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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

GERALD HARRINGTON, on behalf of the
State of California and all Aggrieved
Employees,

Plaintiff,

v.

KZ KITCHEN CABINET & STONE, INC.,
a California Corporation; REAL TIME
STAFFING SERVICES, LLC, a California
Limited Liability Company;
EMPLOYBRIDGE, LLC, a California
Limited Liability Company; and DOES 1-
100, inclusive,

Defendants.

Case No.: 24CV454847

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

1 Plaintiff, GERALD HARRINGTON, (“PLAINTIFF”), on behalf of the State of California
2 and all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 KZ KITCHEN CABINET & STONE, INC., a California Corporation; REAL TIME STAFFING
4 SERVICES, LLC, a California Limited Liability Company; EMPLOYBRIDGE, LLC, a California
5 Limited Liability Company; and DOES 1-100, inclusive, (collectively referred to herein as
6 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

7 **INTRODUCTION**

8 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
9 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
10 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
11 for DEFENDANTS’ violations of the California Labor Code as alleged below.

12 **JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
14 California statutes, including but not limited to the PAGA, and decisional law and regulations.

15 3. Venue is proper in this judicial district and the County of Santa Clara pursuant to
16 California Code of Civil Procedure section 395.5 because DEFENDANTS assigned PLAINTIFF to
17 work in this judicial district, DEFENDANTS transact business within this judicial district, and
18 conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
19 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
20 proper in any county where the defendants committed Labor Code violations against some of its
21 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
22 because the cause, or some part of the cause, arose in the County of Santa Clara.

23 **THE PARTIES**

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

26 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
27 title(s) of warehouse associate, warehouse worker and/or a similar title(s) and/or job position(s)
28 during the relevant period. PLAINTIFF was staffed by REAL TIME STAFFING SERVICES, LLC,

1 and/or EMPLOYBRIDGE, LLC to work at, including but not limited to, KZ KITCHEN CABINET
2 & STONE, INC.'s warehouses distribution center(s), warehouse manufacturing and/or distribution
3 center(s), facilities and/or other location(s) in Hayward, San Jose, and Milpitas, California.
4 DEFENDANTS assigned PLAINTIFF to work for KZ KITCHEN CABINET & STONE, INC.'s
5 facilities/offices/location(s) in Hayward, San Jose, and Milpitas, California, from in or around early
6 August 2023, through in or around December 2023.

7 6. Defendant KZ KITCHEN CABINET & STONE, INC. (hereinafter "KZ Kitchen")
8 is a California Corporation that, at all relevant times, was authorized to do business within the State
9 of California and is doing business in the State of California.

10 7. Defendant REAL TIME STAFFING SERVICES, LLC, is a California Limited
11 Liability Company that, at all relevant times, was authorized to do business within the State of
12 California and is doing business in the State of California.

13 8. Defendant EMPLOYBRIDGE, LLC is a California Limited Liability Company that,
14 at all relevant times, was authorized to do business within the State of California and is doing
15 business in the State of California.

16 9. Defendant REAL TIME STAFFING SERVICES, LLC and Defendant
17 EMPLOYBRIDGE, LLC (hereinafter collectively referred to as "Select Staffing") operate a staffing
18 business.¹

19 10. DEFENDANTS own, operate, manage and/or staff its employees to work at the
20 warehouse distribution centers, warehouses, manufacturing and/or distribution centers, facilities
21 and/or other location(s) in California, including but not limited to, the warehouse distribution
22 centers, warehouses, manufacturing and/or distribution centers, facilities and/or other locations in
23 including but not limited to, Hayward, San Jose, Milpitas, and other cities in California.
24 DEFENDANTS, through its various locations, serve the manufacturing and/or warehousing
25 industry. Defendant KZ Kitchen specializes in including but not limited to the manufacture, retail
26 and/or wholesale of cabinets, stone and/or related materials/products.²

27 _____
¹ See <https://www.select.com/>. Last visited on December 21, 2024.

28 ² See <https://www.kzkitchen.com/California>. Last visited on December 21, 2024.

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

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

JOINT LIABILITY

13. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control was to reach situations in which multiple entities control different aspects of the employment relationship. Supervision of the work, in the specific sense of exercising control over how services are properly performed, is properly viewed as one of the “working conditions” mentioned in the wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a temporary employment agency) hires and pays a worker, and the other entity supervises the work. *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in

1 California, applying a less stringent standard to what constitutes sufficient control by a business
2 over its vendor's employees' wages and working conditions to render that business liable as a joint
3 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); "[i]f the putative
4 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
5 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
6 employment," *Id.* at 875 [emphasis added].

7 14. During PLAINTIFF's employment by DEFENDANTS, PLAINTIFF and other
8 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
9 the Wage Orders, under the alternative definitions of "to employ" adopted by the California
10 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
11 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
12 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
13 and Aggrieved Employees to work for them.

14 15. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
15 Defendant REAL TIME STAFFING SERVICES, LLC and Defendant EMPLOYBRIDGE, LLC
16 operated as a single integrated enterprise with common ownership and centralized human resources.
17 As a result, Defendant REAL TIME STAFFING SERVICES, LLC and Defendant
18 EMPLOYBRIDGE, LLC utilized the same unlawful policies and practices across all of their
19 locations/facilities and subjected all of the Aggrieved Employees to these same policies and
20 practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
21 informed and believes that: (1) there is common ownership in, and financial control, in Defendant
22 REAL TIME STAFFING SERVICES, LLC and Defendant EMPLOYBRIDGE, LLC's companies,
23 (2) Defendant REAL TIME STAFFING SERVICES, LLC and Defendant EMPLOYBRIDGE, LLC
24 utilize common management, who have control over the day-to-day operations and employment
25 matters, including the power to hire and fire, set schedules, issue employee policies, and determine
26 rates of compensation across its locations in California; (3) Defendant REAL TIME STAFFING
27 SERVICES, LLC and Defendant EMPLOYBRIDGE, LLC utilize the same policies and procedures
28 for all California employees, including issuing the same employee handbooks and other form

1 agreements; (4) Defendant REAL TIME STAFFING SERVICES, LLC and Defendant
2 EMPLOYBRIDGE, LLC use at least some of the same Human Resources personnel and attorneys
3 to oversee employment matters; and, (6) Defendant REAL TIME STAFFING SERVICES, LLC
4 and Defendant EMPLOYBRIDGE, LLC share employees.

5 16. For example, wage statements issued to PLAINTIFF identify “Real Time Staffing
6 Services, LLC” as the name of the legal entity that is PLAINTIFF’s employer. However, many
7 documents in PLAINTIFF’s personnel file, including without limitation, employee handbook
8 acknowledgment(s), employee background check documents, employee policy documents and/or
9 other employment-related documents all identify “Employbridge, LLC” and/or “EmployBridge” as
10 the name of PLAINTIFF’s employment.

11 17. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
12 to this Complaint, DEFENDANTS, and each of them, were the joint employers of PLAINTIFF and
13 Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and cause of action,
14 in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
15 Employees’ wages, hours and working conditions, and/or suffered or permitted them to work so as
16 to be considered the joint employers of PLAINTIFF and Aggrieved Employees.

17 18. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
18 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
19 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
20 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
21 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
22 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
23 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
24 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF’s
25 and other Aggrieved Employees’ employment with or without cause. Upon information and belief,
26 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
27 writing the details of their compensation, and the manner in which they were to take meal and rest
28 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked

1 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
2 collectively would evaluate their wage rates.

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

8 20. Moreover, based on information and belief, Select Staffing hired PLAINTIFF and
9 entered into a written employment agreement with PLAINTIFF. During PLAINTIFF's employment,
10 Select Staffing maintained control over many aspects of PLAINTIFF's employment, including,
11 among other things, having the authority to discipline PLAINTIFF, change PLAINTIFF's job
12 assignment, change PLAINTIFF's work hours, change PLAINTIFF's rates of pay, and to terminate
13 PLAINTIFF's employment.

14 21. Based on information and belief, when PLAINTIFF was first hired, Select Staffing
15 provided PLAINTIFF with orientation and training materials. Select Staffing issued PLAINTIFF
16 written policies concerning meal periods, rest breaks, timekeeping, hours worked, and payment of
17 PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on information and
18 belief, among other things, these policies provided that PLAINTIFF's weekly time records be
19 submitted to Select Staffing, and Select Staffing was supposed to process PLAINTIFF's time records
20 and pay PLAINTIFF for all hours worked. Select Staffing exercised ultimate control over the
21 payment of PLAINTIFF's wages, as Select Staffing issued PLAINTIFF his paychecks. Finally,
22 Select Staffing directed PLAINTIFF to comply with KZ Kitchen's policies and directions.
23 PLAINTIFF is informed and believes that Select Staffing exercised the same control over, applied
24 the same policies and practices, and engaged in the same acts and omissions with regard to the other
25 Aggrieved Employees.

26 22. KZ Kitchen ("KZ Kitchen") similarly suffered or permitted PLAINTIFF to work for
27 them or engaged PLAINTIFF to work for them. PLAINTIFF is informed and believes that KZ
28 Kitchen entered into a written agreement with Select Staffing, pursuant to which KZ Kitchen paid

1 Select Staffing to provide it with workers, including PLAINTIFF, to conduct KZ Kitchen's business
2 operations – namely, to work in KZ Kitchen's offices, centers and/or other facilities and/or other
3 location(s). KZ Kitchen suffered or permitted PLAINTIFF to work at KZ Kitchen for the entirety
4 of PLAINTIFF's employment.

5 23. KZ Kitchen further exercised control over PLAINTIFF's wages, hours and working
6 conditions. KZ Kitchen also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
7 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
8 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
9 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
10 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)
11 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
12 employment; (7) required PLAINTIFF to record hours worked using KZ Kitchen's timekeeping
13 system; (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks;
14 (9) subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was
15 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief, KZ
16 Kitchen issued further written policies and practices and guidelines governing PLAINTIFF's
17 working conditions with which PLAINTIFF was required to comply.

18 24. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
19 control over, applied the same policies and practices, and engaged in the same acts and omissions
20 with regard to all other Aggrieved Employees.

21 25. PLAINTIFF is informed and believes and thereon alleges that DEEFENDANTS
22 must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties
23 under PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
24 services from which DEFENDANTS benefited, and furthermore that the aforementioned entities
25 had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at
26 all relevant times herein, so as to be considered the joint employers of PLAINTIFF.

27 26. By reason of their status as joint employers of PLAINTIFF and Aggrieved
28 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor

1 Code and applicable Wage Orders as to all Aggrieved Employees.

2 27. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
3 control over, applied the same policies and practices, and engaged in the same acts and omissions
4 with regard to the other Aggrieved Employees.

5 28. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
6 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
7 PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
8 services from which they benefited, and furthermore that the aforementioned entities had the right
9 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
10 times herein, so as to be considered the joint employers of PLAINTIFF.

11 29. By reason of their status as joint employers of PLAINTIFF and Aggrieved
12 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
13 Code and applicable Wage Orders as to all Aggrieved Employees.

14 **LIABILITY UNDER CALIFORNIA LABOR CODE SECTION 2810.3**

15 30. California Labor Code section 2810.3(b)(1) provides in pertinent part that “a client
16 employer shall share with the labor contractor” all civil liability for the payment of wages to the
17 workers supplied by the labor contractor.

18 31. Select Staffing is a “labor contractor” in that it supplies KZ Kitchen with workers to
19 perform labor within KZ Kitchen’s usual course of business. Lab. Code § 2810.3(a)(3).

20 32. KZ Kitchen is a “client employer” in that it is a business entity that “obtains or is
21 provided workers to perform labor within its usual course of business” from labor contractor Select
22 Staffing. Lab. Code § 2810.3(a)(1)(A). Moreover, KZ Kitchen has a workforce of more than twenty-
23 five workers and is supplied with at least five (5) workers from a labor contractor at any given time.
24 Lab. Code § 2810.3(a)(1)(B).

25 33. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
26 of wages to all workers supplied to KZ Kitchen by Select Staffing.

27 34. PLAINTIFF complied with all administrative requirements by providing notice by
28 certified mail of the claims alleged herein to KZ Kitchen. Lab. Code § 2810.3(d).

35. Any reference herein to any alleged act or omission by any DEFENDANT shall be deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly and severally.

PAGA ALLEGATIONS

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

- i. All non-exempt workers who were directly employed by Defendant REAL TIME STAFFING SERVICES, LLC and/or Defendant EMPLOYBRIDGE, LLC – regardless of where those non-exempt workers were assigned or staffed to work – in California at any time from one year plus 65 days from the filing of the initial Complaint through the present (“PAGA Period”).
- ii. All non-exempt workers who were assigned/staffed to work at any KZ Kitchen location in California, by Defendant REAL TIME STAFFING SERVICES, LLC and/or Defendant EMPLOYBRIDGE, LLC and/or any other staffing/temporary service agencies, at any time during the PAGA Period.
- iii. All non-exempt workers who were directly employed by KZ Kitchen at any location in California at any time during the PAGA Period.

37. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory limitations period and personally suffered each of the Labor Code violations set forth herein. Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS

38. PLAINTIFF, on October 18, 2024, through counsel, gave written notice by online filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged

1 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
2 certified mail.

3 39. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
4 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
5 Employees.

6 40. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
7 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
8 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
9 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
10 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

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

14
15 **FACTUAL ALLEGATIONS**

16 42. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
17 worked for DEFENDANTS in the State of California. At all times referenced herein,
18 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
19 permitted them to work.

20 43. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
21 title(s) of warehouse associate, warehouse worker and/or a similar title(s) and/or job position(s)
22 during the relevant period.

23 44. PLAINTIFF was staffed by Select Staffing to work at, including but not limited to,
24 KZ Kitchen’s warehouses distribution center(s), warehouse manufacturing and/or distribution
25 center(s), facilities and/or other location(s) in Hayward, San Jose, and Milpitas, California.

26 45. DEFENDANTS assigned PLAINTIFF to work for KZ Kitchen’s
27 facilities/offices/location(s) in Hayward, San Jose, and Milpitas, California, from in or around early
28 August 2023, through in or around December 2023.

1 46. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
2 hourly basis for time counted by DEFENDANTS as hours worked.

3 47. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
4 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
5 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
6 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
7 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
8 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
9 below.

10 48. Based on information and belief, DEFENDANTS implemented a policy and/or
11 practice of rounding meal period start and end times and/or automatically deducting at least thirty
12 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
13 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
14 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
15 PLAINTIFF and Aggrieved Employees of all wages owed.

16 49. Based on information and belief, Aggrieved Employees were not paid for all hours
17 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
18 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
19 the clock work policies and/or practices.

20 50. For example, DEFENDANTS' time records for PLAINTIFF for 2023 consistently
21 show the same precise shift start time of 8:30 a.m. and same precise shift end time of 5:00 p.m.,
22 6:45 p.m. and/or 7:00 p.m. For example, DEFENDANTS' time records/written timesheet(s) for
23 PLAINTIFF for including but not limited to the following dates: October 23, 2023, through and
24 including October 27, 2023, show the same precise shift start time of 8:30 a.m. and same precise
25 shift end time of 5:00 p.m., 6:45 p.m. and/or 7:00 p.m.

26 51. Also, DEFENDANTS' wage statements for PLAINTIFF for including, but not
27 limited to, the following pay periods demonstrate DEFENDANTS rounded PLAINTIFF's total
28 hours worked to at least the nearest quarter, half, and/or whole hour, during most, if not all pay

1 periods during PLAINTIFF's employment with DEFENDANTS, which resulted in
2 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
3 wages owed to PLAINTIFF: pay period beginning on October 16, 2023, and ending on October 22,
4 2023, showing precisely 40.00 regular hours worked and precisely .75 overtime hours worked; pay
5 period beginning on October 23, 2023, and ending on October 29, 2023, showing precisely 40.00
6 regular hours worked and precisely 3.75 overtime hours worked; pay period beginning on October
7 30, 2023, and ending on November 5, 2023, showing precisely 40.00 regular hours and exactly 3.50
8 overtime hours worked; and pay period beginning on November 6, 2023, and ending on November
9 12, 2023, showing exactly 16.00 regular hours and precisely 4.00 overtime hours worked.

10 52. Based on information and belief, DEFENDANTS also rounded other Aggrieved
11 Employees' total hours worked to at least the nearest quarter, half and/or whole hour during many,
12 if not all pay periods, during their respective employments, resulting in DEFENDANTS' failure to
13 compensate Aggrieved Employees for all hours worked and the underpayment of wages owed to
14 Aggrieved Employees.

15 53. Based on information and belief, DEFENDANTS instructed Aggrieved Employees
16 to record that they started working at precisely their scheduled shift start times and stopped working
17 each day at precisely their scheduled shift end time(s) and/or to round their recorded total hours
18 worked, which did not account for pre-shift and/or post-shift off-the-clock work, which was
19 unrecorded and uncompensated.

20 54. For example, DEFENDANTS required PLAINTIFF to complete off-the-clock work
21 outside of scheduled shifts due to including but not limited to, work-related phone calls and/or
22 messages PLAINTIFF received to PLAINTIFF's phone(s) and/or personal device(s) and was
23 required to respond to, including but not limited to, communications from supervisors regarding
24 scheduling and/or other work tasks, resulting in DEFENDANTS' failure to compensate PLAINTIFF
25 for all hours worked and the underpayment of wages owed to PLAINTIFF.

26 55. Based on information and belief, DEFENDANTS also required other Aggrieved
27 Employees to make and/or respond to work-related communications and/or complete other off-the-
28 clock work tasks outside of their scheduled shift times, resulting in DEFENDANTS' failure to

1 compensate Aggrieved Employees for all hours worked and the underpayment of wages owed to
2 Aggrieved Employees.

3 56. Based on information and belief, at times, PLAINTIFF and other Aggrieved
4 Employees were pressured to complete work tasks off-the-clock, such as but not limited to,
5 gathering/returning work-related equipment/safety gear, make any necessary adjustments to
6 tools/equipment/their assigned vehicles, perform maintenance/cleaning tasks, donning/doffing work
7 clothing/uniforms/protective equipment, make/respond to work-related communications and/or
8 complete other work tasks off-the-clock, however, DEFENDANTS failed to compensate
9 PLAINTIFF and other Aggrieved Employees for all time spent completing these/other work-related
10 tasks, resulting in DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved
11 Employees for all hours worked and the underpayment of wages owed to PLAINTIFF and other
12 Aggrieved Employees.

13 57. Based on information and belief, DEFENDANTS failed to pay Aggrieved
14 Employees for time they were required to spend completing orientation, policy questionnaires,
15 and/or time spent completing the onboarding process including but not limited to reviewing various
16 documents and policies provided by DEFENDANTS. Based on information and belief, this work
17 time was completed off-the-clock and was not compensated.

18 58. Based on information and belief, DEFENDANTS implemented a time-rounding
19 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
20 compensable time because the time-rounding system implemented by DEFENDANTS would
21 almost always, if not always, result in understating actual compensable work time.

22 59. For example, as explained herein, based on information and belief, DEFENDANTS'
23 wage statements and/or time records for PLAINTIFF and other Aggrieved Employees demonstrate
24 DEFENDANTS implemented a time-rounded system that rounded PLAINTIFF's and other
25 Aggrieved Employees' total hours worked to at least the nearest quarter, half and/or whole hour
26 during many if not all pay periods during their respective employments, which resulted in
27 DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved Employees for all hours
28 worked and the underpayment of wages owed to PLAINTIFF and other Aggrieved Employees.

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

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

12 62. For example, as explained herein, DEFENDANTS issued wage statements to
13 PLAINTIFF that demonstrate DEFENDANTS rounded PLAINTIFF's total hours worked to at least
14 the nearest quarter, half and/or whole hour during most, if not all pay periods during PLAINTIFF's
15 employment, resulting in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked
16 and the underpayment of wages owed to PLAINTIFF.

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

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

24 65. Based on information and belief, DEFENDANTS calculated the owed overtime
25 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
26 based on the minimum wage established for the cities and/or counties within which Aggrieved
27 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
28 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates

1 above the California minimum wage rate.

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

7 67. For example, based on information and belief, at times, Aggrieved Employees earned
8 shift differential pay, non-discretionary bonuses/incentive pay and/or other non-discretionary
9 compensation during pay periods in which they worked overtime, yet DEFENDANTS failed to
10 incorporate all non-discretionary compensation into the regular rate(s) used to calculate the owed
11 overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to
12 Aggrieved Employees.

13 68. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
14 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
15 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
16 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
17 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
18 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
19 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
20 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
21 completely.

22 69. For example, based on information and belief, at times, PLAINTIFF and other
23 Aggrieved Employees were forced to skip their meal periods completely in order to complete
24 assigned job duties, take interrupted, late/shortened meal periods and/or remain on-duty during
25 unpaid meal periods due to the need to continue assigned job duties, resulting in denied meal periods
26 and DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved Employees for all
27 hours worked and the underpayment of wages owed to PLAINTIFF and other Aggrieved
28 Employees.

1 70. Also, based on information and belief, at times PLAINTIFF and other Aggrieved
2 Employees were forced to take late meal periods (i.e. after working five (5) hours or more) due to
3 including but not limited to, the need to continue completing assigned job duties. Based on
4 information and belief, DEFENDANTS also required PLAINTIFF and other Aggrieved Employees
5 to record that they had taken at least a thirty-minute meal period and/or would unlawfully edit the
6 clock in and out times for PLAINTIFF's and other Aggrieved Employees' meal periods in order to
7 display at least a thirty minute off-duty meal period during most if not all shifts worked,
8 notwithstanding the fact that DEFENDANTS had actual and/or constructive knowledge that at times
9 PLAINTIFF and other Aggrieved Employees were required to take shortened, interrupted and/or
10 remain on duty during part or all of their meal periods.

11 71. Based on information and belief, at times, DEFENDANTS failed to provide
12 PLAINTIFF with any mechanism with which to record the true start and end times of any meal
13 periods, nor did DEFENDANTS record the true start or end times of any meal periods. For example,
14 DEFENDANTS' time records for PLAINTIFF for including, but not limited to, the following dates
15 do not show the recordation of any meal periods: October 23, 2023, October 24, 2023, October 25,
16 2023, October 26, 2023, and October 27, 2023. For example, DEFENDANTS' time records for
17 PLAINTIFF for October 23, 2023, show a precise shift start time of 8:30 and a precise shift end
18 time of 7:00, with no indication/recordation of any meal period. Similarly, DEFENDANTS' time
19 records for PLAINTIFF for including but not limited to October 24, 2023, through October 27,
20 2023, show a precise shift start time of 8:30 with a purported precise shift end time of 5:00 or 6:45,
21 with no indication/recordation of any meal period taken.

22 72. Based on information and belief, other Aggrieved Employees were consistently
23 suffered or permitted to take meal periods past the fifth hour of work and/or had their meal periods
24 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
25 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
26 expectations.

27 73. Based on information and belief, DEFENDANTS implemented policies and/or
28 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control

1 during unpaid meal periods.

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

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

12 76. Moreover, based on information and belief, Aggrieved Employees who worked shifts
13 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

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

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

24 79. Based on information and belief, DEFENDANTS had actual and/or constructive
25 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
26 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
27 violation of California's meal period laws.

28 80. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an

1 additional hour of wages at their respective regular rates of compensation for each workday a lawful
2 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
3 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
4 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
5 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
6 compensation for purposes of calculating the owed meal period premium.

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

11 **82.** PLAINTIFF and other Aggrieved Employees were not adequately informed,
12 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
13 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
14 the taking or timing of duty-free rest periods.

15 **83.** Based on information and belief, DEFENDANTS did not have a have a compliant
16 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
17 practice.

18 **84.** For example, based on information and belief, PLAINTIFF and other Aggrieved
19 Employees were often unable to take compliant rest periods due to their need to complete assigned
20 job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had
21 purported rest periods restricted to DEFENDANTS' premises/their workstations.

22 **85.** For example, PLAINTIFF was at times and/or typically required to work through
23 PLAINTIFF's rest periods due to the need to complete assigned job duties.

24 **86.** Based on information and belief, DEFENDANTS failed to authorize and permit rest
25 periods that were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods
26 were provided, DEFENDANTS limited PLAINTIFF and other Aggrieved Employees to only ten-
27 minute rest periods, requiring them to be back at their workstations within ten minutes of leaving
28 their work stations, in violation of California rest period law.

1 87. Based on information and belief, DEFENDANTS did not pay PLAINTIFF any rest
2 period premiums during PLAINTIFF's employment despite DEFENDANTS having actual and/or
3 constructive knowledge that PLAINTIFF was at times and/or typically not relieved of all duties and
4 DEFENDANTS' control during purported rest periods, in violation of California rest period law.

5 88. Based on information and belief, any purported rest periods were interrupted, cut
6 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
7 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
8 completely and/or take non-compliant rest periods.

9 89. Moreover, based on information and belief, DEFENDANTS failed to provide any
10 form of a third rest period on shifts lasting longer than ten hours.

11 90. Based on information and belief, DEFENDANTS implemented policies and/or
12 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
13 DEFENDANTS' control during rest periods.

14 91. For example, based on information and belief, Aggrieved Employees were restricted
15 to the worksite premises and/or were required to monitor work communication devices and/or
16 respond to work communications during purportedly off-duty rest periods, and as such, were not
17 relieved of all duties and DEFENDANTS' control during any rest periods, in violation of California
18 rest period law.

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

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

1 94. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
2 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
3 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
4 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
5 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
6 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
7 applicable hourly rates in effect during the pay period and the corresponding number of hours
8 worked at each hourly rate by the employee.

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

17 96. Based on information and belief, DEFENDANTS issued wage statements to
18 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
19 226(a)(4).

20 97. For example, as described herein, DEFENDANTS regularly failed to reimburse
21 PLAINTIFF for business expenses, including but not limited to, for cell phone/data usage each pay
22 period, thereby deducting business costs from PLAINTIFF's earned wages each pay period, in
23 violation of including but not limited to, Labor Code Section 221, and further failing to itemize these
24 deductions for business costs, on PLAINTIFF's wage statements. As such, DEFENDANTS issued
25 wage statements to PLAINTIFF that failed to accurately list all deductions, in violation of Labor
26 Code section 226(a)(4).

27 98. Moreover, based on information and belief, DEFENDANTS issued wage statements
28 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among

1 other things, failing to list the correct name and/or address of the legal entity that is the employer,
2 in violation of Labor Code section 226(a)(8).

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

7 100. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
8 not include all of the statutorily required information, including but not limited to, the correct name
9 and/or address of the legal entity that is the employer.

10 101. Based on further information and belief, DEFENDANTS issued wage statements to
11 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential
12 wages were paid in violation of Labor Code section 226.

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

16 103. **Violation of Labor Code Section 212 and 213.** Based on information and belief,
17 DEFENDANTS required Aggrieved Employees to be paid their paychecks via money/pay card
18 despite not getting their authorization to be paid by money card in violation of Labor Code Sections
19 212 and/or 213. Based on information and belief, at times Aggrieved Employees did not receive
20 wage statements, nor did they have online access to same. Moreover, based on information and
21 belief, the money cards required Aggrieved Employees to incur fees in violation of including but
22 not limited to, Labor Code Section 212. Furthermore, Aggrieved Employees were improperly
23 required to incur business expenses that are supposed to be the responsibility of the employer,
24 including but not limited to, fees incurred in connection with the money cards, in violation of
25 including but not limited to, Labor Code Sections 2802, 221 and/or 222.

26 104. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
27 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
28 to said employee." Based on information and belief DEFENDANTS made unlawful deductions

1 from Aggrieved Employees paychecks during the relevant period including without limitation,
2 deducting business costs, including without limitation, expenses/costs for data usage/ the cost of cell
3 phone use/other business expenses as described herein.

4 105. For example, DEFENDANTS regularly failed to reimburse PLAINTIFF for business
5 expenses, including but not limited to, for cell phone/data usage each pay period, thereby deducting
6 business costs from PLAINTIFF's earned wages each pay period, in violation of including but not
7 limited to, Labor Code Section 221

8 106. Moreover, based on information and belief, DEFENDANTS made additional
9 unlawful deductions from PLAINTIFF's and other Aggrieved Employees' earned wages, such as,
10 but not limited to, unlawful deductions for transaction fees/pay/money card fees and/or unlawful
11 deductions for health insurance and/or other health plans/deductions unauthorized by law and/or
12 made without obtaining PLAINTIFF's and other Aggrieved Employees' written consent.

13 107. For example, based on information and belief, DEFENDANTS made unlawful
14 deductions from PLAINTIFF's earned wages for a health insurance plan without obtaining
15 PLAINTIFF's written consent to make those deductions.

16 108. Such a practice is in violation of including but not limited to, Labor Code Sections
17 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

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

26 110. DEFENDANTS have failed and continue to fail to keep accurate and complete
27 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
28 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and

1 employer control during unpaid meal periods, failure to record the true start and end times of meal
2 periods, shift start times and shift end times, and other off-the-clock work policies and practices
3 described herein.

4 111. For example, as described herein, based on information and belief, DEFENDANTS
5 unlawfully edited time records to reflect scheduled shift start and end times rather than actual hours
6 worked and/or instructed PLAINTIFF and other Aggrieved Employees to record their scheduled
7 shift start time and end times and/or to round their recorded hours worked regardless of when
8 PLAINTIFF and other Aggrieved Employees actually started and stopped working on those days,
9 which resulted in off-the-clock work and the underpayment of wages owed to PLAINTIFF and other
10 Aggrieved Employees.

11 112. For example, DEFENDANTS' time records for PLAINTIFF for including but not
12 limited to the following dates evidence payment according to scheduled hours worked rather than
13 actual hours worked and/or the rounding of PLAINTIFF's total hours worked to at least the nearest
14 quarter, half and/or whole hour: October 23, 2023, through and including October 27, 2023.
15 Moreover, DEFENDANTS' issued wage statements for PLAINTIFF for including, but not limited
16 to, the following pay periods demonstrate DEFENDANTS rounded PLAINTIFF's total hours
17 worked to at least the nearest quarter, half, and/or whole hour: pay period beginning on October 16,
18 2023, and ending on October 22, 2023, showing precisely 40.00 regular hours worked and precisely
19 .75 overtime hours worked; pay period beginning on October 23, 2023, and ending on October 29,
20 2023, showing precisely 40.00 regular hours worked and precisely 3.75 overtime hours worked; pay
21 period beginning on October 30, 2023, and ending on November 5, 2023, showing precisely 40.00
22 regular hours and exactly 3.50 overtime hours worked; and pay period beginning on November 6,
23 2023, and ending on November 12, 2023, showing exactly 16.00 regular hours and precisely 4.00
24 overtime hours worked. By failing to record the true start and end times of PLAINTIFF's and other
25 Aggrieved Employees' shifts, DEFENDANTS failed to keep accurate records and issue accurate
26 wage statements.

27 113. **Unreimbursed Business Expenses.** Based on information and belief,
28 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses

1 as a direct consequence of the performance of their job duties without providing reimbursement, in
2 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
3 Aggrieved Employees were improperly required to provide and maintain work tools that are
4 supposed to be the responsibility of the employer.

5 114. Based on information and belief, DEFENDANTS shifted the costs of doing business
6 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
7 to, uniforms/work clothing/work shoes/personal protective/safety gear/hand tools/equipment and/or
8 the use of Aggrieved Employees' personal cell phones/mobile devices, internet and/or data usage
9 for work-related purposes.

10 115. For example, based on information and belief, at times, Aggrieved Employees were
11 required to receive and respond to work-related calls and/or messages on their personal cell phones
12 / mobile devices from including but not limited to supervisors and/or other employees regarding
13 scheduling and/or other work tasks and/or were required to download and use work-related
14 applications on their personal cell phones/mobile devices but were not reimbursed by
15 DEFENDANTS at all and/or in full for these business expenses.

16 116. For example, PLAINTIFF was required to receive and respond to work-related calls
17 and/or messages on PLAINTIFF's personal cell phone / personal device(s) from including but not
18 limited to, supervisors and/or other employees regarding scheduling and/or other work tasks,
19 however, DEFENDANTS did not reimburse PLAINTIFF at all and/or in full for these business
20 expenses PLAINTIFF incurred in connection with being required to use PLAINTIFF's cell phone /
21 personal device(s) to carry out PLAINTIFF's assigned job duties, including but not limited to,
22 increased data plan charges.

23 117. As explained above, based on information and belief, Aggrieved Employees were
24 not reimbursed for the cost of using personal phone(s)/mobile device(s) for work-related purposes
25 and/or the cost of purchasing and/or maintaining uniforms/work clothing/work shoes, hand
26 tools/work equipment.

27 118. Based on information and belief, Aggrieved Employees were improperly required to
28 pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

1 119. Based on information and belief, DEFENDANTS regularly failed to reimburse and
2 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
3 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
4 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
5 assigned by DEFENDANTS.

6 120. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
7 for all reasonable expenses associated with carrying out their duties required that Aggrieved
8 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
9 2802.

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

20 122. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
21 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
22 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
23 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
24 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
25 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
26 used sick leave and the balance of paid sick leave.

27 123. Based on information and belief, throughout the relevant time period,
28 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and

1 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
2 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
3 prior to their respective separations, for as on several occasions thereafter, he or she would have
4 been entitled to use the banked sick leave and earn appropriate compensation.

5 124. Upon information and belief, DEFENDANTS failed and continue to fail to comply
6 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
7 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
8 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
9 wages.

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

14 126. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
15 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
16 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
17 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
18 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
19 limited to, shift differentials) to Aggrieved Employees upon separation of employment, in violation
20 of California law, including but not limited to, Labor Code section 227.3.

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

26 128. Upon separation of employment, Aggrieved Employees' final paychecks were not
27 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
28 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed

1 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
2 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
3 accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate
4 including non-discretionary compensation, including but not limited to, shift differentials).

5 129. For example, DEFENDANTS failed to provide PLAINTIFF with any final paycheck
6 at the time of PLAINTIFF's termination, instead, requiring PLAINTIFF to wait at least
7 approximately several days to receive any final paycheck, and PLAINTIFF's late final paycheck
8 once provided was devoid of all wages owed, including but not limited to, all owed minimum wages,
9 overtime wages, premium wages, vacation pay and/or paid time off wages at the properly accrued
10 rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including
11 non-discretionary compensation, including but not limited to, any owed shift differentials)..For
12 example, DEFENDANTS terminated PLAINTIFF's employment on or around December 3, 2023,
13 however, PLAINTIFF's final paycheck is dated December 8, 2023, at least several days after
14 PLAINTIFF's date of termination. As such, DEFENDANTS violated Labor Code sections 201
15 and/or 202 as to PLAINTIFF.

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

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

28 132. Based on information and belief, DEFENDANTS have a policy and practice of

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

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

6 Unlawful Agreements.

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

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

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

27 Unlawful Inquires into Criminal History

28 137. Labor Code section 432.7 prohibits an employer from asking applicants about past

1 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
2 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
3 convictions on its employment application, in violation of California law.

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

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

16 140. **Violation of Labor Code Sections 2100-2112.** Pursuant to Labor Code Sections
17 2100–2112, employers with one hundred (100) or more employees at a single warehouse
18 distribution center, or one thousand (1,000) or more employees at one or more warehouse
19 distribution centers in California are required to provide nonexempt employees, upon hire, with a
20 written description of each quota they are subject to (e.g., quantified number of tasks to be performed
21 or materials to be handled) within a defined period of time and any potential adverse employment
22 action that may result from failure to meet the quota. Labor Code Section 2102 (see below) prohibits
23 adverse employment actions against employees who fail to meet their quota if the quota was not
24 properly disclosed to the employee and prohibits quotas that prevent an employee from taking his
25 or her meal or rest breaks, use of restrooms, or that interfere with compliance with California’s
26 occupational health and safety laws.

27 141. Labor Code Section 2101 provides:

28 142. Each employer shall provide to each employee, upon hire, or within 30 days of the

1 effective date of this part, a written description of each quota to which the employee is subject,
2 including the quantified number of tasks to be performed or materials to be produced or handled,
3 within the defined time period, and any potential adverse employment action that could result from
4 failure to meet the quota.

5 143. Labor Code Section 2102 provides:

6 144. An employee shall not be required to meet a quota that prevents compliance with
7 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
8 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
9 An employer shall not take adverse employment action against an employee for failure to meet a
10 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
11 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
12 disclosed to the employee pursuant to Section 2101.

13 145. Labor Code Section 2104 provides in pertinent part:

14 146. (a)(1) If a current or former employee believes that meeting a quota caused a
15 violation of their right to a meal or rest period or required them to violate any occupational health
16 and safety laws in the Labor Code or division standards, they have the right to request, and the
17 employer shall provide, a written description of each quota to which the employee is subject and a
18 copy of the most recent 90 days of the employee's own personal work speed data.

19 147. (2) If a former employee requests a written description of the quotas to which they
20 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
21 employer shall provide 90 days of the former employee's quotas and personal work speed data for
22 the 90 days prior to the date of the employee's separation from the employer.

23 148. (b) An employer that receives a written or oral request for information pursuant to
24 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
25 days from the date of the request.

26 149. Based on information and belief, during the relevant period, DEFENDANTS
27 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
28 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California

1 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
2 relevant period.

3 150. Based on information and belief, DEFENDANTS had/have a policy and practice of
4 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
5 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
6 defined period of time and any potential adverse employment action that may result from failure to
7 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
8 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
9 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
10 compliance of California's occupational health and safety laws.

11 151. Based on further information and belief, DEFENDANTS have/had a policy and
12 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
13 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
14 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
15 Labor Code section 2102.

16 152. Based on information and belief, DEFENDANTS failed and continue to fail to timely
17 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
18 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
19 them to violate any occupational health and safety laws, a written description of each quota to which
20 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
21 personal work speed data.

22 153. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
23 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

24 154. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
25 engaged in these same herein described unlawful practices, which led to violations of the California
26 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
27 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

28 **FIRST CAUSE OF ACTION**

1 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
2 **2698, ET SEQ.**

3 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
4 **Defendants)**

5 155. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

6 **Failure to Keep Accurate Records**

7 156. California Labor Code § 1174 requires employers to keep “accurate and complete”
8 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
9 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
10 times during which all owed meal periods were provided each day.

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

16 158. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
17 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
18 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
19 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
20 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
21 period during which the referenced statutes and Wage Order provisions were violated.³

22 **Meal Period Violations**

23 159. California law requires employers to provide employees a duty-free, uninterrupted
24 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
25 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
26 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*

27 ³ Labor Code § 2699(f); Labor Code § 558 (establishing that the civil penalty is “for each underpaid employee for
28 each pay period for which the employee was underpaid”); ; All applicable wage orders, § 20 (establishing that “[i]n
addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the
employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for
each underpaid employee for each pay period during which the employee was underpaid”) (emphasis added).

1 *Court* (2012) 53 Cal.4th 1004.

2 160. Employers must also provide employees with a second duty-free, uninterrupted thirty
3 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
4 be provided before the end of the 10th hour of work. *Ibid*.

5 161. Employers covered by any and all applicable IWC Wage Orders have an obligation
6 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
7 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
8 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
9 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
10 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
11 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
12 provided”).

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

20 163. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
21 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
22 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
23 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
24 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
25 periods completely.

26 164. Based on information and belief, DEFENDANTS had and continue to have a policy
27 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
28 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and

1 Aggrieved Employees did not receive compliant meal periods.

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

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

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

13 168. These unlawful meal period policies and practices result in violations of Labor Code
14 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
15 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
16 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
17 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

18 **Rest Period Violations**

19 169. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
20 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
21 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
22 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
23 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
24 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
25 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
26 1029). The rest period requirement obligates employers to permit and authorize employees to take
27 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
28 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th

1 257. If the employer fails to provide any required rest period, the employer must pay the employee
2 one hour of pay at the employee's regular rate of compensation for each workday the employer did
3 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
4 applicable IWC Wage Order, §12(B).

5 170. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
6 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
7 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
8 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
9 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
10 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
11 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
12 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
13 "onus is on the employer to clearly communicate the authorization and permission [to take rest
14 periods] to its employees.").

15 171. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
16 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
17 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
18 to DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,
19 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
20 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

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

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

28 174. Moreover, based on information and belief, DEFENDANTS failed to pay a rest

1 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
2 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
3 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
4 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
5 the regular rate of compensation for purposes of determining the owed rest period premium.

6 175. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
7 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
8 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

9 **Minimum and Overtime Wage Violations**

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

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

23 178. As explained above, DEFENDANTS violated California's minimum and overtime
24 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
25 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
26 start and end times and meal period start and end times), payment according to scheduled hours
27 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
28 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful

1 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

2 179. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
3 Aggrieved Employees for all hours worked.

4 180. Based on information and belief, DEFENDANTS had actual or constructive
5 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
6 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
7 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
8 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
9 Employees.

10 181. Based on information and belief, DEFENDANTS calculated the owed overtime
11 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
12 based on the minimum wage established for the cities and/or counties within which Aggrieved
13 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
14 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
15 above the California minimum wage rate.

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

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

23 184. Based on information and belief, DEFENDANTS further violated California's
24 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
25 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
26 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
27 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
28 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and

1 other Aggrieved Employees.

2 185. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
3 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
4 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
5 Wage Orders, section 20.

6 **Statutory Wage Violations**

7 186. California Labor Code section 223 makes it unlawful for an employer to secretly pay
8 wages lower than required by statute while purporting to pay legal wages. As described above,
9 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
10 earned minimum and overtime compensation for all hours worked which resulted in the payment of
11 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
12 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
13 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
14 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
15 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
16 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
17 Labor Code § 2699(f)-(g).

18 **Refusal to Make Payment**

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

27 ⁴ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 **Standard Conditions of Labor Violations**

2 188. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
3 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
4 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
5 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS’
6 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
7 minimum/overtime wages and other violations described herein result in separate violations of
8 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
9 1197.1 and 2699.

10
11 **Business Expense Violations**

12 189. California law requires employers to indemnify their employees for all necessary
13 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
14 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
15 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
16 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
17 incurred by the employee enforcing the rights granted by this section.”

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

26 191. Further, “any contract or agreement, express or implied, made by any employee to
27 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
28

1 any employee or his personal representative of any right or remedy to which he is entitled to under
2 the laws of this State.” See Cal. Lab. Code section 2804.

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

5 193. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
6 full reimbursement for all reasonable expenses associated with carrying out their duties required
7 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
8 expenses in violation of Labor Code section 2802.

9 194. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
10 Employees have suffered injury in that they were not completely reimbursed as mandated by
11 California law.

12 195. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
13 full reimbursement for all reasonable expenses associated with carrying out their duties required
14 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
15 expenses in violation of Labor Code section 2802.

16 196. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
17 Employees have suffered injury in that they were not completely reimbursed as mandated by
18 California law.

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

23 **Wage Statement Violations**

24 198. California law requires every employer semi-monthly or at the time of each payment
25 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
26 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
27 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
28 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee

1 is paid; (7) the name of the employee and only the last four digits of his or her social security number
2 or an employee identification number other than a social security number; (8) the name and address
3 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
4 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

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

13 200. Moreover, due to violations detailed above, including but not limited to,
14 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
15 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
16 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
17 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
18 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
19 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
20 compensation earned during the pay period into the regular rate of pay for purposes of calculating
21 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
22 overtime worked by PLAINTIFF and other Aggrieved Employees.

23 201. As explained above, wage statements issued by DEFENDANTS failed to list the
24 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
25 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
26 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
27 described above), which results in a violation of Labor Code section 226(a).

28 202. Failure to list all hours worked on a wage statement, gives rise to an inference of

1 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
2 1308, 1337).

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

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

11 205. DEFENDANTS' failure to accurately list all hours worked on all wage statements
12 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
13 Employees over whether they received all wages owed to them.

14 206. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
15 they could not easily determine whether they received all wages owed to them and whether they
16 were paid for all hours worked.

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

20 208. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
21 Aggrieved Employees with accurate, itemized wage statements.

22 209. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
23 Employees have suffered injury. The absence of accurate information on their wage statements has
24 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
25 mathematical computations to determine the amount of wages owed, and will cause difficulty and
26 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
27 submission of inaccurate information about wages and amounts deducted from wages to state and
28 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to

1 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
2 and pay records than if DEFENDANT had complied with its legal obligations.

3 210. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
4 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
5 during which the statute provisions were violated. ⁵

6 **Violation of Labor Code Section 212 and 213**

7 211. Based on information and belief, DEFENDANTS required Aggrieved Employees to
8 be paid their paychecks via money/pay card despite not getting their authorization to be paid by
9 money card in violation of Labor Code Sections 212 and/or 213. Based on information and belief,
10 at times Aggrieved Employees did not receive wage statements, nor did they have online access to
11 same. Moreover, based on information and belief, the money cards required Aggrieved Employees
12 to incur fees in violation of including but not limited to, Labor Code Section 212. Furthermore,
13 Aggrieved Employees were improperly required to incur business expenses that are supposed to be
14 the responsibility of the employer, including but not limited to, fees incurred in connection with the
15 money cards, in violation of including but not limited to, Labor Code Sections 2802, 221 and/or
16 222.

17 **Unlawful Deductions**

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

24 213. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
25 each pay period during which the statute provisions were violated. See Lab. Code §225.5
26 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
27 provided in this article, every person who unlawfully withholds wages due any employee in

28 ⁵ Labor Code § 226.3 (establishing that the civil penalty is ~~4~~ ¹ per employee per violation”).

1 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
2 to pay each employee”).

3 **Sick Leave Violations**

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

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

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

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

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

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

2 220. On information and belief, PLAINTIFF alleges that all of these practices were
3 experienced and continue to be experienced by other Aggrieved Employees.

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

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

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

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

19 **Untimely Payment of Final Wages**

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

27 225. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
28 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty

1 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
2 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
3 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
4 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

5 226. Based in information and belief, DEFENDANTS failed and continue to fail to timely
6 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
7 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
8 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
9 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
10 sick leave and/or paid time off wages at the properly accrued rates.

11 227. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
12 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
13 256.

14 **Violation of Labor Code Section 208**

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

19 229. Based on information and belief, DEFENDANTS have a policy and practice of
20 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
21 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
22 office or agency of DEFENDANTS in the county where the work was performed, in violation of
23 Labor Code Section 208.

24 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

25 *Unlawful Agreements.*

26 230. Labor Code section 432.5 provides that “no employer...shall require any employee
27 or applicant for employment to agree, in writing, to any term or condition which is known by such
28 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required

1 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
2 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
3 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
4 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
5 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
6 employment in violation of Labor Code section 432.5.

7 231. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
8 employment, continued employment, or the receipt of any employment-related benefit, require any
9 applicant for employment or any employee to waive any right...”Based on information and belief,
10 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
11 signed as a condition of employment, including but not limited to, during the onboarding process.
12 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
13 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
14 invalid waivers are otherwise unlawful under Labor Code section 432.6.

15 232. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
16 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
17 432.5.

18 Unlawful Inquires into Criminal History

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

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

28 235. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor

1 Code section 432.7. By asking about convictions at the application phase or prior to extending an
2 employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated
3 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
4 disclose arrests and/or convictions as a condition of employment.

5 **Violation of Labor Code Section 432.6**

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

10 237. Labor Code Section 432.6(a) provides: "[A] person shall not, as a condition of
11 employment, continued employment, or the receipt of any employment-related benefit, require any
12 applicant for employment or any employee to waive any right..."

13 238. Labor Code Section 432.6(b) provides in pertinent part:

14 239. "An employer shall not threaten, retaliate, or discriminate against, or terminate any
15 applicant for employment or any employee because of the refusal to the waiver of any right..."

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

23 **Violation of Labor Code Sections 2100-2112**

24 241. Pursuant to Labor Code Sections 2100-2112, employers with one hundred (100) or
25 more employees at a single warehouse distribution center, or one thousand (1,000) or more
26 employees at one or more warehouse distribution centers in California are required to provide
27 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
28 quantified number of tasks to be performed or materials to be handled) within a defined period of

1 time and any potential adverse employment action that may result from failure to meet the quota.
2 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
3 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
4 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
5 with compliance with California's occupational health and safety laws.

6 242. Labor Code Section 2101 provides:

7 243. Each employer shall provide to each employee, upon hire, or within 30 days of the
8 effective date of this part, a written description of each quota to which the employee is subject,
9 including the quantified number of tasks to be performed or materials to be produced or handled,
10 within the defined time period, and any potential adverse employment action that could result from
11 failure to meet the quota.

12 244. Labor Code Section 2102 provides:

13 245. An employee shall not be required to meet a quota that prevents compliance with
14 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
15 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
16 An employer shall not take adverse employment action against an employee for failure to meet a
17 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
18 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
19 disclosed to the employee pursuant to Section 2101.

20 246. Labor Code Section 2104 provides in pertinent part:

21 247. (a)(1) If a current or former employee believes that meeting a quota caused a
22 violation of their right to a meal or rest period or required them to violate any occupational health
23 and safety laws in the Labor Code or division standards, they have the right to request, and the
24 employer shall provide, a written description of each quota to which the employee is subject and a
25 copy of the most recent 90 days of the employee's own personal work speed data.

26 248. (2) If a former employee requests a written description of the quotas to which they
27 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
28 employer shall provide 90 days of the former employee's quotas and personal work speed data for

1 the 90 days prior to the date of the employee's separation from the employer.

2 249. (b) An employer that receives a written or oral request for information pursuant to
3 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
4 days from the date of the request.

5 250. Based on information and belief, during the relevant period, DEFENDANTS
6 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
7 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
8 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
9 relevant period.

10 251. Based on information and belief, DEFENDANTS had/have a policy and practice of
11 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
12 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
13 defined period of time and any potential adverse employment action that may result from failure to
14 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
15 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
16 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
17 compliance of California's occupational health and safety laws.

18 252. Based on further information and belief, DEFENDANTS have/had a policy and
19 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
20 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
21 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
22 Labor Code section 2102.

23 253. Based on information and belief, DEFENDANTS failed and continue to fail to timely
24 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
25 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
26 them to violate any occupational health and safety laws, a written description of each quota to which
27 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
28 personal work speed data.

254. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

255. Under the provisions of PAGA and the above mentioned Labor Code sections, including but not limited to Labor Code sections 201-203, 208, 210, 212, 213, 216, 221-223, 225.5, 226, 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2100-2112, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all interpretations of these laws by California Courts and administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- a. All statutorily-specified penalties recoverable under PAGA as enumerated in the relevant California Labor Code provisions listed herein only if permitted by the PAGA statute, pursuant to Labor Code section 2699(a); and
- b. Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).

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

PRAYER FOR RELIEF

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

1. For civil penalties under Labor Code Section 2699;
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and

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4. For such other and further relief that the Court deems just and proper.

Dated: December 23, 2024

CROSNER LEGAL, PC

By: 

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