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8 Attorneys for Plaintiff YESENIA HERNANDEZ
on behalf of the State of California and all Aggrieved Employees
9

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

11 YESENIA HERNANDEZ, on behalf of the
12 State of California and all Aggrieved
Employees,

13 Plaintiff,

14 v.
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16 MAGIC MEMORIES (USA) LLC, a
17 Delaware Limited Liability Company; and
DOES 1-100, inclusive,

18 Defendants.
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Case No.: **CVRI2501287**

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

1 Plaintiff, YESENIA HERNANDEZ, (“PLAINTIFF”), on behalf of the State of California
2 and all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 MAGIC MEMORIES (USA) LLC, a Delaware Limited Liability Company; and DOES 1-100,
4 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
5 believes and thereon alleges as follows:

6 **INTRODUCTION**

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

11 **JURISDICTION AND VENUE**

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

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

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 Sales & Photography and/or a similar title(s) and/or job position(s) for approximately one
28 and one-half (1 ½) years, from in or around 2023 through in or around September 2024.

1 DEFENDANTS assigned PLAINTIFF to work at DEFENDANTS' attraction(s), venue(s),
2 location(s) and/or facilities which operate(s) under including but not limited to, the name(s) "Palm
3 Springs Aerial Tramway" and/or "Palm Springs Tramway," in Palm Springs, California.

4 6. Defendant, MAGIC MEMORIES (USA) LLC, is a Delaware Limited Liability
5 Company that, at all relevant times, was authorized to do business within the State of California and
6 is doing business in the State of California.

7 7. DEFENDANTS own, operate, manage and/or staff its employees to work at the
8 attractions, venues, facilities and/or other location(s) in California, including but not limited to, the
9 attractions, venues, facilities and/or other locations in including but not limited to, Los Angeles
10 County, Riverside County, Santa Clara County, Napa County, California, among other counties in
11 California. DEFENDANTS operate California locations under including but not limited to the
12 following names: "La Brea Tar Pits & Museum;" "Madame Tussauds" (Los Angeles County);
13 "Palm Springs Aerial Tramway" and/or "Palm Springs Tramway;" "Gilroy Gardens Family Theme
14 Park" (Riverside County); "Napa Valley Wine Train" (Napa County); "Legoland Discovery Center
15 San Jose (Bay Area)" (Santa Clara County), among others; DEFENDANTS, through its various
16 locations, serve the hospitality and/or retail services industry.¹

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

23 9. PLAINTIFF is further informed and believes that, at all relevant times, each
24 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
25 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
26 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
27 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all

28 ¹ See <https://www.magicmemories.com/attractions>. Last visited on March 10, 2025.

1 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
2 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
3 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
4 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
5 controlled, aided and abetted the conduct of all other Defendants.

6 **JOINT LIABILITY**

7 10. Under California law, the definition of the terms “to employ” are broadly construed
8 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
9 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
10 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
11 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
12 was to reach situations in which multiple entities control different aspects of the employment
13 relationship. Supervision of the work, in the specific sense of exercising control over how services
14 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
15 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
16 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
17 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
18 California, applying a less stringent standard to what constitutes sufficient control by a business
19 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
20 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
21 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
22 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
23 employment,” *Id.* at 875 [emphasis added].

24 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
25 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
26 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
27 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
28 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)

1 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
2 PLAINTIFF and Aggrieved Employees to work for them.

3 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
4 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
5 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
6 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
7 policies and practices regardless of the location(s) where they worked. Among other things,
8 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
9 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
10 over the day-to-day operations and employment matters, including the power to hire and fire, set
11 schedules, issue employee policies, and determine rates of compensation across its locations in
12 California; (3) DEFENDANTS utilize the same policies and procedures for all California
13 employees, including issuing the same employee handbooks and other form agreements; (4)
14 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
15 employment matters; and, (6) DEFENDANTS share employees.

16 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
17 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
18 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
19 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
20 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
21 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
22 Employees.

23 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
24 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
25 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
26 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
27 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
28 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively

1 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
2 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
3 and Aggrieved Employees' employment with or without cause. Upon information and belief,
4 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
5 writing the details of their compensation, and the manner in which they were to take meal and rest
6 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
7 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
8 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

9 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
10 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
11 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
12 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
13 PLAINTIFF seeks relief in this Complaint.

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

17 **PAGA ALLEGATIONS**

18 17. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
19 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
20 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include the
21 following:

22 All current and former non-exempt employees that worked either directly or via a
23 staffing agency for any one or more DEFENDANTS at any location in California at
24 any time from one year plus 65 days from the filing of the initial Complaint through
25 the present ("PAGA Period").

26 18. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
27 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
28 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,

1 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the
2 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has
3 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
4 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
5 violations.

6 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

7 19. PLAINTIFF, on October 17, 2024, through counsel, gave written notice by online
8 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that
9 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
10 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via
11 certified mail.

12 20. The PAGA Notice outlined PLAINTIFF's claims for violations of the California
13 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
14 Employees.

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

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

23 **FACTUAL ALLEGATIONS**

24 23. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees
25 worked for DEFENDANTS in the State of California. At all times referenced herein,
26 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
27 permitted them to work.

28 24. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job

1 title(s) of Sales & Photography and/or a similar title(s) and/or job position(s) for approximately one
2 and one-half (1 ½) years, from in or around 2023 through in or around September 2024.

3 25. PLAINTIFF regularly worked at least approximately four (4) to nine (9) hours per
4 day. DEFENDANTS assigned PLAINTIFF to work at DEFENDANTS' attraction(s), venue(s),
5 location(s) and/or facilities which operate(s) under including but not limited to, the name(s) "Palm
6 Springs Aerial Tramway" and/or "Palm Springs Tramway," in Palm Springs, California.

7 26. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
8 DEFENDANTS as hours worked. Based on information and belief, PLAINTIFF and other
9 Aggrieved Employees were also compensated with non-discretionary compensation, including but
10 not limited to, commissions, shift differential, bonus/incentive pay and/or other non-discretionary
11 compensation. For example, PLAINTIFF earned commission pay and/or other non-discretionary
12 compensation during PLAINTIFF's employment.

13 27. **Unpaid Minimum and Overtime Wages.** Based on information and belief,
14 DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked,
15 resulting in the underpayment of minimum and overtime wages. DEFENDANTS failed to
16 compensate PLAINTIFF and Aggrieved Employees for all hours worked by virtue of,
17 DEFENDANTS' failure to relieve employees of all duties/employer control during unpaid meal
18 periods or otherwise unlawful practices for missed or improper meal periods, as explained below.

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

25 29. Based on information and belief, Aggrieved Employees were not paid for all hours
26 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
27 worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

1 30. For example, DEFENDANTS required PLAINTIFF to complete off-the-clock work
2 tasks prior to clocking in for the start of PLAINTIFF's shifts, after clocking out for the end of
3 PLAINTIFF's shifts, during unpaid meal periods and/or otherwise outside of scheduled shift times,
4 resulting in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the
5 underpayment of wages owed to PLAINTIFF.

6 31. For example, DEFENDANTS required PLAINTIFF to engage in work-related
7 communications prior to clocking in for the start of PLAINTIFF's shift, after clocking out for the
8 end of PLAINTIFF's shift and/or otherwise outside of PLAINTIFF's scheduled shift times,
9 resulting in consistent off-the-clock work, DEFENDANTS' failure to compensate PLAINTIFF for
10 all hours worked and the underpayment of wages owed to PLAINTIFF. For example,
11 DEFENDANTS required PLAINTIFF to download and regularly use work-related application(s),
12 e.g., WhatsApp, for sending and/or receiving work-related messages and/or calls outside of
13 PLAINTIFF's scheduled shift times, however, DEFENDANTS did not compensate PLAINTIFF
14 for all time spent downloading work-related application(s) and all time spent sending and/or
15 receiving work-related communications, resulting in consistent off-the-clock work,
16 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
17 wages owed to PLAINTIFF.

18 32. Moreover, as explained above, based on information and belief, DEFENDANTS
19 would unlawfully edit the clock in and out times for PLAINTIFF's and other Aggrieved Employees'
20 meal periods in order to display at least a thirty minute off-duty meal period during most if not all
21 shifts worked and/or required PLAINTIFF and other Aggrieved Employees to record a timely off-
22 duty, thirty-minute meal period during most if not all shifts worked, notwithstanding the fact that
23 DEFENDANTS had actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
24 Employees were not relieved of all duties and DEFENDANTS' control during unpaid meal periods,
25 resulting in DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved Employees
26 for all hours worked and the underpayment of wages owed to PLAINTIFF and other Aggrieved
27 Employees.

1 33. Also, PLAINTIFF was required to complete pre-shift off-the-clock work and/or
2 during unpaid meal periods resulting in DEFENDANTS' failure to compensate PLAINTIFF for all
3 hours worked and the underpayment of wages owed to PLAINTIFF.

4 34. For example, based on information and belief, PLAINTIFF and other Aggrieved
5 Employees were required to spend time under DEFENDANTS' control which was not recorded and
6 not compensated, including but not limited to, time spent traveling to/from DEFENDANTS'
7 timekeeping terminals, standing in line behind other employees to access DEFENDANTS' time-
8 keeping system and/or time spent initiating/reinitiating/troubleshooting DEFENDANTS' time-
9 keeping system before they could clock in for the start of their shifts and/or after completing a
10 purported meal period, resulting in off-the-clock work and the underpayment of wages owed to
11 PLAINTIFF and other Aggrieved Employees.

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

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

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

27 38. Based on information and belief, DEFENDANTS had actual and/or constructive
28 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to

1 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
2 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
3 of California's minimum and overtime wage laws.

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

8 40. Based on information and belief, DEFENDANTS failed to incorporate all non-
9 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
10 pay, commission pay, multiple base rates of pay and/or other non-discretionary pay into the regular
11 rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and
12 underpayment of overtime wages owed to PLAINTIFF and other Aggrieved Employees.

13 41. **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 42. For example, DEFENDANTS failed to authorize and permit timely, off-duty meal
23 periods that were a full thirty-minutes in length. For example, while at times DEFENDANTS
24 purported to allow a thirty-minute meal period during shifts lasting longer than five and one-half (5
25 1/2) and/or six (6) hours, DEFENDANTS actually limited PLAINTIFF to meal periods that were
26 only approximately twenty (20) to twenty-five (25) minutes long or less, due to DEFENDANTS'
27 policy that PLAINTIFF be back at PLAINTIFF's workstation within thirty minutes of leaving as
28 this policy only relieved PLAINTIFF from PLAINTIFF's workstation for no more than

1 approximately twenty (20) to twenty-five (25) minutes as PLAINTIFF was required to travel to and
2 from DEFENDANTS' timeclock terminal and/or rest area/break room and be back at the
3 workstation by the end of this thirty minutes. As such, PLAINTIFF was consistently suffered,
4 permitted and/or required to take shortened and/or on-duty meal periods, resulting in consistently
5 denied meal periods as well as DEFENDANTS' failure to compensate PLAINTIFF for all hours
6 worked and the underpayment of wages owed to PLAINTIFF.

7 43. Moreover, at times, PLAINTIFF was required to take PLAINTIFF's meal period late
8 (i.e. after working five (5) or more hours) due to including but not limited to, the need to continue
9 completing assigned job duties.

10 44. Based on information and belief, DEFENDANTS would unlawfully edit the clock in
11 and out times for PLAINTIFF's and other Aggrieved Employees' meal periods in order to display
12 at least a thirty minute, timely, off-duty meal period during most if not all shifts worked and/or
13 would require PLAINTIFF and other Aggrieved Employees to record at least a thirty minute, timely,
14 off-duty meal period during most if not all shifts worked, notwithstanding the fact that
15 DEFENDANTS had actual and/or constructive knowledge that DEFENDANTS had required
16 PLAINTIFF and other Aggrieved Employees to perform work-related tasks/remain under
17 DEFENDANTS' control during part or all of their meal periods.

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

23 46. Based on information and belief, DEFENDANTS implemented policies and/or
24 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
25 during unpaid meal periods.

26 47. Based on information and belief, DEFENDANTS required Aggrieved Employees to
27 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
28 into account when scheduling meal periods for Aggrieved Employees. Based on information and

1 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

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

8 49. Moreover, based on information and belief, Aggrieved Employees who worked shifts
9 of more than ten (10) and/or twelve (12) hours did not receive a second legally compliant thirty (30)
10 minute second meal period.

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

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

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

25 53. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
26 additional hour of wages at their respective regular rates of compensation for each workday a lawful
27 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
28 each workday a lawful meal period was not provided and/or failed to pay the proper meal period

1 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
2 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
3 compensation for purposes of calculating the owed meal period premium.

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

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

12 **56.** Based on information and belief, DEFENDANTS did not have a have a compliant
13 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
14 practice.

15 **57.** Per DEFENDANTS' unlawful rest period policies and practices, DEFENDANTS
16 provided PLAINTIFF with a maximum of a single rest period on shifts of less than seven (7) hours
17 even when PLAINTIFF worked shifts lasting longer than six (6) hours.

18 **58.** For example, when PLAINTIFF worked more than six (6) hours but less than seven
19 (7) hours, PLAINTIFF was not provided with any version of a second rest period, in violation of
20 California rest period law.

21 **59.** Based on information and belief, PLAINTIFF and other Aggrieved Employees were
22 at times unable to take compliant rest periods due to their need to complete assigned job duties
23 and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported
24 rest periods restricted to DEFENDANTS' premises/their assigned work locations/workstations.

25 **60.** Based on information and belief, DEFENDANTS did not have a lawful policy,
26 instruction, or practice as to the taking, timing, or duty-free nature of rest periods.

27 **61.** For example, DEFENDANTS written rest period policy fails to inform Aggrieved
28 Employees of their rights to an off-duty rest period for every four hours worked or major fraction

1 thereof.

2 62. Based on information and belief, DEFENDANTS failed to authorize and permit rest
3 periods that were a “net” ten minutes in a suitable rest area, and instead, to the extent rest periods
4 were provided, DEFENDANTS limited PLAINTIFF and other Aggrieved Employees to only ten-
5 minute rest periods, requiring them to be back at their workstations within ten minutes of leaving
6 their work stations , in violation of California rest period law.

7 63. Based on information and belief, at times, Aggrieved Employees’ rest periods were
8 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
9 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring
10 them to skip rest periods completely or otherwise take non-compliant rest periods.

11 64. Moreover, based on information and belief, at times, DEFENDANTS failed to
12 provide any form of a third rest period on shifts lasting longer than ten hours.

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

16 66. Based on information and belief, DEFENDANTS implemented policies and/or
17 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
18 DEFENDANTS’ control during rest periods.

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

26 68. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
27 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
28 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved

1 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
2 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
3 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
4 applicable hourly rates in effect during the pay period and the corresponding number of hours
5 worked at each hourly rate by the employee.

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

14 70. As described herein, based on information and belief, DEFENDANTS also failed to
15 incorporate all forms of non-discretionary compensation earned during the pay period into the
16 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
17 of overtime worked by PLAINTIFF and other Aggrieved Employees.

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

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

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

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

6 75. Upon separation of employment, Aggrieved Employees final paychecks were not
7 timely provided, were not timely provided with all owed vacation pay and/or paid time off and/or
8 did not include all wages owed as they were devoid of, including but not limited to, all owed
9 minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid
10 time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid
11 time off paid at the final rate including non-discretionary compensation, including but not limited
12 to, all owed shift differentials).

13 76. For example, based on information and belief, upon PLAINTIFF's separation of
14 employment in or around September 2024, PLAINTIFF's final paycheck was not timely provided,
15 was not timely provided with all owed vacation pay/paid time off and/or did not include all wages
16 owed as PLAINTIFF's final paycheck was devoid of, including but not limited to, all owed
17 minimum wages, overtime wages, premium wages, commissions, vacation pay and/or paid time off
18 wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time
19 off paid at the final rate including non-discretionary compensation, including but not limited to, any
20 owed shift differentials).

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

1 DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256.

2 78. These violations subject DEFENDANTS to civil penalties under Labor Code section
3 203, 210, and/or 256.

4 79. **Unreimbursed Business Expenses.** Based on information and belief,
5 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
6 direct consequence of the performance of their job duties without providing reimbursement, in
7 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved
8 Employees were improperly required to provide and maintain work tools that are supposed to be the
9 responsibility of the employer.

10 80. Based on information and belief, DEFENDANTS shifted the costs of doing business
11 onto PLAINTIFF and other Aggrieved Employees requiring them to pay for business expenses,
12 including but not limited to, including but not limited to, uniforms/work clothing/work
13 shoes/personal protective/safety gear/hand tools/equipment and/or the use of Aggrieved Employees'
14 personal cell phones/mobile devices, internet and/or data usage for work related purposes.

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

21 82. For example, DEFENDANTS required PLAINTIFF to use PLAINTIFF's personal
22 cell phone(s) / mobile device(s) to carry out PLAINTIFF's assigned job duties, including but not
23 limited to, for downloading and regularly using work-related application(s) (e.g., WhatsApp) to
24 communicate with supervisors and/or other employees regarding scheduling and/or other work-
25 tasks, however, DEFENDANTS did not provide PLAINTIFF with any and/or full reimbursement
26 for the business expenses PLAINTIFF incurred as a result of being required to use PLAINTIFF's
27 personal cell phone(s)/mobile device(s) to carry out PLAINTIFF's assigned job duties, including
28 without limitation, increased data plan charges.

1 83. As explained above, based on information and belief, Aggrieved Employees were
2 not reimbursed for the cost of using their personal phone(s)/personal device(s) for work-related
3 purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work
4 shoes, personal protective/safety gear, hand tools/equipment.

5 84. Based on information and belief, DEFENDANTS regularly failed to reimburse and
6 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
7 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
8 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
9 assigned by DEFENDANTS.

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

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

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

23 88. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
24 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
25 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
26 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
27 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
28 limited to, any owed shift differentials) to Aggrieved Employees upon separation of employment,

1 in violation of California law, including but not limited to, Labor Code section 227.3.

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

10 90. DEFENDANTS have failed and continue to fail to keep accurate and complete
11 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
12 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
13 employer control during unpaid meal periods, failure to record the true start and end times of meal
14 periods, shift start times and shift end times, and other off-the-clock work policies and practices
15 described herein.

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

26 92. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
27 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
28 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,

1 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
2 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
3 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
4 used sick leave and the balance of paid sick leave.

5 93. Based on information and belief, throughout the relevant time period,
6 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
7 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave.

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

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

17 96. **Failure to Provide Written Commission Agreements.** Labor Code section 2751
18 requires that all commission contracts "be in writing and . . . set forth the method by which the
19 commissions shall be computed and paid." Cal. Lab. Code section 2751(a) (2012). Under the statute,
20 employers must also "give a signed copy of the contract to every employee who is a party [to the
21 contract] and . . . obtain a signed receipt for the contract from each employee." Id. section 2751(b).

22 97. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
23 other Aggrieved Employees who were compensated on a commission basis with proper written
24 commission agreements, in violation of Labor Code section 2751.

25 98. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
26 engaged in these same herein described unlawful practices, which led to violations of the California
27 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
28 unlawful practices to all of its employees that it applied to PLAINTIFF.

FIRST CAUSE OF ACTION
**VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS
2698, ET SEQ.**

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

99. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

Failure to Keep Accurate Records

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

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

102. DEFENDANTS’ failure to keep “accurate and complete” payroll records for PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay period during which the referenced statutes and Wage Order provisions were violated.²

Meal Period Violations

103. California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004.

² Labor Code § 2699(f)

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

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

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

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

25 108. Based on information and belief, DEFENDANTS had and continue to have a policy
26 of rounding the start and end times of employees’ meal periods and/or automatically deducting
27 thirty/sixty minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF
28 and Aggrieved Employees did not receive compliant meal periods.

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

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

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

13 112. 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**

19 113. 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).

5 114. 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.").

15 115. 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.

21 116. 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.

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

28 118. 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.

6 119. 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**

10 120. 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.

17 121. 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.*

23 122. 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.

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

4 124. 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.

10 125. 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.

16 126. 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.

19 127. 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.

23 128. 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.

2 129. 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**

7 130. 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**

19 131. 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.³

27 ³ 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**

2 132. 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 **Business Expense Violations**

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

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

25 135. Further, “any contract or agreement, express or implied, made by any employee to
26 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
27 any employee or his personal representative of any right or remedy to which he is entitled to under

1 the laws of this State.” See Cal. Lab. Code section 2804.

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

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

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

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

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

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

22 **Wage Statement Violations**

23 142. California law requires every employer semi-monthly or at the time of each payment
24 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
25 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
26 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
27 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
28 is paid; (7) the name of the employee and only the last four digits of his or her social security number

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

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

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

22 145. As explained above, wage statements issued by DEFENDANTS failed to list the
23 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
24 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
25 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
26 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
27 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
28 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

9 148. Based on information and belief, wage statements issued by DEFENDANTS failed
10 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

11 149. 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.

14 150. 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.

17 151. 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.

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

22 153. 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.

3 154. 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. ⁴

6 **Violation of Labor Code Section 208**

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

11 156. Based on information and belief, DEFENDANTS have a policy and practice of
12 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
13 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
14 office or agency of DEFENDANTS in the county where the work was performed, in violation of
15 Labor Code Section 208.

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

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

23 158. Based on information and belief, DEFENDANTS had and continue to have a
24 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
25 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
26 at the properly accrued rates (including but not limited to any owed shift differential pay) to
27 Aggrieved Employees upon separation of employment, in violation of California law, including but

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is \$3 per employee per violation”).

1 not limited to, Labor Code section 227.3.

2 **Untimely Payment of Final Wages**

3 159. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
4 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
5 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
6 employee not having a written contract for a definite period quits his or her employment, his or her
7 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
8 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
9 to his or her wages at the time of quitting.”

10 160. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
11 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
12 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
13 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
14 section 256. See, *Iskanian v. CLS Transportation Riverside, LLC*, 59 Cal.4th 348 (2014); see also,
15 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

16 161. Based on information and belief, upon separation of employment, Aggrieved
17 Employees’ final paychecks were not timely provided, were not timely provided with all owed
18 vacation pay/ and/or paid time off and/or did not include all wages owed, in violation of Labor Code
19 section 201-202. Based on information and belief, Aggrieved Employees’ final paychecks did not
20 include all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
21 overtime wages, premium wages, vacation pay and/or all paid time off wages at the properly accrued
22 rates (including but not limited to any owed shift differential pay).

23 162. Based on information and belief, at times, Aggrieved Employees experienced breaks
24 in employment caused by DEFENDANTS whereby Aggrieved Employees would not be called in
25 for work for longer than a single pay period due to including but not limited to DEFENDANTS’
26 lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
27 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in
28 violation of including but not limited to Labor Code section 201-202.

1 163. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
2 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
3 256.

4 **Sick Leave Violations**

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

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

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

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

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

1 wages.

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

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

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

8 **Failure to Provide Written Commission Agreements**

9 172. Labor Code section 2751 requires that all commission contracts "be in writing and .
10 . . set forth the method by which the commissions shall be computed and paid." Cal. Lab. Code
11 section 2751(a) (2012). Under the statute, employers must also "give a signed copy of the contract
12 to every employee who is a party [to the contract] and . . . obtain a signed receipt for the contract
13 from each employee." *Id.* section 2751(b).

14 173. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
15 other Aggrieved Employees who were compensated on a commission basis with proper written
16 commission agreements, in violation of Labor Code section 2751.

17 174. Under the provisions of PAGA and the above mentioned Labor Code sections,
18 including but not limited to Labor Code sections 201-203, 208, 210, 216, 223, 225.5, 226, 226.7,
19 227.3, 245-248.6, 256, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2699,
20 2699.3, 2751, 2802, 2810.5 and all applicable Wage Orders as well as all interpretations of these
21 laws by California Courts and administrative bodies, as well as any other law that is enforceable
22 through PAGA, DEFENDANTS are liable for the following penalties:

23 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
24 relevant California Labor Code provisions listed herein only if permitted by the PAGA statute,
25 pursuant to Labor Code section 2699(a); and

26 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
27 violations without a civil penalty recoverable under the PAGA, all in the default amounts provided
28 by Labor Code section 2699(f).

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

3 **PRAYER FOR RELIEF**

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

- 6 1. For civil penalties under Labor Code Section 2699;
7 2. For an order temporarily, preliminarily and permanently enjoining and
8 restraining DEFENDANTS from engaging in similar unlawful conduct as set
9 forth herein;
10 3. For reasonable attorney's fees and costs of suit; and
11 4. For such other and further relief that the Court deems just and proper.

12 Dated: March 11, 2025

CROSNER LEGAL, PC

13
14 By: 
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