour period. For example, one group of Aggrieved Employees may be
3 scheduled to work from 7:00 a.m. to 7:00 p.m., and another group of Aggrieved Employees is
4 scheduled to work from 7:00 p.m. to 7:00 a.m. But, regardless of which shift Aggrieved Employees
5 work, the job duties and responsibilities are the same, as is the process for reporting to work, beginning
6 the workday, taking meal and rest breaks, and ending the workday.

7 24. OnPoint requires Plaintiff and Aggrieved Employees to perform substantial work off-
8 the-clock and without compensation. Plaintiff and Aggrieved Employees are required to traverse on
9 foot approximately two (2) miles to a security gate prior to clocking in. At the security gate, Aggrieved
10 Employees are required to wait in line to pass through security, where they swipe a badge that confirms
11 their right to access to the facility and electronically documents the time in which they passed through
12 security. After these off-the-clock security checks, Plaintiff and Aggrieved Employees must get in line
13 to check out required daily personal protection equipment.

14 25. OnPoint requires that Plaintiff and Aggrieved Employees use personal protection
15 equipment. OnPoint instructs Aggrieved Employees to clock in only after they have donned personal
16 protection equipment and gather their tools, which takes up to thirty minutes. This protective gear
17 uniformly includes fire-retardant coveralls or fire-retardant jacket and pants, steel-toe boots, hard hat,
18 safety glasses, and gloves. Once employees have donned personal protection equipment, they are
19 required to walk to lunchroom tent to sign the sign in sheet, after which they proceed to walk to their
20 assigned workstations, or to attend a safety or tailgate meeting to discuss work prior to moving to their
21 assigned workstations.

22 26. These tasks are completed off-the-clock and OnPoint pays employees based on their
23 shifts' scheduled start and end times. Any work completed before or after their scheduled start time is
24 unpaid. Indeed, Plaintiff and Aggrieved Employees are required to write down their scheduled start
25 and end times, regardless of what time it actually is when they arrive or leave at their sign in sheets,
26 and if they do not, their entries may be modified to reflect their scheduled start or end times.

27 27. Plaintiff and Aggrieved Employees report that to comply with Defendant's scheduling
28 and pre-shift activity requirements, they must pass through the security gate at least thirty minutes

1 before their scheduled start times.

2 28. Similarly, OnPoint requires Plaintiff and Aggrieved Employees to clock out before
3 taking off their personal protection equipment and storing their tools and equipment at the end of their
4 shifts and observe the same pre-shift tasks they complete at the end of their shifts, after they have
5 clocked out. As a result of these policies, Plaintiff and Aggrieved Employees are not adequately
6 compensated for all hours worked at their regular rate or at the applicable overtime rates.

7 29. As stated above, once Aggrieved Employees swipe in to access the facility, they are
8 required to walk to another location at the facility which typically has a lunch tent or trailer, as well
9 as a supervisor's trailer. Once at this location, Aggrieved Employees drop off their lunches, obtain and
10 begin to fill out paperwork relating to their workday, gather equipment, and receive their job
11 assignments for the day. Often, the equipment Aggrieved Employees need for the day is not at that
12 particular location, and they will have to walk to a different part of the facility to obtain the necessary
13 equipment. Following these pre-shift activities, Plaintiff, like other Aggrieved Employees, walk to
14 another part of the facility, to their assigned workstation. Despite all of this pre-shift activity,
15 Aggrieved Employees are required to arrive at their assigned workstation by their scheduled start time,
16 and are only compensated for time worked *after* they arrive at their assigned workstation. At some
17 point during the day (but not necessarily when Plaintiff and Aggrieved Employees first report to their
18 supervisors for the day), their supervisors document a start time on employee time sheets – either by
19 writing down that start time themselves, or by directing Aggrieved Employees to write down a specific
20 start time, regardless of what time Aggrieved Employees *in fact* began working, and indeed, regardless
21 of what time it actually is when the start time is created. Instead, Plaintiff and Aggrieved Employees
22 are instructed to write down their scheduled start time, which does not account of any of the above-
23 described pre-shift activity, but denotes the time at which Aggrieved Employees were scheduled to
24 start working and expected to be at their post performing their assigned safety duties. As a result of
25 these policies, Plaintiff and Aggrieved Employees are not adequately compensated for all hours
26 worked at their regular rate or at the applicable overtime rates.

27 30. OnPoint requires Plaintiff and Aggrieved Employees to travel to and attend pre-
28 assignment activities in order to begin work for OnPoint. OnPoint arranges for and requires its

1 Aggrieved Employees to undergo mandatory training, certifications, and physical examinations.
2 OnPoint requires Plaintiff and Aggrieved Employees to attend training, complete certifications,
3 complete drug testing, complete fit testing to ensure their safety equipment would fit properly, and
4 obtain their badges, at different locations as arranged by OnPoint. These pre-assignment trainings
5 provide information on specific OnPoint policies and procedures and typically take one to two days
6 of eight-hour sessions. Aggrieved Employees are also required to regularly update their annual
7 certifications for the various safety duties they perform for OnPoint. OnPoint also requires Aggrieved
8 Employees to complete annual physical examinations at a location arranged by OnPoint, taking
9 approximately one to five hours a year. Plaintiff and Aggrieved Employees are only compensated for
10 four hours of work, and are not compensated for all their time spent in these pre-assignment trainings,
11 certifications, and examinations, which can take anywhere between six hours and two days to
12 complete. Nor are Plaintiff and Aggrieved Employees compensated for their time traveling to and
13 from these sites. As a matter of policy, only up to four hours of this time spent on training,
14 certifications, or physical examinations is compensated, nor are Aggrieved Employees reimbursed for
15 any expenses relating to these mandatory pre-assignment activities.

16 31. OnPoint also requires Plaintiff and Aggrieved Employees to complete additional
17 training at the facility locations during assignments. In particular, the Plaintiff was required to
18 complete these additional trainings every time she worked at a different facility, approximately two
19 (2) to three (3) times per year. The Plaintiff would spend approximately eight (8) hours at each of these
20 required additional trainings. This time is not compensated.

21 32. As a result of these policies and/or practices, Plaintiff and Aggrieved Employees are not
22 paid for all overtime hours in violation of Cal. Lab. Code section 1194 and Wage Order 16.

23 33. OnPoint does not require Aggrieved Employees to clock out for lunch breaks. Instead,
24 OnPoint attributes thirty minutes per workday for an unpaid meal period, even when work is too
25 demanding to allow Plaintiff to take a full, legally compliant thirty-minute meal period. OnPoint
26 management enters meal period times on employee sign-in sheets even though Aggrieved Employees
27 regularly work through their scheduled meal periods. When Plaintiff and Aggrieved Employees do
28 take their scheduled lunches, they are cut short due to the distance between assigned work posts and

1 interruptions by OnPoint management. Aggrieved Employees, including Plaintiff, are also not
2 provided with premium pay for these missed meal breaks.

3 34. When Plaintiff and Aggrieved Employees work more than ten hours per day, a second
4 full, legally compliant meal period is not made available to them. Aggrieved Employees, including
5 Plaintiff, are not provided with premium pay for these missed meal breaks.

6 35. When Plaintiff and Aggrieved Employees receive a meal break, these meal breaks are
7 often less than thirty (30) minutes. For example, OnPoint often includes the time it takes to travel from
8 the facility worksite to the lunch location when allocating a thirty-minute break to its Aggrieved
9 Employees. The time traveling to and from the lunch location can be up to fifteen (15) minutes.
10 OnPoint includes this time as part of the lunch break, despite the fact that Aggrieved Employees are
11 not relieved of their work obligations until they have arrived at the lunch location. Furthermore, even
12 when Plaintiff and Aggrieved Employees are provided with a thirty-minute lunch break, supervisors
13 often interrupt these meal breaks to discuss work-related topics. In addition, Plaintiff and Aggrieved
14 Employees are required to keep their assigned radio with them during their off-duty meal periods.
15 OnPoint management will routinely contact them to provide additional assignments or to ask them to
16 return to their post before the conclusion of their meal period, and expects Plaintiff and Aggrieved
17 Employees to respond when requested, even during meal and rest breaks. If an Aggrieved Employee
18 does not have their radio on or with them, OnPoint management will contact them on their personal
19 cell phone. Aggrieved Employees, including Plaintiff, are not provided with premium pay for these
20 non-compliant meal breaks.

21 36. Moreover, the pace of the work is too demanding to allow Plaintiff and Aggrieved
22 Employees to take full, timely, legally compliant rest breaks. OnPoint will cut Plaintiff and Aggrieved
23 Employees rest breaks short due to lack of unavailable staff to properly relieve them of their duties.
24 Even when Plaintiff and Aggrieved Employees are provided with a rest break, supervisors often
25 interrupt these breaks. Further, if the Plaintiff and Aggrieved Employees are able to take a ten (10)
26 minute rest period, OnPoint counts the time leaving/coming from their job-post, including tower posts,
27 as part of their rest period. Aggrieved Employees, including Plaintiff, are not provided with premium
28 pay for missed rest breaks.

1 37. Defendant's failure to timely pay earned premium wages for missed and/or
2 noncompliant meal and rest periods is willful and intentional.

3 38. Defendant is aware that non-exempt, hourly employees do not receive timely and
4 compliant meal and rest periods to which they are entitled and that it has, and continues, to deprive its
5 hourly, non-exempt employees of compensation for all time worked. As a result of OnPoint's policies,
6 Plaintiff and Aggrieved Employees are denied minimum wage for all hours worked.

7 39. OnPoint also routinely denies reimbursement for work-related expenses to Aggrieved
8 Employees, including Plaintiff. OnPoint requires Aggrieved Employees, including Plaintiff, to pay for
9 other necessary work-related expenses. For example, Plaintiff and Aggrieved Employees are expected
10 to provide some of their own personal protection equipment, including but not limited to fire retardant
11 pants, jackets, coveralls, and gloves, boots, and glasses when working on drilling platforms. In
12 particular, the Plaintiff estimates spending hundreds of dollars or more a year on required safety gear
13 to complete her duties while employed by OnPoint. Plaintiff and Aggrieved Employees must also pay
14 out-of-pocket expenses to wash personal protection equipment between shifts.

15 40. OnPoint also does not provide Aggrieved Employees, including Plaintiff, accurate
16 itemized wage statements as required by California law. The wage statements that they are provided
17 are not accurate because they do not reflect the actual hours worked by Plaintiff and Aggrieved
18 Employees. The wage statements do not contain off-the-clock work and contain a reduction of pay for
19 meal periods that are not taken. Further, the wage statements are inaccurate because they do not include
20 minimum wage for all hours worked, premium pay for missed breaks, overtime, and double time for
21 all hours worked.

22 41. OnPoint does not provide Aggrieved Employees, including Plaintiff, with full payment
23 of all wages owed at the end of employment. As these workers are owed for off-the-clock work, unpaid
24 overtime, and premium pay when their employment ends, and these amounts remain unpaid under
25 OnPoint's policies and practices, OnPoint fails to pay all wages due upon termination, and further fails
26 to provide final pay within a timely manner, and at times, well over seventy-two (72) hours of
27 separation of employment. As a consequence, OnPoint is subject to waiting time penalties.

28 42. Plaintiff is informed, believes, and thereon alleges that Defendant employs and has

1 employed hundreds of hourly, non-exempt workers similarly situated to Plaintiff in California.

2 43. Plaintiff is informed, believes, and based thereon, alleges that Aggrieved Employees are
3 employed by Defendant in a similar manner throughout the State of California, including in this
4 County, and perform work materially similar to Plaintiff.

5 44. Aggrieved Employees perform their jobs under Defendant's supervision using materials
6 and technology approved and supplied by Defendant.

7 45. Aggrieved Employees are required to follow and abide by Defendant's common work,
8 time, and pay policies and procedures in the performance of their jobs.

9 46. At the end of each pay period, Aggrieved Employees receive wages from Defendant that
10 are determined by common systems and methods that Defendant selects and controls.

11 47. Plaintiff is informed, believes, and thereon alleges that all Aggrieved Employees of
12 Defendant are subject to the same or similar unlawful compensation policies and practices.

13 48. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct
14 has been widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendant's
15 operations in the State of California.

16 **FIRST CAUSE OF ACTION**

17 **Penalties Pursuant to Cal. Lab. Code § 2699(a)**

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

19 49. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
20 herein.

21 50. Cal. Lab. Code § 2699(a) provides:

22 Notwithstanding any other provision of law, any provision of this code that provides
23 for a civil penalty to be assessed and collected by the Labor and Workforce
24 Development Agency or any of its departments, divisions, commissions, boards,
25 agencies, or employees, for a violation of this code, may, as an alternative, be recovered
26 through a civil action brought by an aggrieved employee on behalf of the employee and
27 to other current or former employees against whom a violation of the same provision
28 was committed pursuant to the procedures specified in Section 2699.3.

51. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
Defendant, as alleged above, to pay all wages to Plaintiff and the Aggrieved Employees: (i) in
compliance with Cal. Lab. Code § 204, in the amounts established by Cal. Lab. Code § 210; (ii) in

1 compliance with Cal. Lab. Code §§ 1182.12 and 1197, in the amounts established by Cal. Lab. Code
2 § 1197.1; and (iii) in compliance with Cal. Lab. Code § 510, in the amounts established by Cal. Lab.
3 Code § 558.

4 52. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
5 Defendant, as alleged above, to provide meal and rest periods, or premium wages in lieu, to Plaintiff
6 and the Aggrieved Employees: (i) in compliance with Cal. Lab. Code §§ 226.7 and 512, in the amounts
7 established by Cal. Lab. Code § 558; (ii) or alternatively, in compliance with Cal. Lab. Code § 204, in
8 the amounts established by Cal. Lab. Code § 210.

9 53. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for each failure by
10 Defendant, as alleged above, to provide accurate itemized wage statements, to Plaintiff and the
11 Aggrieved Employees in compliance with Cal. Lab. Code § 226, in the amounts established by Cal.
12 Lab. Code § 226.3. In addition, Plaintiff seeks penalties in the amount established by Cal. Lab. Code
13 § 226(e)(1).

14 54. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on October 24, 2024, Plaintiff
15 provided the Labor and Workforce Development Agency (“LWDA”) with notice of her intention to
16 file this claim. On October 24, 2024, Plaintiff mailed Defendant a copy of such notice via certified
17 mail. At least sixty-five calendar days have passed without response from the LWDA. Plaintiff
18 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.
19 Code § 2699.3(a).

20 55. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
21 Employees, and herself as set forth in Cal. Lab. Code § 2699.

22 56. Plaintiff further seeks injunctive relief pursuant to Cal. Lab. Code §§ 2699(e)(1) and
23 (k)(1).

24 57. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for
25 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees
26 and costs as set forth below.

27 58. Wherefore, Plaintiff requests relief as hereinafter provided.

28 //

1 **SECOND CAUSE OF ACTION**

2 **Penalties Pursuant to Cal. Lab. Code § 2699(f)**

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

4 59. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
5 herein.

6 60. Cal. Lab. Code § 2699(f) provides:

7 For all provisions of this code except those for which a civil penalty is specifically
8 provided, there is established a civil penalty for a violation of these provisions, as
9 follows: . . . (2) If, at the time of the alleged violation, the person employs one or more
10 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee
11 per pay period . . . (B) The civil penalty is two hundred dollars (\$200) for each
12 aggrieved employee per pay period if either of the following are met:(i) Within the five
13 years preceding the alleged violation, the agency or any court issued a finding or
14 determination to the employer that its policy or practice giving rise to the violation was
15 unlawful. (ii) The court determines that the employer's conduct giving rise to the
16 violation was malicious, fraudulent, or oppressive.

17 61. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and
18 Aggrieved Employees for violations of Cal. Lab. Code provisions including, but not limited to, Cal.
19 Lab. Code §§ 201, 202, 203, 226.7, 1174(d), 1198, and 2802.

20 62. Plaintiff also seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and
21 Aggrieved Employees for violations of Cal. Lab. Code provisions §§ 204, 226, 226.8, 510, 512,
22 1182.12, 1197, 1198, and any other violation alleged herein on an alternate theory to the extent the
23 violation is determined not to carry penalties under Cal. Lab. Code § 2699(a).

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

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

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

66. Cal. Lab. Code § 510 provides, in relevant part:

1 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one
2 workday and any work in excess of 40 hours in any one workweek and the first eight
3 hours worked on the seventh day of work in any one workweek shall be compensated
4 at the rate of no less than one and one-half times the regular rate of pay for an employee.
5 Any work in excess of 12 hours in one day shall be compensated at the rate of no less
6 than twice the regular rate of pay for an employee. In addition, any work in excess of
7 eight hours on any seventh day of a workweek shall be compensated at the rate of no
8 less than twice the regular rate of pay of an employee. Nothing in this section requires
9 an employer to combine more than one rate of overtime compensation in order to
10 calculate the amount to be paid to an employee for any hour of overtime work.

11 67. Cal. Lab. Code § 1194 provides, in relevant part:

12 Notwithstanding any agreement to work for a lesser wage, any employee receiving less
13 than the legal minimum wage or the legal overtime compensation applicable to the
14 employee is entitled to recover in a civil action the unpaid balance of the full amount
15 of this minimum wage or overtime compensation, including interest thereon,
16 reasonable attorney's fees, and costs of suit.

17 68. Defendant's policies and practices result in payment of wage and overtime violations.

18 69. Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 16-2001 require Defendants to
19 authorize, permit, and/or make available timely and compliant meal and rest periods to its employees.
20 Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 16-2001 prohibit employers from employing
21 an employee for more than five (5) hours without a meal period of not less than thirty (30) minutes,
22 and from employing an employee more than ten (10) hours per day without providing the employee
23 with a second meal period of not less than thirty (30) minutes. Unless the employee is relieved of all
24 duty during the thirty-minute meal period and ten-minute rest period, the employee is considered "on
25 duty" and the meal period is counted as time worked under the applicable wage orders.

26 70. Cal. Lab. Code § 226.7 requires Defendants to pay employees one (1) additional hour
27 of pay at their regular rate of compensation for each workday that a timely, compliant meal or rest
28 period is not provided.

71. Defendant's policies and practices result in meal and rest periods violations and
Defendant's failure to pay proper premium payments for non-compliant meal breaks and rest breaks.

72. Cal. Lab. Code § 204(a) provides that "[a]ll wages ... earned by any person in any
employment are due and payable twice during each calendar month...."

73. IWC Wage Order 16-2001(2)(J) defines hours worked as "the time during which an
employee is subject to the control of an employer and includes all the time the employee is suffered

1 or permitted to work, whether or not required to do so.”

2 74. Defendant’s policies and practices result in failure to pay all wages and to pay wages,
3 including overtime, and meal and rest period premiums, timely under the timeframes set forth in
4 Section 204.

5 75. To the extent than any violation alleged herein does not carry penalties under Cal. Lab.
6 Code § 2699(a), or as an alternate theory as appropriate and/or necessary, Plaintiff seeks civil penalties
7 pursuant to Cal. Lab. Code § 2699(f) for each pay period in which Plaintiff and an Aggrieved
8 Employee was aggrieved, in the amounts established by Cal. Lab. Code § 2699(f). Plaintiff seeks
9 penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and Aggrieved Employees for violations
10 of Cal. Lab. Code provisions including, but not limited to, Cal. Lab. Code §§ 204, 226.7, 510, 512,
11 1194, 1198; IWC Wage Order 16-2001; and any other violation alleged herein which does not carry
12 penalties under Cal. Lab. Code § 2699(a).

13 76. Pursuant to Cal. Lab. Code §§ 2699.3(a)(1) and (2), on October 24, 2024, Plaintiff
14 provided the Labor and Workforce Development Agency (“LWDA”) with notice of her intention to
15 file this claim. On October 24, 2024, Plaintiff mailed Defendant a copy of such notice via certified
16 mail. At least sixty-five (65) calendar days have passed without response from the LWDA. Plaintiff
17 satisfied the administrative prerequisites to commence this civil action in compliance with Cal. Lab.
18 Code § 2699.3(a).

19 77. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
20 Employees, and herself as set forth in Cal. Lab. Code § 2699(g)(1).

21 78. Plaintiff further seeks injunctive relief pursuant to Cal. Lab. Code §§ 2699(e)(1) and
22 (k)(1).

23 79. Defendant is liable to Plaintiff, Aggrieved Employees, and the State of California for
24 the civil penalties set forth in this Complaint. Plaintiff is also entitled to an award of attorneys’ fees
25 and costs as set forth below.

26 80. Wherefore, Plaintiff requests relief as hereinafter provided.

27 **PRAYER FOR RELIEF**

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

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1. For the Court to declare, adjudge, and decree that Defendant has violated the Cal. Lab. Code as alleged herein;
2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided under the PAGA;
3. For injunctive relief, prohibiting Defendant from continuing its policies and practices determined to be violations of the Cal. Lab. Code;
4. For an award of reasonable attorneys’ fees as provided by the Cal. Lab. Code §§ 2699(g)(1), 2699(k)(1); Cal. Code Civ. Proc. § 1021.5; and/or any other applicable law;
5. For all costs of suit; and
6. For such other and further relief as this Court deems just and proper.

Date: March 20, 2025

Respectfully Submitted,



Carolyn H. Cottrell
Ori Edelstein
Michelle Lim
**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: March 20, 2025



Carolyn H. Cottrell
Ori Edelstein
Michelle Lim
**SCHNEIDER WALLACE
COTTRELL KONECKY LLP**

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