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Assigned for All Purposes
Judge Melissa R. McCormick

CX-104

Attorneys for Plaintiff ARDELPHIA BOWEN
on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

ARDELPHIA BOWEN, on behalf of the
State of California and all Aggrieved
Employees,

Plaintiff,

v.

ALIGNMENT HEALTHCARE USA, LLC,
a Delaware Limited Liability Company;
ALIGNMENT HEALTHCARE, INC., a
Delaware Corporation; and DOES 1-100,
inclusive,

Defendants.

Case No.: 30-2025-01463764-CU-OE-CXC

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

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

7 **INTRODUCTION**

8 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
9 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
10 Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties for
11 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 Orange pursuant to
16 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
17 this judicial district, DEFENDANTS maintain its principal place of business in this judicial district,
18 and 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 Orange.

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 Retention Dis-enrollment Specialist and/or a similar title(s) and/or job position(s) from in
28 or around June 2023 through in or around August 2024.

1 6. Defendant, ALIGNMENT HEALTHCARE USA, LLC, is a Delaware Limited
2 Liability Company; that, at all relevant times, was authorized to do business within the State of
3 California and is doing business in the State of California.

4 7. Defendant, ALIGNMENT HEALTHCARE, INC., is a Delaware Corporation; that,
5 at all relevant times, was authorized to do business within the State of California and is doing
6 business in the State of California.

7 8. DEFENDANTS own, operate, manage and/or staff its employees to work at the
8 offices, clinics, centers, home/remote offices, facilities and/or other location(s) in California,
9 including but not limited to, in including but not limited to, Los Angeles County and Orange County,
10 California. DEFENDANTS, through its various locations, serve the health management and/or
11 consumer services industry.¹

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

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

28

¹ See <https://www.alignmenthealth.com/locations/california>. Last visited on February 18, 2025.

1 **JOINT LIABILITY**

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

19 12. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
20 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
21 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
22 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
23 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)
24 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
25 PLAINTIFF and Aggrieved Employees to work for them.

26 13. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
27 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
28 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices

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

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

18 15. For example, DEFENDANTS issued wage statements to PLAINTIFF that identify
19 "Alignment Healthcare USA, LLC" as the name of the legal entity that is PLAINTIFF's employer,
20 and some documents contained in DEFENDANTS' personnel files for PLAINTIFF (e.g., some
21 employment-related policies and/or agreements) identify "Alignment Healthcare USA, LLC" as the
22 name of PLAINTIFF's employer. However, other documents contained in PLAINTIFF's personnel
23 file, including without limitation, DEFENDANTS' insider trading policy, HIPAA policy and/or
24 other employment-related policies and/or agreement(s) identify the following as the name of
25 PLAINTIFF's employer: "Alignment Healthcare, Inc." and/or "Alignment Healthcare."

26 16. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
27 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
28 time-keeping practices, meal and rest periods, reimbursement of business expenses and other

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

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

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

20 **PAGA ALLEGATIONS**

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

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

1 20. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
2 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
3 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,
4 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the
5 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has
6 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
7 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
8 violations.

9 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

10 21. PLAINTIFF, on October 10, 2024, through counsel, gave written notice by online
11 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
12 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
13 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
14 certified mail.

15 22. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
16 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
17 Employees.

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

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

26 **FACTUAL ALLEGATIONS**

27 25. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
28 title(s) of Retention Dis-enrollment Specialist and/or a similar title(s) and/or job position(s) from in

1 or around June 2023 through in or around August 2024.

2 26. PLAINTIFF regularly worked at least approximately eight (8) to twelve (12) hours
3 per day, at least three (3) to seven (7) days per week. DEFENDANTS assigned PLAINTIFF to work
4 primarily on a remote basis, from PLAINTIFF's home, located in Los Angeles County, California.
5 DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours
6 worked.

7 27. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
8 also compensated with non-discretionary compensation, including but not limited to, commissions,
9 bonus/incentive pay and/or other non-discretionary compensation.

10 28. For example, PLAINTIFF earned commission pay during PLAINTIFF's
11 employment.

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

19 30. 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
21 thirty/sixty minutes per shift for meal periods, despite having actual and/or constructive knowledge
22 that 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 31. 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.

28 32. For example, based on information and belief, Aggrieved Employees were not

1 compensated for all time spent booting up, logging into, initiating and/or reinitiating
2 DEFENDANTS' computer systems/electronic timekeeping system, resulting in pre-shift off-the-
3 clock work and/or off-the-clock work during unpaid meal periods and the underpayment of
4 minimum wages and overtime wages owed to Aggrieved Employees.

5 33. For example, prior to being able to clock in for the start of his scheduled shift each
6 workday, PLAINTIFF was required to start, boot up, log into DEFENDANTS' computer systems
7 and/or software and/or use a two-step authentication process to log in to DEFENDANTS' computer
8 systems and/or software so as to have the systems running at the start of the scheduled shift. As
9 such, PLAINTIFF spent at least approximately three (3) to five (5) minutes before each scheduled
10 shift booting up, logging into DEFENDANTS' systems, preparing different work applications
11 and/or undergoing DEFENDANTS' authentication/verification processes in order to clock in and
12 begin PLAINTIFF's shift. This time spent under DEFENDANTS' control each workday was not
13 recorded and not compensated, resulting in consistent pre-shift off-the-clock work, DEFENDANTS'
14 failure to compensate PLAINTIFF for all hours worked and the underpayment of minimum wages
15 and overtime wages owed to PLAINTIFF.

16 34. Based on information and belief, at times, Aggrieved Employees were required to
17 complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-
18 related phone calls and/or messages they received to their phones/mobile devices and were required
19 to respond to, including but not limited to, communications from supervisors regarding scheduling
20 and/or other work tasks and/or work-related communications made for purposes of troubleshooting
21 and/or upgrading DEFENDANTS' systems/internet systems for work, resulting in the underpayment
22 of wages owed to Aggrieved Employees.

23 35. Based on information and belief, at times, DEFENDANTS' electronic time-keeping
24 system/app/call-in system malfunctioned such that Aggrieved Employees were required to either
25 reinitiate and/or otherwise troubleshoot the system/app and/or wait for the system prior to being able
26 to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from
27 meal periods, resulting in off-the-clock work and the underpayment of wages owed to Aggrieved
28 Employees. Based on information and belief, Aggrieved Employees experienced the same issues

1 when clocking out for shifts and/or back in for meal periods. This time spent under EMPLOYER's
2 control was not recorded and not compensated and resulted in unpaid minimum wages owed to
3 Aggrieved Employees.

4 36. For example, on occasion, PLAINTIFF was required to troubleshoot
5 DEFENDANTS' computer/electronic systems and/or upgrade DEFENDANTS' systems and/or
6 PLAINTIFF's home internet system but was not compensated for all time spent under
7 DEFENDANTS' control, including without limitation, all time spent troubleshooting
8 DEFENDANTS' computer/electronic systems and/or upgrading DEFENDANTS' systems and/or
9 PLAINTIFF's home internet system for work, resulting in DEFENDANTS' failure to compensate
10 PLAINTIFF for all hours worked and the underpayment of wages owed to PLAINTIFF.

11 37. Based on further information and belief, DEFENDANTS implemented a time-
12 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
13 Employees of compensable time because the time-rounding system implemented by
14 DEFENDANTS would almost always, if not always, result in understating actual compensable work
15 time.

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

25 39. Based on information and belief, DEFENDANTS had actual and/or constructive
26 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
27 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
28 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation

1 of California's minimum and overtime wage laws.

2 40. Based on further information and belief, DEFENDANTS implemented a time-
3 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
4 Employees of compensable time because the time-rounding system implemented by
5 DEFENDANTS would almost always, if not always, result in understating actual compensable work
6 time.

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

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

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

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

25 45. Based on information and belief, DEFENDANTS failed to incorporate all non-
26 discretionary remuneration, including but not limited to, shift differential pay, piece
27 rate/commission compensation, bonus pay/incentive pay, multiple base rates of pay and/or other
28 non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),

1 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
2 Aggrieved Employees.

3 46. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
4 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
5 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
6 (30) minute first and second meal periods.

7 47. Based on information and belief, Aggrieved Employees were consistently unable to
8 take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal
9 periods, interrupted meal periods, and/or work through part or all their meal periods due to
10 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
11 pressuring them to take non-compliant meal periods or skip meal periods completely.

12 48. For example, based on information and belief, at times, PLAINTIFF and other
13 Aggrieved Employees were forced to skip their meal periods completely in order to complete
14 assigned job duties, and/or take interrupted, late/shortened meal periods and/or remain on-duty
15 during unpaid meal periods due to the need to continue assigned job duties.

16 49. For example, at times, PLAINTIFF had to cut PLAINTIFF's meal periods short
17 and/or take PLAINTIFF's meal periods late (i.e. after working five (5) or more hours) due to
18 including but not limited to, the need to complete assigned job duties.

19 50. Also, based on information and belief, DEFENDANTS required Aggrieved
20 Employees to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS
21 failed to take into account when scheduling meal periods for Aggrieved Employees. Based on
22 information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock
23 work. For example, as described herein, PLAINTIFF was consistently required to complete pre-
24 shift off-the-clock work each workday, including but not limited to, booting up, logging into,
25 completing DEFENDANTS' two-step authentication process and/or other procedures and/or other
26 pre-shift off-the-clock work tasks, which DEFENDANTS failed to take into account when
27 scheduling meal periods for PLAINTIFF, resulting in PLAINTIFF receiving late meal periods, in
28 violation of California meal period law.

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

6 52. Based on information and belief, DEFENDANTS implemented policies and/or
7 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
8 during unpaid meal periods.

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

15 54. Moreover, per DEFENDANTS' uniform policy and practice, Aggrieved Employees
16 who worked shifts of more than ten hours did not receive a second legally compliant thirty (30)
17 minute second meal period.

18 55. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
19 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
20 information and belief, DEFENDANTS did not have a written meal period policy, nor did
21 DEFENDANTS have any sort of compliant policy in practice.

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

28 57. Based on information and belief, DEFENDANTS had actual and/or constructive

1 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
2 were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
3 violation of California's meal period laws.

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

11 59. For example, based on information and belief, PLAINTIFF earned multiple base
12 rates of pay as evidenced by DEFENDANTS paying PLAINTIFF multiple overtime rates. For
13 example, during the pay period 6.16.24 through 6.29.25, PLAINTIFF was paid an overtime rate of
14 \$37.0800 and an overtime rate of \$75.3958. PLAINTIFF also earned a meal period premium during
15 this pay period. The meal period premium was paid at the base rate of \$24.7200. Based on
16 information and belief, DEFENDANTS failed to incorporate all base rates of pay into the regular
17 rate of pay used to calculate the owed meal period premium, resulting in the miscalculation and
18 underpayment of any paid meal period premiums.

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

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

27 62. Based on information and belief, DEFENDANTS did not have a have a compliant
28 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in

1 practice.

2 63. For example, based on information and belief, at times, PLAINTIFF and other
3 Aggrieved Employees were unable to take compliant rest periods due to their need to complete
4 assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area
5 and/or had purported rest periods restricted to DEFENDANTS' premises/their workstations.

6 64. Also, based on information and belief, DEFENDANTS had no policy and/or practice
7 as to the proper timing and/or duty-free nature of rest periods. For example, based on information
8 and belief, DEFENDANTS failed to allow PLAINTIFF and other Aggrieved Employees to take off-
9 duty rest periods that were insofar as practicable in the middle of the work period, as required by
10 law.

11 65. Also, based on information and belief, Aggrieved Employees were not afforded any
12 version of a third rest period when they worked shifts lasting more than ten (10) hours, in violation
13 of California rest period law.

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

16 67. Based on information and belief, DEFENDANTS did not pay PLAINTIFF any rest
17 period premiums during PLAINTIFF's employment and/or did not pay PLAINTIFF a proper rest
18 period premium for each missed and/or otherwise legally non-compliant rest period.

19 68. Based on information and belief, Aggrieved Employees' rest periods were
20 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
21 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring
22 them to skip rest periods completely or otherwise take non-compliant rest periods.

23 69. Moreover, based on information and belief, DEFENDANTS failed to provide any
24 form of a third rest period and/or a legally noncompliant rest period on shifts lasting longer than ten
25 hours.

26 70. Based on information and belief, DEFENDANTS implemented policies and/or
27 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
28 DEFENDANTS' control during rest periods.

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

4 72. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
5 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
6 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
7 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
8 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
9 shift differential pay, and/or other non-discretionary compensation into the regular rate of
10 compensation for purposes of calculating the owed rest period premium.

11 73. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
12 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
13 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
14 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
15 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
16 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
17 applicable hourly rates in effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee.

19 74. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
20 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
21 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
22 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
23 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
24 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
25 other off-the-clock work policies and practices) which results in a violation of Labor Code section
26 226(a).

27 75. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list the inclusive dates and/or correct inclusive dates of the pay period for which the Aggrieved

1 Employee is being paid, in violation of Labor Code section 226(a)(2) and/or Labor Code section
2 (a)(6). For example, based on information and belief, at times, DEFENDANTS issued wage
3 statements to Aggrieved Employees containing payment for hours worked during previous pay
4 periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate
5 pay period for pay, further failing to list the total hours worked for the pay period, including but not
6 limited to, the total hours worked for the pay period the pay corresponds with.

7 76. For example, DEFENDANTS' issued wage statement for PLAINTIFF for pay date
8 5.24.25 shows "Retro OT" earnings of \$12.83, however, DEFENDANTS do not list anywhere on
9 the wage statement, the inclusive dates of the pay period during which that overtime was earned,
10 nor the total hours worked for the pay period, in violation of including but not limited to, Labor
11 Code section 226(a)(2) and/or 226(a)(6), further failing to list all applicable hourly rates in effect
12 during the pay period and the corresponding number of hours worked at each hourly rate, in violation
13 of including but not limited to Labor Code section 226(a)(9).

14 77. As described herein, wage statements issued by DEFENDANTS failed to list all
15 applicable hourly rates in effect during the pay period and the corresponding number of hours
16 worked at each hourly rate by the employee, in violation of, including but not limited to, Labor Code
17 section 226(a)(9).

18 78. For example, DEFENDANTS' issued wage statement for including but not limited
19 to, pay date 8.19.24, identify regular earnings of \$.01, however, DEFENDANTS fail to list any
20 applicable hourly rate in effect during the pay period and the corresponding number of hours worked
21 at each hourly rate by the employee, in violation of, including but not limited to, Labor Code section
22 226(a)(9) and/or Labor Code section 226(a)(2), further failing to list the inclusive dates of the pay
23 period for which the regular earnings were earned, in violation of Labor Code section 226(a)(6).

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

28 80. Based on information and belief, DEFENDANTS issued wage statements to

1 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
2 226(a)(4).

3 81. For example, DEFENDANTS regularly failed to reimburse PLAINTIFF for business
4 expenses, including but not limited to, cell phone/data usage and/or home utility expenses for remote
5 work incurred by PLAINTIFF each pay period, thereby deducting business costs from
6 PLAINTIFF's earned wages each pay period, in violation of including but not limited to, Labor
7 Code Section 221, and further failing to itemize these deductions for business costs, on
8 PLAINTIFF's wage statements. As such, DEFENDANTS issued wage statements to PLAINTIFF
9 that failed to accurately list all deductions, in violation of Labor Code section 226(a)(4).

10 82. Moreover, based on information and belief, DEFENDANTS issued wage statements
11 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
12 other things, failing to list the correct name and/or address of the legal entity that is the employer.

13 83. 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 84. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
17 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
18 were due and owing upon termination or resignation. Based on information and belief,
19 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
20 requirements of Labor Code sections 201-202.

21 85. Upon separation of employment, Aggrieved Employees' final paychecks were not
22 timely provided, were not timely provided with all owed vacation pay and/or paid time off, and/or
23 did not include all wages owed as they were devoid of including but not limited to, all owed
24 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
25 paid time off wages at the properly accrued rates (including but not limited to, all owed vacation
26 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
27 limited to, shift differentials).

28 86. Based on further information and belief, DEFENDANTS failed to timely provide all

1 owed wages immediately upon discharge of employment. Based on information and belief, at times,
2 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
3 Aggrieved Employees would not be called in for work for longer than a single pay period due to
4 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
5 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
6 the end of such periods of employment, in violation of including but not limited to Labor Code
7 section 201-202.

8 87. These violations subject DEFENDANTS to civil penalties under Labor Code section
9 203, 210, and/or 256.

10 88. **Unreimbursed Business Expenses.** Based on information and belief,
11 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
12 direct consequence of the performance of their job duties without providing reimbursement, in
13 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved
14 Employees were improperly required to provide and maintain work tools that are supposed to be the
15 responsibility of the employer.

16 89. Based on information and belief, DEFENDANTS shifted the costs of doing business
17 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
18 to, the use of Aggrieved Employees' personal cell phones/mobile devices, internet and/or data usage
19 for work related purposes.

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

26 91. For example, prior to being able to clock in for a scheduled shift each workday,
27 DEFENDANTS required PLAINTIFF to use a two-step authentication process using PLAINTIFF's
28 personal cell phone/mobile device to log into DEFENDANTS' computer system(s) and/or

1 timekeeping system so as to have the system(s) running at the start of the scheduled shift, however,
2 DEFENDANTS did not provide PLAINTIFF with any and/or full reimbursement for the business
3 expenses PLAINTIFF incurred in connection with being required to use PLAINTIFF's personal cell
4 phone/mobile device to carry out PLAINTIFF's assigned job duties.

5 92. Furthermore, PLAINTIFF was required to use PLAINTIFF's personal phone to
6 upgrade PLAINTIFF's home internet service so PLAINTIFF could carry out PLAINTIFF's
7 assigned job duties, however, DEFENDANTS did not reimburse PLAINTIFF at all and/or in full
8 for the business expenses PLAINTIFF incurred in using her devices to make the upgrade nor for the
9 business expenses PLAINTIFF incurred in connection with being required to upgrade to a more
10 expensive internet service plan for work.

11 93. Based on information and belief, DEFENDANTS required Aggrieved Employees to
12 work remotely, including but not limited to, from their homes. As a result of working from home,
13 Aggrieved Employees were required to use their home internet, electricity, and other utilities in the
14 discharge of their job duties. Based on information and belief, DEFENDANTS lacked and continue
15 to lack a policy to reimburse employees who regularly increased utility expenses as a result of
16 working from home. Aggrieved Employees increased utility and internet expenses were expenses
17 for which DEFENDANTS were required to reimburse Aggrieved Employees a reasonable
18 percentage based on their required business use because said expenses were necessarily incurred by
19 Aggrieved Employees as a direct consequence of the discharge of their duties of employment.
20 However, DEFENDANTS failed to reimburse Aggrieved Employees at all and/or in full for these
21 business expenses incurred as a result of being required to work from their homes, in violation of
22 California law.

23 94. For example, at times, including but not limited to, from in or around June 2023
24 through in or around June 2024, DEFENDANTS failed to provide PLAINTIFF with any
25 reimbursement for PLAINTIFF's home internet expenses and/or utility expenses incurred as a result
26 of being required to perform her job duties remotely from PLAINTIFF's home.

27 95. Based on information and belief, at other times, while DEFENDANTS provided
28 some reimbursement for business expenses, DEFENDANTS failed to provide PLAINTIFF with full

1 reimbursement for the business expenses PLAINTIFF incurred as a result of working from home
2 for DEFENDANTS, including but not limited to reimbursement for a reasonable percentage of
3 PLAINTIFF's home internet and/or utility expenses as required under California law.

4 96. As explained above, based on information and belief, Aggrieved Employees were
5 not reimbursed for the cost of using personal phone(s)/mobile device(s) for work-related purposes,
6 home internet/utility expenses/expenses incurred from working remotely for DEFENDANTS and/or
7 the cost of purchasing and/or maintaining hand tools/work equipment.

8 97. Based on information and belief, DEFENDANTS regularly failed to reimburse and
9 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
10 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
11 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
12 assigned by DEFENDANTS.

13 98. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
14 for all reasonable expenses associated with carrying out their duties required that Aggrieved
15 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
16 2802.

17 99. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
18 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
19 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

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

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

28 102. **Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every

1 employee who is discharged shall be paid at the place of discharge, and every employee who quits
2 shall be paid at the office or agency of the employer in the county where the employee has been
3 performing labor. All payments shall be made in the manner provided by law.

4 103. Based on information and belief, DEFENDANTS have a policy and practice of
5 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
6 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
7 office or agency of DEFENDANTS in the county where the work was performed, in violation of
8 Labor Code Section 208.

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

16 105. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
17 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
18 to said employee.” Based on information and belief, DEFENDANTS made unlawful deductions
19 from Aggrieved Employees paychecks during the relevant period including, without limitation,
20 deducting wages for purported overpayments from previous pay periods and/or business costs from
21 Aggrieved Employees’ earned wages.

22 106. For example, as explained herein, DEFENDANTS regularly failed to reimburse
23 Aggrieved Employees for business expenses incurred by Aggrieved Employees each pay period,
24 thereby deducting business costs from Aggrieved Employees’ earned wages each pay period, in
25 violation of including but not limited to, Labor Code Section 221, and further failing to itemize these
26 deductions for business costs, on PLAINTIFF’s wage statements, in violation of Labor Code section
27 226(a)(4).

28 107. Based on information and belief, DEFENDANTS also made unlawful deductions

1 from Aggrieved Employees earned wages for purported overpayments from previous pay periods.
2 Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which
3 subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

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

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

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

28 111. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF

1 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
2 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
3 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
4 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
5 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
6 used sick leave and the balance of paid sick leave.

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

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

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

19 **115. Unlawful Agreements-Unlawful Criminal History Inquiries.**

20 Unlawful Agreements.

21
22 116. Labor Code section 432.5 provides that “no employer...shall require any employee
23 or applicant for employment to agree, in writing, to any term or condition which is known by such
24 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
25 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
26 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
27 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
28 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements

1 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
2 employment in violation of Labor Code section 432.5.

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

11 118. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
12 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
13 432.5.

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

21 120. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
22 engaged in these same herein described unlawful practices, which led to violations of the California
23 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
24 unlawful practices to all of its employees that it applied to PLAINTIFF.

25 **FIRST CAUSE OF ACTION**
26 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
27 **2698, *ET SEQ.***
28 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all Defendants)**

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

1 **Failure to Keep Accurate Records**

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

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

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

17 **Meal Period Violations**

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

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

26 127. Employers covered by any and all applicable IWC Wage Orders have an obligation
27

28 ² Labor Code § 2699(f)

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

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

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

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

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

27 132. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
28 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and

1 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
2 violation of California's meal period laws.

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

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

14 **Rest Period Violations**

15 135. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
16 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
17 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
18 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
19 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
20 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
21 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
22 1029). The rest period requirement obligates employers to permit and authorize employees to take
23 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
24 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
25 257. If the employer fails to provide any required rest period, the employer must pay the employee
26 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
27 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
28 applicable IWC Wage Order, §12(B).

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

11 137. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
12 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
13 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
14 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
15 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
16 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

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

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

24 140. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
25 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
26 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
27 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
28 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into

1 the regular rate of compensation for purposes of determining the owed rest period premium.

2 141. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
3 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
4 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

5 **Minimum and Overtime Wage Violations**

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

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

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

26 145. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
27 Aggrieved Employees for all hours worked.

28 146. Based on information and belief, DEFENDANTS had actual or constructive

1 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
2 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
3 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
4 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
5 Employees.

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

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

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

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

26 151. Based on information and belief, at times, Aggrieved Employees that were subject
27 to an AWS, were sent home early and/or worked less hours than those that were scheduled under
28 the AWS. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5 times

1 the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid Aggrieved
2 Employees their base rate for all hours worked on the shortened shift(s) in violation of the alternative
3 workweek schedule, and in violation of California Labor Code section 510, the applicable Wage
4 Order, and Labor Code section 1198. As such, Aggrieved Employees that were subject to an AWS
5 were also deprived of all owed overtime wages when required to work shortened shifts.

6 152. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
7 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
8 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
9 Wage Orders, section 20.

10 **Statutory Wage Violations**

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

22 **Refusal to Make Payment**

23 154. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
24 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
25 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
26 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
27 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
28 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil

1 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
2 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

3 **Standard Conditions of Labor Violations**

4 155. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
5 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
6 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
7 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
8 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
9 minimum/overtime wages and other violations described herein result in separate violations of
10 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
11 1197.1 and 2699.

12 **Business Expense Violations**

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

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

26 _____
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 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

2 158. Further, “any contract or agreement, express or implied, made by any employee to
3 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
4 any employee or his personal representative of any right or remedy to which he is entitled to under
5 the laws of this State.” *See* Cal. Lab. Code section 2804.

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

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

12 161. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
13 Employees have suffered injury in that they were not completely reimbursed as mandated by
14 California law.

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

19 163. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
20 Employees have suffered injury in that they were not completely reimbursed as mandated by
21 California law.

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

26 **Wage Statement Violations**

27 165. California law requires every employer semi-monthly or at the time of each payment
28 of wages to furnish its employees with an accurate itemized wage statement in writing that contains

1 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
2 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
3 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
4 is paid; (7) the name of the employee and only the last four digits of his or her social security number
5 or an employee identification number other than a social security number; (8) the name and address
6 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
7 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

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

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

26 168. As explained above, wage statements issued by DEFENDANTS failed to list the
27 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
28 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and

1 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
2 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
3 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
4 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

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

15 172. DEFENDANTS' failure to accurately list all hours worked on all wage statements
16 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
17 Employees over whether they received all wages owed to them.

18 173. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
19 they could not easily determine whether they received all wages owed to them and whether they
20 were paid for all hours worked.

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

24 175. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
25 Aggrieved Employees with accurate, itemized wage statements.

26 176. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
27 Employees have suffered injury. The absence of accurate information on their wage statements has
28 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and

1 mathematical computations to determine the amount of wages owed, and will cause difficulty and
2 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
3 submission of inaccurate information about wages and amounts deducted from wages to state and
4 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
5 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
6 and pay records than if DEFENDANT had complied with its legal obligations.

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

10 **Violation of Labor Code Section 208**

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

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

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

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

27 181. Based on information and belief, DEFENDANTS had and continue to have a

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

1 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
2 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
3 at the properly accrued rates (including but not limited to any owed shift differential pay) to
4 Aggrieved Employees upon separation of employment, in violation of California law, including but
5 not limited to, Labor Code section 227.3.

6 **Untimely Payment of Final Wages**

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

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

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

27 185. Based on information and belief, at times, Aggrieved Employees experienced breaks
28 in employment caused by DEFENDANTS whereby Aggrieved Employees would not be called in

1 for work for longer than a single pay period due to including but not limited to DEFENDANTS'
2 lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
3 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in
4 violation of including but not limited to Labor Code section 201-202.

5 186. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
6 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
7 256.

8 **Unlawful Deductions**

9 187. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from
10 an employee any part of wages theretofore paid by said employer to said employee.” Based on
11 information and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees
12 paychecks during the relevant period, including without limitation, deducting business costs from
13 Aggrieved Employees’ earned wages/paychecks. Such a practice is in violation of including but not
14 limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under
15 Labor Code Section 2699.

16 188. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
17 each pay period during which the statute provisions were violated. See Lab. Code §225.5
18 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
19 provided in this article, every person who unlawfully withholds wages due any employee in
20 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
21 to pay each employee”).

22 **Sick Leave Violations**

23 189. DEFENDANTS violated California’s paid sick leave laws including, Labor Code
24 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
25 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
26 DEFENDANTS’ failure to account for actual hours worked (as explained above), and/or failure to
27 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
28 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary

1 compensation into the sick leave pay rate calculation.

2 190. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
3 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
4 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
5 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
6 Aggrieved Employees' intelligent exercise of their paid sick leave.

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

11 192. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
12 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
13 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
14 were entitled to the maximum number of hours accruable.

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

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

21 195. On information and belief, PLAINTIFF alleges that all of these practices were
22 experienced and continue to be experienced by other Aggrieved Employees.

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

26 **Failure to Provide Written Commission Agreements**

27 197. Labor Code section 2751 requires that all commission contracts "be in writing and .
28 . . set forth the method by which the commissions shall be computed and paid." Cal. Lab. Code

1 section 2751(a) (2012). Under the statute, employers must also "give a signed copy of the contract
2 to every employee who is a party [to the contract] and . . . obtain a signed receipt for the contract
3 from each employee." *Id.* section 2751(b).

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

7 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

8 *Unlawful Agreements.*

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

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

26 201. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
27 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
28 432.5.

1 Unlawful Inquires into Criminal History

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

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

11 204. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
12 Code section 432.7. By asking about convictions at the application phase or prior to extending an
13 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
14 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
15 disclose arrests and/or convictions as a condition of employment.

16 **Violation of Labor Code Section 432.6**

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

21 206. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
22 employment, continued employment, or the receipt of any employment-related benefit, require any
23 applicant for employment or any employee to waive any right...”

24 207. Labor Code Section 432.6(b) provides in pertinent part:

25 208. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
26 applicant for employment or any employee because of the refusal to the waiver of any right...”

27 209. Based on information and belief, DEFENDANTS require/required Aggrieved
28 Employees to waive their right to first and/or second meal periods as a condition of working for

1 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not
2 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
3 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
4 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
5 refusal to waive their meal period rights.

6 210. Under the provisions of PAGA and the above mentioned Labor Code sections,
7 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
8 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1,
9 1198, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all interpretations
10 of these laws by California Courts and administrative bodies, as well as any other law that is
11 enforceable through PAGA, DEFENDANTS are liable for the following penalties:

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

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

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

20 **PRAYER FOR RELIEF**

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

- 23 1. For civil penalties under Labor Code Section 2699;
- 24 2. For an order temporarily, preliminarily and permanently enjoining and
25 restraining DEFENDANTS from engaging in similar unlawful conduct as set
26 forth herein;

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- 1 3. For reasonable attorney's fees and costs of suit; and
2 4. For such other and further relief that the Court deems just and proper.
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4 Dated: February 20, 2025

CROSNER LEGAL, PC

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7 By: 
8 Jamie K. Serb, Esq.
9 Brandon Brouillette, Esq.
10 Zachary M. Crosner, Esq.
11 Attorneys for Plaintiff
12 ARDELPHIA BOWEN
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