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as an aggrieved employee, and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO CGC-25-625157

KENNETH DURHAM, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiff,

v.

PHEENIX CH LLC, a California Limited
Liability Company; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.:

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

ELECTRONICALLY

FILED

Superior Court of California,
County of San Francisco

05/08/2025

Clerk of the Court

BY: SAHAR ENAYATI

Deputy Clerk

1
2 Plaintiff KENNETH DURHAM, as an aggrieved employee, and on behalf of all other
3 aggrieved employees under the Labor Code Private Attorneys' General Act of 2004, alleges as
4 follows:

5 **JURISDICTION AND VENUE**

6 1. This is a representative action, pursuant to the Labor Code Private Attorneys'
7 General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against PHEENIX
8 CH LLC, a California Limited Liability Company, and any of its respective subsidiaries or affiliated
9 companies within the State of California ("PHEENIX") as a proxy of the Labor and Workforce
10 Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other
11 current and former non-exempt employees of Defendants working within the Civil Penalty Period,
12 as further defined herein, and, as it pertains to the alleged claims for failure to comply with the Labor
13 Code. Specifically, in connection with the alleged claims for failure to comply with Labor Code
14 sections 96, 98.6, 200, 201, 201.5, 201.7, 202, 203, 203.5, 204, 204a, 205, 205.5, 210, 212, 221,
15 222, 223, 222.5, 226, 226.2, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8,
16 1102.5, 1197.5, 1198, and 1198.5, Plaintiff seeks to represent all employees of PHEENIX and
17 DOES 1 through 100, as well as their parents, subsidiaries and affiliates (hereinafter, collectively,
18 "Defendants") working within three years preceding the date of filing Notice with the LWDA and
19 continuing past the LWDA Notice filing date into perpetuity ("Civil Penalty Period"). On all other
20 claims mentioned herein, Plaintiff seeks to represent only non-exempt employees of Defendants
21 working within the Civil Penalty Period. Collectively, those employees shall be known as
22 "Aggrieved Employees" herein.

23 2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
24 of Civil Procedure section 410.10.

25 3. Venue is proper in San Francisco County, California pursuant to Code of Civil
26 Procedure sections 392, *et seq.* because, among other things, San Francisco County is where the
27 causes of action complained of herein arose; the county in which the employment relationship
28 began; the county in which performance of the employment contract, or part of it, between Plaintiff

1 and Defendants was due to be performed; and the county in which the employment contract, or part
2 of it, between Plaintiff and Defendants was actually performed. Moreover, the unlawful acts alleged
3 herein have a direct effect on Plaintiff and Aggrieved Employees in San Francisco County, and
4 because Defendants employ Aggrieved Employees in San Francisco County.

5 4. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
6 Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein,
7 even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks
8 to recover civil penalties under the Labor Code Private Attorneys’ General Act of 2004, codified at
9 Labor Code section 2698, *et seq.* (“PAGA”), as amended, plus reasonable attorneys’ fees and costs,
10 for Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil
11 Penalty Period.

12 5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
13 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
14 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
15 PAGA allegations described herein is not required.

16 6. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections
17 96, 98.6, 200, 201, 201.3, 201.5, 201.7, 202, 203, 203.5, 204, 204a, 204.1, 204.2, 205, 205.5, 206.5,
18 210, 212, 221, 222, 223, 222.5, 226, 226.2, 226.3, 226.7, 227.3, 231, 232, 232.5, 233, 235, 245, 246,
19 351, 353, 404, 432, 432.3, 432.5, 432.7, 432.8, 450, 510, 511, 512, 551, 552, 558, 1101, 1102,
20 1102.5, 1174, 1174.51182.12, 1197.5, 1194, 1194.2, 1198, 1198.5, 1290, 1292, 1293, 1293.1,
21 1294.1, 1301, 1391, 1475, 1695.55, 1696.5, 1700.31, 1771, 1774, 1775, 1776, 1811, 1815, 1197.5,
22 2673, 2800, 2802, 2810.3, 2810.5, 2699, 49112, and 49116, among others, California Code of
23 Regulations, Title 8, Sections 1527, 3366, 3395, 3396, 3457, 8397.4, Business and Professions Code
24 sections 16600, 16700, and 17200, Government Code section 12952, as well as applicable Wage
25 Orders.

26 7. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
27 such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within
28 the Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures

1 specified in Labor Code section 2699.3.

2 8. On or around November 13, 2024, Plaintiff provided written notice pursuant to Labor
3 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
4 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
5 as well as by certified mail, with return receipt requested to Defendants, and each of them.

6 9. To the extent Defendants, or either of them, previously used the notice and cure
7 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
8 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
9 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
10 conference process pursuant to section 2699.3(f).

11 10. In the event that Defendants, or either of them, is/are determined to have satisfied
12 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
13 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
14 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

15 11. In the event that Defendants, or either of them, is/are determined to have, prior to
16 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
17 and/or his/her counsel, adequately taken all reasonable steps to be in compliance with all provisions
18 identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to section
19 2699(g)(1)-(3).

20 12. In the event that Defendants, or either of them is/are deemed to have adequately taken
21 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
22 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
23 Code section 2699(h)(1)-(3).

24 13. Plaintiff is further informed and believes that within five (5) years of any of
25 violations described above, the LWDA or a court has issued a finding or determination to the
26 Defendants, or either of them, that its/their policy or practice giving rise to such violations was
27 unlawful, and thus Defendants, or any of them, is/are further liable for civil penalties pursuant to
28 Labor Code section 2699(f)(2)(B)(i). Plaintiff is informed that Defendants, or any of them,

1 was/were found to have unlawfully committed some or all of the above-related Labor Code
2 violations, and thus is/are subject to increased penalties, as applicable, under Labor Code sections
3 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3), and is/are **not** eligible for reduced penalties under
4 either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the
5 serving of this notice. Regardless, as the Defendants' conduct giving rise to the violations detailed
6 herein was and is malicious, fraudulent, and/or oppressive, the Employer thus is subject to increased
7 penalties under Labor Code section 2699(f)(2)(B)(ii) and, per Labor Code sections 2699(g)(3) and
8 2699(h)(3), are **not** eligible for reduced penalties under either 2699(g) or 2699(h), for remedying
9 violations either prior to or after the Employer's receipt of this notice.

10 14. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
11 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
12 calendar days of the November 13, 2024 postmarked date of the herein-described notice sent by
13 Plaintiff to the LWDA and Defendants.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

15 15. From on or about March 22, 2024, Plaintiff is informed and believes, and based
16 thereon alleges, that Defendants, and each of them, had and have a policy or practice of requiring
17 Plaintiff and other Aggrieved Employees to work more than eight (8) hours per day, forty (40) hours
18 per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections
19 551 and 552) without paying them proper overtime wages every day, as a result of, without
20 limitation, failing to accurately track and/or pay for all minutes actually worked; engaging,
21 suffering, or permitting employees to work off the clock, including, without limitation, by requiring
22 employees: to come early to work and leave late work without being able to clock in for all that
23 time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks
24 before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue
25 working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the
26 clock, to attend company meetings off the clock, to make phone calls or drive off the clock, and/or
27 go through security screenings and/or temperature checks off the clock; failing to include all forms
28 of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask

1 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
2 where overtime was worked and the additional compensation was earned for the purpose of
3 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
4 manipulation of time entries to show less hours than actually worked, for paying straight pay instead
5 of overtime pay, for failure to pay overtime as required by Labor Code section 226.2, and by
6 attempting but failing to properly implement an alternative workweek schedule (“AWS”)
7 (including, without limitation, by failing to implement a written agreement designating the regularly
8 scheduled alternative workweek in which the specified number of work days and work hours are
9 regularly recurring; failing to adopt the AWS in a secret ballot election, before the performance of
10 work, by at least a two-thirds (2/3) vote of the affected employees in the work unit; failing to follow
11 the notice/disclosures procedures prior to any AWS election; and/or failing to register an AWS
12 election with the State of California, as required by Labor Code section 511 and applicable Wage
13 Orders) all to the detriment of Employee and other Aggrieved Employees. Consequently, Employee
14 is informed and believes, and based thereon alleges, that Employer violated Labor Code sections
15 221, 222, 223, 226.2, 510, 511, 551, 552, 1194, 1198 (as it pertains to employees governed by a
16 collective bargaining agreement [“CBA”]), 1811, 1815 and applicable Wage Orders based on its
17 practice of providing total compensation that is less than the required legal overtime compensation
18 for the overtime worked, entitling Employee and other aggrieved employees to damages, including,
19 without limitation, at least one hour of unpaid overtime wages each day worked by each Aggrieved
20 Employee during the Civil Penalty Period. Employee further informed and believes, and based
21 thereon alleges, that Employer’s conduct above gave rise to such violations was malicious,
22 fraudulent, or oppressive. Employer would also be liable for civil penalties pursuant to Labor Code
23 sections 210 (for failure to timely pay these wages), 558, 1198 and 2699, or injunctive relief under
24 sections 2699(e)(1) and 2699(k). Employer would further be liable for civil penalties pursuant to
25 Labor Code section 2699(f)(2)(B)(ii).

26 16. From on or about March 22, 2024, Plaintiff is informed and believes, and based
27 thereon alleges, that Defendants, and each of them, had and have a practice or policy of failing to
28 compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours worked or

1 otherwise under Employer's control every day as a result of, without limitation, failing to accurately
2 track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to
3 work off the clock, including, without limitation, by requiring employees: to come early to work
4 and leave late work without being able to clock in for all that time, to suffer under Defendants'
5 control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift
6 tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest
7 periods, to don and doff uniforms and/or safety equipment off the clock, to undergo security checks
8 and/or bag checks off the clock, to store and retrieve personal belongings off the clock, to attend
9 company meetings off the clock, to make phone calls, receive and respond to emails and/or texts, or
10 drive off-the-clock; detrimental rounding of employee time entries; failing to pay the minimum
11 amounts required under Labor Code section 226.2; editing and/or manipulation of time entries to
12 show less hours than actually worked; and failing to pay split shift premiums. In addition, Plaintiff
13 and other Aggrieved Employees were required to report to work, and did report, but were not put to
14 work and/or were furnished less than half their usual or scheduled day's work without being paid
15 for half the usual or scheduled work at their regular rate of pay. As such, Plaintiff is informed and
16 believes, and based thereon alleges, that Defendants violated, without limitation, Labor Code
17 sections 221, 222 (as it pertains to employees governed by a CBA), 223, 226.2, 1197, 1182.12, Cal.
18 and applicable Wage Orders based on its continued failure to pay minimum wages for all hours
19 worked, that Plaintiff and other Aggrieved Employees personally suffered these violations, and that
20 Plaintiff and other Aggrieved Employees are entitled to actual and liquidated damages under,
21 without limitation, Labor Code sections 1475, 1194, 1194.2, and 1198 to compensate them for at
22 least one unpaid hour of work per day for each Aggrieved Employee in the Civil Penalty Period.
23 Employee further informed and believes, and based thereon alleges, that Defendants' conduct above
24 gave rise to such violations was malicious, fraudulent, or oppressive. Plaintiff would also be liable
25 for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558,
26 1197.1, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff would
27 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

1 17. From on or about March 22, 2024, Plaintiff is informed and believes, and based
2 thereon alleges, that Defendants had and have a practice or policy of failing to compensate Plaintiff
3 and other Aggrieved Employees with minimum wages for all hours worked or otherwise under
4 Employer's control every day as a result of, without limitation, failing to accurately track and/or pay
5 for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock,
6 including, without limitation, by requiring employees: to come early to work and leave late work
7 without being able to clock in for all that time, to suffer under Defendants' control due to long lines
8 for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out,
9 to clock out for meal periods and continue working, to clock out for rest periods, to don and doff
10 uniforms and/or safety equipment off the clock, to undergo security checks and/or bag checks off
11 the clock, to store and retrieve personal belongings off the clock, to attend company meetings off
12 the clock, to make phone calls, receive and respond to emails and/or texts, or drive off-the-clock;
13 detrimental rounding of employee time entries; editing and/or manipulation of time entries to show
14 less hours than actually worked; and failing to pay split shift premiums. In addition, Plaintiff and
15 other Aggrieved Employees were required to report to work, and did report, but were not put to
16 work and/or were furnished less than half their usual or scheduled day's work without being paid
17 for half the usual or scheduled work at their regular rate of pay. These acts and/or omissions violated
18 Labor Code sections 1771, 1774 and 1198, and, thus Plaintiff would be liable for civil penalties
19 pursuant to these sections and Labor Code section 2699, or injunctive relief under sections
20 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon alleges, that
21 Plaintiff's conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
22 Plaintiff would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

23 18. From on or about March 22, 2024 Plaintiff is informed and believes, and based
24 thereon alleges, that Defendants, and each of them, had and have a policy or practice of compelling
25 Plaintiff and other Aggrieved Employees during the Civil Penalty Period to work every day in excess
26 of five (5) and ten (10) hours per day, without being afforded uninterrupted, timely, and complete
27 30-minute meal periods or compensation in lieu thereof including, each workday, without limitation:
28 by interrupting meal periods; not providing timely meal periods; failing to provide first and second

1 meal periods; providing short meal periods, including without, limitation meal periods that were
2 recorded for less than thirty minutes, and meal periods that may appear on the record to be thirty
3 minutes or longer but in practice were shorter than thirty minutes due to time required to walk to
4 and from a suitable break area, time spent having to wait in line to clock back in, having to don and
5 doff safety gear during the meal period, having to undergo security or bag checks during the meal
6 period, and /or having to retrieve and store personal belongings during the meal period; requiring
7 that employees carry cellular telephones or walkie-talkies during meal periods; not permitting
8 employees to leave the premises; otherwise requiring on-duty/on-call meal periods; and auto-
9 deducting meal periods that could not be auto-deducted by law or during which employees
10 worked. Plaintiff and other Aggrieved Employees personally suffered these violations.
11 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants violated
12 Labor Code sections 221, 222 (as to employees governed by a CBA), 223, 512 and 1198 each day
13 for each Aggrieved Employee during the Civil Penalty Period, and that, thus each Aggrieved
14 Employee was owed one hour of premium pay at their regular rate of pay for each day worked
15 during the Civil Penalty Period under Labor Code section 226.7. However, Plaintiff is informed
16 and believes that those premium payments under Labor Code section 226.7 were not made, either,
17 for these non-compliant meal periods, either at all or at the proper regular rate of pay. Plaintiff
18 would thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely
19 pay these wages), 221, 222 (for employees governed by a CBA), 223, 558, 1198 and 2699 for both
20 failing to authorize the taking of compliant meal periods and for failing to provide premium pay
21 under Labor Code section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff
22 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise
23 to such violations was malicious, fraudulent, or oppressive. Employer would further be liable for
24 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

25 19. From on or about March 22, 2024 Plaintiff is informed and believes, and based
26 thereon alleges, that Defendants maintain policies or practices of compelling Plaintiff and other
27 Aggrieved Employees every day to, including, without limitation, work over four-hour periods (or
28 major fractions thereof) without authorizing and permitting Plaintiff and other Aggrieved

1 Employees to take uninterrupted, timely, and complete ten-minute rest periods in which the
2 employees are completely relieved of all of their duties, including, without limitation: by failing to
3 provide rest periods all together; failing to provide rest periods that were at least ten minutes in
4 length, including rest periods that were shorter than ten minutes, or rest periods that may have
5 encompassed a total of ten minutes but were in practice less than ten uninterrupted minutes due to,
6 without limitation, due to time required to walk to and from a suitable break area, time spent having
7 to don and doff safety gear during the rest period, having to retrieve and store personal belongings
8 during the rest period, and/or having to undergo security or bag checks during the rest period,
9 requiring that they be bundled together and/or with meal periods; interrupting them; requiring that
10 employees carry cellular telephones or walkie-talkies during rest periods; not providing rest periods
11 in a timely fashion; and not permitting employees to leave the premises; and otherwise requiring
12 on-duty/on-call rest periods. Employee and other Aggrieved Employees personally suffered these
13 violations. Consequently, Plaintiff is informed and believes, and based thereon alleges, that
14 Defendants violated the applicable Wage Order(s) each day for each Aggrieved Employee during
15 the PAGA Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at
16 their regular rate of pay for each day worked during the PAGA Period under Labor Code section
17 226.7. However, Plaintiff is informed and believes that those premium payments under Labor Code
18 section 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper
19 regular rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants would thus be
20 liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages),
21 221, 222 (for employees governed by a CBA), 223, 558, 1198 and 2699 for both failing to authorize
22 the taking of compliant rest periods and for failing to provide premium pay under Labor Code
23 section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
24 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
25 violations was malicious, fraudulent, or oppressive. Defendants would further be liable for civil
26 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

27 20. From on or about March 22, 2024 Plaintiff is informed and believes, and based
28 thereon alleges, that Defendants maintain policies or practices of failing to maintain adequate

1 temperatures which created excessive heat or humidity exposing Plaintiff and Aggrieved Employees
2 to temperature related hazards and/or comfortable working environments, as required under
3 California Code of Regulations Title 8, section 3396. Plaintiff is informed and believes, and based
4 thereon alleges that Defendants failed to maintain temperatures at comfortable levels in violation of
5 section 15 of the applicable Wage Orders, which requires temperature be maintained in each work
6 area to be reasonably comfortable, consistent with industry-wide standards for the nature of the
7 process and the work performed. Defendants, as required by the same wage order provisions, also:
8 failed and fails to take all feasible means to reduce excessive heat or humidity created by the work
9 process to provide reasonable comfort; failed and fails to provide a heated room for Plaintiff and
10 Aggrieved Employees so that they may retire for warmth while maintaining such room at not less
11 than 60 degrees; and/or failed and fails to maintain a temperature of not less than 68 degrees in toilet
12 rooms, resting rooms, and change rooms during hours of use Plaintiff is further informed and
13 believes, and based thereon alleges that Defendants failed and fail to permit Plaintiff and other
14 Aggrieved Employees from taking cooldown periods every day as required under California Code
15 of Regulations, Title 8, Section 3395; rest and recovery periods as required by Labor Code section
16 226.2; and premium pay in lieu thereof under Labor Code section 226.7. Plaintiff and other
17 Aggrieved Employees personally suffered these violations. Consequently, Plaintiff is informed and
18 believes, and based thereon alleges, that Defendants violated California Code of Regulations, Title
19 8, Sections 3395 and 3396 each day for each Aggrieved Employee during the PAGA Period, and
20 that, thus each Aggrieved Employee was owed one hour of premium pay at their regular rate of pay
21 for each day worked during the PAGA Period under Labor Code section 226.7. In addition, for the
22 failure each day of the PAGA Period by Defendants to provide rest and recovery periods under
23 Labor Code section 226.2, each Aggrieved Employee was owed compensation at a regularly hourly
24 rate that is no less than the higher of the amounts set forth in Labor Code section 226.2(a)(3)(A)(i)
25 or 226.2(a)(3)(A)(ii). However, Plaintiff is informed and believes that those premium payments
26 under Labor Code section 226.7, and rest and recovery periods under Labor Code section
27 226.2(a)(3)(A) were not made for these non-compliant cooldown periods and/or rest and recovery
28 periods, either at all or at the proper rate of pay, in violation of Labor Code sections 226.2, 226.7

1 and/or 1198. Defendants would also be liable for their failures to provide comfortable levels of
2 temperatures to employees under the wage orders, including Section 15 thereof. Defendants would
3 thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these
4 wages), 221, 222 (for employees governed by a CBA), 223, 558, 1198 and 2699 for both failing to
5 authorize the taking of compliant rest periods and for failing to provide premium pay under Labor
6 Code section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
7 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
8 violations was malicious, fraudulent, or oppressive. Defendants would further be liable for civil
9 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

10 21. In addition to the above, From on or about March 22, 2024, Plaintiff is informed and
11 believes, and based thereon alleges that Defendants failed and continue to fail to keep adequate or
12 accurate time records including wage statements and similar payroll documents under Labor Code
13 section 226, documents signed to obtain or hold employment under Labor Code section 432,
14 personnel records under Labor Code section 1198.5, time records under Labor Code section 1174,
15 the names and addresses of all employees employed and the ages of all minors under Labor Code
16 section 1174, subsection (c), payroll records showing the hours worked daily by and the wages paid
17 to, and the number of piece-rate units earned by, and applicable piece rate paid to, employees
18 employed at the respective place of employment under Labor Code section 1174, subsection (d),
19 and a copy of the payroll record provided by the contractor under Labor Code section 1695.55, as
20 well as the information required to be kept under Labor Code sections 2673 and/or 1776, subdivision
21 (a), making it difficult for Employee and other aggrieved employees to calculate their unpaid wages
22 and/or premium payments. Employer also failed to provide these documents to Employee and other
23 Aggrieved Employees upon request in violation of these Labor Code sections, as well as Labor Code
24 section 1198 and/or 1775, subdivision (b)(1). Plaintiff and the Aggrieved Employees personally
25 suffered these violations, which in turn would entitle Plaintiff and other Aggrieved Employees to
26 penalties prescribed by Labor Code sections 226 and 1198.5. Defendants would also be liable for
27 civil penalties pursuant to Labor Code sections 558, 1174.5, 1695.55, 1198, and 2699. Plaintiff is
28 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise

1 to such violations was malicious, fraudulent, or oppressive. Defendants would further be liable for
2 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 22. From on or about March 22, 2024, As a result of, among other things, Defendants'
4 herein-described policy or practice of failing to: accurately record time; failing to pay overtime and
5 minimum wages; failing to provide meal periods; failing to provide rest periods; and failing to
6 provide compensation in lieu of meal or rest periods, as described above, and due to independent
7 failures in connection therewith, Plaintiff is informed and believes, and based thereon alleges, that
8 Defendants also intentionally failed and continues to fail to furnish Aggrieved Employees,
9 including, without limitation, Plaintiff, with itemized wage statements that accurately reflect: gross
10 wages earned; total hours worked by the employee; net wages earned; the inclusive dates of the
11 period for which the employee is paid; the name of the employee and only the last four digits of
12 their social security number or an employee identification number other than a social security
13 number; all deductions; all applicable hourly rates in effect during the pay period and the
14 corresponding number of hours worked at each hourly rate by the employee; the legal name and
15 address Defendants (and, in the case of a farm labor contractor, the name and address of the legal
16 entity that secured the services of the employer); and other such information as required by Labor
17 Code section 226, subdivision (a) , as well as Labor Code section 226.2 to the extent it does not
18 include for piece-rate work the information required therein including, without limitation, the
19 quantity, rate and units worked per piece, as well as separately itemized non-productive time and
20 rest and recovery periods. Specifically, Defendants intentionally failed to furnish employees with
21 itemized wage statements that accurately reflect the hours worked by Plaintiff and other Aggrieved
22 Employees and the rates of pay at which they were or should have been paid (including due to failure
23 to pay at the proper regular rate), thus resulting in a failure to reflect gross and net wages earned and
24 paid at each rate, as well. Consequently, Employee is informed and believes, and based thereon
25 alleges, that Employer violated Labor Code sections 226, 226.2, 1696.5 and 1198 each day for each
26 Aggrieved Employee during the PAGA Period, and that, thus Employee and each Aggrieved
27 Employee personally suffered these violations and was owed penalties under Labor Code section
28 226 and 226.2 for each pay period worked during the PAGA Period. Plaintiff is informed and

1 believes that those penalties under Labor Code section 226 were not paid for these violations of
2 Labor Code section 226. Defendants would thus be liable for civil penalties pursuant to Labor Code
3 sections 226.2, 226.3, 558, 1198, 1696.5 and 2699. Plaintiff is further informed and believes, and
4 based thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
5 fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to Labor Code
6 sections 226.2, 226.3, 558, and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
7 Defendants would further be liable for civil penalties pursuant to Labor Code section
8 2699(f)(2)(B)(ii).

9 23. From on or about March 22, 2024, Plaintiff is informed and believes, and based
10 thereon alleges, that Defendants also willfully or intentionally failed and refused, and continue to
11 fail and refuse, to timely pay compensation to Plaintiff and other terminated or resigned employees,
12 including but not limited to, all overtime wages owed; all minimum wages owed; all paid sick leave,
13 vacation pay and paid time off; and all premium pay owed as set out above, including, without
14 limitation, for failure to pay at the proper regular rate of pay, among other things. Consequently,
15 Plaintiff is informed and believes, and based thereon alleges, that Defendants violated Labor Code
16 sections 201, 201.5, 201.7, 202 203, 203.5 ,204a, 204.1, 204.2, 205, 205.5 and 1198 each pay period
17 for each Aggrieved Employee during the PAGA Period, and that, thus Plaintiff and each Aggrieved
18 Employee personally suffered these violations and was owed penalties under Labor Code section
19 203 (or, as applicable, 203.5, 204a, 204.1, 204.2, 205 and/or 205.5) for each pay period worked
20 during the PAGA Period. However, Plaintiff is informed and believes that those penalties under
21 Labor Code section 203 (or 203.5 and/or 204a) were not made for these violations of Labor Code
22 sections 201, 201.5, 201.7, 202, 203, 203.5, 204b, 204.1, 204.2, 205 and/or 205.5. Plaintiff is further
23 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
24 violations was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
25 penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under sections
26 2699(e)(1) and 2699(j). Defendants would further be liable for civil penalties pursuant to Labor
27 Code section 2699(f)(2)(B)(ii).

1 24. From on or about March 22, 2024, Plaintiff is informed and believes, and based
2 thereon alleges, that Defendants required or require the execution of a release of claim or right on
3 account of wages due, or to become due, or made as an advance on wages to be earned, including,
4 without limitation, as a condition of being paid, to execute a statement of the hours worked during
5 a pay period in which Defendants knew to be false. As such, Plaintiff is informed and believes, and
6 based thereon alleges that Defendants violated Labor Code sections 206.5 and 1198, and that
7 Plaintiff and other Aggrieved Employees have personally suffered these violations. Plaintiff is
8 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise
9 to such violations was malicious, fraudulent, or oppressive. Defendants would be liable for civil
10 penalties pursuant to Labor Code sections 1198 and 2699, or injunctive relief under sections
11 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties pursuant to Labor
12 Code section 2699(f)(2)(B)(ii).

13 25. From on or about March 22, 2024, Plaintiff is informed and believes, and based
14 thereon alleges, that Defendants have or had a policy or practice of unlawfully deducting wages
15 from Plaintiff and other Aggrieved Employees, by issuing in payment of wages due, or to become
16 due, or as an advance on wages to be earned: (1) an order, check, draft, note, memorandum, gift
17 card, or other acknowledgement of indebtedness, (unless it was negotiable and payable in cash, on
18 demand, without discount, at some established place of business in the state), the name and address
19 of which must but did not appear on the instrument, and at the time of its issuance and for a
20 reasonable time thereafter, which must be but was not at least 30 days, the maker or drawer did not
21 have sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment;
22 and/or (2) any scrip, coupon cards, or other thing redeemable, in merchandise or purporting to be
23 payable or redeemable otherwise than in money. Plaintiff is further informed and believes, and based
24 thereon alleges, that such wages were not compensated at the "regular rate" of compensation as
25 provided under Labor Code sections 226.7 and 510, subsection (a), thus violating those Labor Code
26 sections, as well as Labor Code section 1198. In addition, Plaintiff is informed and believes that
27 Defendants, by these deductions and/or otherwise, have caused wages earned by Plaintiff and
28 Aggrieved Employees to be charged back or kicked back to Defendants. Consequently, Plaintiff is

1 informed and believes, and based thereon alleges, that Plaintiff and other Aggrieved Employees
2 have personally suffered violations under these sections and are entitled to relief under, without
3 limitation, Labor Code sections 212, 221, 222 (as it pertains to employees governed by a CBA),
4 223, 226.7, 246, 510 subsection (a), 1194, and 1197. Plaintiff is further informed and believes, and
5 based thereon alleges, that Plaintiff's conduct above gave rise to such violations was malicious,
6 fraudulent, or oppressive. Defendants would thus be liable for civil penalties pursuant to Labor
7 Code sections 558, 1197.1, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
8 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section
9 2699(f)(2)(B)(ii).

10 26. From on or about March 22, 2024, Plaintiff is further informed and believes, and
11 based thereon alleges that Defendants failed and refused, and continues to fail and refuse, to comply
12 with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of
13 2011) by, among other things, failing to provide Plaintiff and other Aggrieved Employees with the
14 rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part
15 of the minimum wage, the regular payday designated by Defendants, the name of the employer,
16 including any "doing business as" names used, the name, address and telephone number of the
17 workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent
18 information required to be disclosed by Employer under Labor Code section 2810.5. Plaintiff is
19 informed and believes that failure to provide such information, including rates of pay that are in
20 effect, has permitted Defendants to pay employees at rates of pay that were not agreed upon and
21 violate minimum wage and overtime wage laws in California. Plaintiff is additionally informed and
22 believes that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or
23 workplace injury reporting. Plaintiff is informed and believes that Defendants violated Labor Code
24 sections 1198 and 2810.5. Plaintiff and other Aggrieved Employees personally suffered these
25 violations. Plaintiff further informed and believes, and based thereon alleges, that Defendants'
26 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Among other
27 relief, employees may collect from Defendants in connection with these violations' civil penalties
28 pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1)

1 and 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section
2 2699(f)(2)(B)(ii).

3 27. From on or about March 22, 2024, Plaintiff is informed and believes, and based
4 thereon alleges that Defendants also failed and refused, and continues to fail and refuse, to reimburse
5 employees, including, without limitation, Plaintiff and other Aggrieved Employees, with their costs
6 incurred for driving personal vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing
7 uniform and other deposits, separately laundering mandatory uniforms, for the purchase of tools and
8 safety equipment, and for the purchase and maintenance of cellular phones and cellular phone plans,
9 for pre-employment medical, physical or drivers' exams taken as a condition of employment, or for
10 compelling or coercing Plaintiff and Aggrieved Employees, including applicants, to patronize in the
11 purchase of a value or things, including, without limitation, Defendants' product(s) and/or
12 service(s), in direct consequence of the discharge of their duties, or of their obedience to the
13 directions of Defendants, as required by Labor Code sections 222.5, 231, 450, 1198, 2800, 2802,
14 and other statutory and common law offenses. As a result, Plaintiff and other Aggrieved Employees
15 have personally suffered these violations and Defendants are liable to reimburse Plaintiff and other
16 Aggrieved Employees for these costs incurred in furtherance of work duties. Plaintiff further
17 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
18 violations was malicious, fraudulent, or oppressive. In addition, Defendants would be liable for
19 civil penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under
20 sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties pursuant to
21 Labor Code section 2699(f)(2)(B)(ii).

22 28. From on or about March 22, 2024, Plaintiff is further informed and believes, and
23 based thereon alleges, that Defendants have or had a policy or practice of failing to reimburse
24 deposits made, including uniform deposits together with all interest owed at the separation of
25 employment in violation of Labor Code sections 404 and 1198, that Plaintiff and other Aggrieved
26 Employees personally suffered these violations, and that Plaintiff and other Aggrieved Employees
27 are entitled to damages in the amount of the deposit and accrued interest. Plaintiff further informed
28 and believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations

1 was malicious, fraudulent, or oppressive. Defendants would also be liable for civil penalties under
2 Labor Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
3 Defendants would further be liable for civil penalties pursuant to Labor Code section
4 2699(f)(2)(B)(ii).

5 29. From on or about March 22, 2024, Plaintiff is further informed and believes, and
6 based thereon alleges, that Defendants have or had a policy or practice of failing to provide Plaintiff
7 and other Aggrieved Employees with all rights afforded to them under the Healthy Workplace
8 Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*, including, without
9 limitation, the amount of paid sick leave required to be provided pursuant to California and local
10 laws. Plaintiff is further informed and believes that the sick pay was not provided at the proper
11 regular of pay as required under California law due to failure to properly calculate the regular rate.
12 Plaintiff is further informed and believes that Defendants also did not permit its use upon request
13 by Plaintiff and other Aggrieved Employees as contemplated under California and local laws,
14 including, without limitation, under Labor Code section 233, that permits its use to attend to an
15 illness of a child, parent, spouse, or domestic partner without retaliation. Plaintiff is additionally
16 informed and believes that the notice requirement of Labor Code section 221, 222 (as it pertains to
17 employees governed by a CBA), 223, 233, 234, 245 and 246 involves a mandatory payroll or
18 workplace injury reporting. Plaintiff is thus informed and believes that Defendants violated these
19 Labor Code sections, as well as Labor Code section 1198. As such, Plaintiff and other Aggrieved
20 Employees have personally suffered violations under these sections and Defendants would be liable
21 for civil penalties for violation of the paid sick leave regulations under Labor Code sections 1198
22 and 2699, as well as equitable, injunctive, or restitutionary relief, and reasonable attorneys' fees and
23 costs. Defendants are further informed and believes, and based thereon alleges, that Defendants'
24 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
25 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

26 30. From on or about March 22, 2024, Plaintiff is informed and believes, and based
27 thereon alleges that Defendants had and have a policy or practice of failing to pay Plaintiff and other
28 Aggrieved Employees their paid time off and vacation time owed upon separation of employment

1 as wages at their final rate of pay in violation of Labor Code sections 221, 222 (as it pertains to
2 employees governed by a CBA), 223, 227.3 and applicable Wage Orders. Plaintiff is thus informed
3 and believes that Defendants violated these Labor Code sections, as well as Labor Code section
4 1198. As such, Plaintiff and other Aggrieved Employees have personally suffered these violations
5 and Defendants would be liable for civil penalties for violation of Labor Code section 227.3 under
6 Labor Code section 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
7 Plaintiff is further informed and believes, and based thereon alleges, that Defendants' conduct above
8 gave rise to such violations was malicious, fraudulent, or oppressive. Defendants would further be
9 liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

10 31. From on or about March 22, 2024, Plaintiff is informed and believes, and based
11 thereon alleges that Defendants had and have a policy or practice of failing to pay aggrieved
12 employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor
13 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
14 the 16th and 26th day of the month during which the labor was performed, and labor performed
15 between the 16th and the last day, inclusive of any calendar month, shall be paid for between the
16 1st and 10th day of the following month." Plaintiff is informed and believes and based thereon
17 alleges that Defendants did not and do not pay Plaintiff and other Aggrieved Employees every day
18 and every workweek in accordance with Labor Code sections 204 and 1198. As such, Plaintiff is
19 informed and believes, and based thereon alleges that Defendants violated Labor Code section 204
20 and that Plaintiff and other Aggrieved Employees have personally suffered these violations.
21 Plaintiff further informed and believes, and based thereon alleges, that Defendants' conduct above
22 gave rise to such violations was malicious, fraudulent, or oppressive. Plaintiff would be liable for
23 civil penalties pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under
24 sections 2699(e)(1) and 2699(k). Plaintiff would further be liable for civil penalties pursuant to
25 Labor Code section 2699(f)(2)(B)(ii).

26 32. From on or about March 22, 2024, Plaintiff is informed and believes, and based
27 thereon alleges that Defendants had and have a policy of failing to provide all temporary workers,
28 including without limitation, Plaintiff, with owed wages weekly by not later than the regular payday

1 of the following week. Plaintiff is informed and believes that this has resulted in a violation of
2 Labor Code sections 201.3 and 1198. As a result, pursuant to Labor Code section 201.3, Plaintiff
3 and other Aggrieved Employees have personally suffered violations thereto and Plaintiff would be
4 liable for civil penalties pursuant to Labor Code sections 201.3, 1198 and 2699, or injunctive relief
5 under sections 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon
6 alleges, that Defendants' conduct above gave rise to such violations was malicious, fraudulent, or
7 oppressive. Defendants would further be liable for civil penalties pursuant to Labor Code section
8 2699(f)(2)(B)(ii).

9 33. From on or about March 22, 2024, Plaintiff is informed and believes, and based
10 thereon alleges, that Defendants have or had collected, taken, or received gratuities (or a part thereof)
11 that is paid, given to, or left for Plaintiff and/or Aggrieved Employees by a patron, or deducted
12 amounts from wages due to Plaintiff and/or Aggrieved Employees on account of a gratuity, or
13 required Plaintiff and/or Aggrieved Employees to credit the amount (or a part thereof) of a gratuity
14 against and as part of the wages due to the Plaintiff and/or Aggrieved Employees from the
15 Defendants. In addition, Plaintiff is informed and believes, and based thereon alleges, that
16 Defendants permit and/or permitted patrons to pay gratuities by credit card but failed to pay Plaintiff
17 and/or Aggrieved Employees the full amount of the gratuity that the patron indicated on the credit
18 card slip, without any deductions, for any credit card payment processing fees that may be charged
19 to the employer by the credit card company by not later than the regular payday following the date
20 the patron authorized the credit card. In addition, Defendants failed to keep accurate records of all
21 gratuities received by Defendants and made those open to inspection at all reasonable hours.
22 Plaintiff is informed and believes that this has resulted in a violation of Labor Code sections 351,
23 353, 1198. As a result, pursuant to Labor Code sections 351 and 353, Plaintiff and other Aggrieved
24 Employees have personally suffered violations thereto and Defendants would be liable for civil
25 penalties pursuant to Labor Code sections 351, 353, 1198 and 2699, or injunctive relief under
26 sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
27 alleges, that Defendants' conduct above gave rise to such violations was malicious, fraudulent, or
28

1 oppressive. Defendants would further be liable for civil penalties pursuant to Labor Code section
2 2699(f)(2)(B)(ii).

3 34. From on or about March 22, 2024, Plaintiff is informed and believes, and based
4 thereon alleges that Defendants had and have a policy or practice of failing to provide all working
5 employees, including without limitation Plaintiff, with suitable seats when the nature of the work
6 reasonably permits the use of seats. Plaintiff is further informed and believes, and based thereon
7 alleges that Defendants have failed to place an adequate number of seats in reasonable proximity to
8 the work area and/or permitted Plaintiff and other aggrieved employees to use such seats when it
9 does not interfere with the performance of their duties when employees are not engaged in the active
10 duties of their employment and the nature of their work requires standing. Plaintiff and other
11 Aggrieved Employees have personally suffered these violations. Plaintiff is informed and believes
12 that this has resulted in a violation of Labor Code section 1198. As a result, Plaintiff and other
13 Aggrieved Employees have personally suffered violations thereto and Defendants would be liable
14 for civil penalties under Labor Code sections 1198 and 2699, or injunctive relief under sections
15 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that
16 Defendants' conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
17 Defendants would further be liable for civil penalties pursuant to Labor Code section
18 2699(f)(2)(B)(ii).

19 35. From on or about March 22, 2024, Plaintiff is informed and believes, and based
20 thereon alleges that Defendants had and have a policy or practice of preventing Plaintiff and other
21 Aggrieved Employees from using or disclosing the skills, knowledge and experience they obtained
22 with Defendants for purposes of competing with Defendants, including, without limitation,
23 preventing Plaintiff and Aggrieved Employees from disclosing their wages in negotiating a new job
24 with a prospective employer, and from disclosing who else works with Defendants and under what
25 circumstances that they might be receptive to an offer from a rival employer. As such, Plaintiff is
26 informed and believes that this violates Business and Professions Code sections 17200, 16600 and
27 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections
28 232, 232.5, 1197.5, subdivision (k), and 1198, and that Plaintiff and other Aggrieved Employees

1 have personally suffered these violations. Plaintiff is further informed and believes, and based
2 thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
3 fraudulent, or oppressive. Defendants would be liable for civil penalties pursuant to Labor Code
4 sections 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants
5 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

6 36. From on or about March 22, 2024, Plaintiff is informed and believes, and based
7 thereon alleges that Defendants had and have a policy or practice of preventing Plaintiff and other
8 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
9 to their managers or outside of Defendants to private attorneys or government officials, among
10 others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor
11 Code section 1102.5. Plaintiff and other Aggrieved Employees personally suffered these violations.
12 In addition, Plaintiff is informed and believes that these policies and/or practices prevent Plaintiff
13 and other Aggrieved Employees from disclosing information about unsafe or discriminatory
14 working conditions, or about wage and hour violations in violation of Labor Code sections 232,
15 232.5 and 1198. Plaintiff and other Aggrieved Employees personally suffered these violations of
16 the Labor Code, and as such, these violations would expose Defendants to liability for civil penalties
17 pursuant to Labor Code sections 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
18 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
19 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
20 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

21 37. From on or about March 22, 2024, Plaintiff is informed and believes, and based
22 thereon alleges that Defendants had and have a policy or practice of preventing Plaintiff and other
23 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
24 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
25 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, 1197.5, subdivision
26 (k), and 1198. Plaintiff and other Aggrieved Employees personally suffered these violations.
27 Plaintiff is informed and believes that this lawful conduct includes, without limitation, the exercise
28 of Plaintiff and other Aggrieved Employee's constitutional rights of freedom of speech and

1 economic liberty and would thus expose Defendant to liability for civil penalties pursuant to Labor
2 Code sections 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff
3 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise
4 to such violations was malicious, fraudulent, or oppressive. Defendants would further be liable for
5 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

6 38. From on or about March 22, 2024, Plaintiff is informed and believes, and based
7 thereon alleges that Defendants had and have made, adopted, and/or enforced rules, regulations
8 and/or policies that tend to forbid or prevent Aggrieved Employees, including Plaintiff, from
9 engaging or participating in politics and/or from becoming a candidate for public office. Moreover,
10 Plaintiff is informed and believes, and based thereon alleges that Defendants coerced, influenced
11 and/or attempted to coerce and/or influence Plaintiff and other Aggrieved Employees, through or
12 by means of threat of discharge and/or loss of employment, to adopt or follow or refrain from
13 adopting or following a particular course or line of political action and/or political activity. Plaintiff
14 is informed and believes, and based thereon alleges that in doing so, Defendants have violated,
15 without limitation, Labor Code sections 1101, 1102, 1102.5 and 1198. Plaintiff and other Aggrieved
16 Employees personally suffered these violations and are thus informed and believe that Employer is
17 exposed to liability for civil penalties pursuant to Labor Code sections 1198 and 2699, or injunctive
18 relief under sections 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based
19 thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
20 fraudulent, or oppressive. Defendants would further be liable for civil penalties pursuant to Labor
21 Code section 2699(f)(2)(B)(ii).

22 39. From on or about March 22, 2024, Plaintiff is informed and believes, and based
23 thereon alleges, that Defendants, including their agents, managers, superintendents, and/or officers,
24 required Plaintiff and/or Aggrieved Employees to agree, in writing, to terms and conditions known
25 by Defendants (and their agents, managers, superintendents and/or officers) to be prohibited by law,
26 including, without limitation, non-compete agreements, terms known to be illegal in purported
27 arbitration agreements, purported confidentiality agreements, purported severance agreements, or
28 purported release agreements, and other written documents presented for signature and/or assent to

1 Plaintiff and/or Aggrieved Employees by Defendants. And, even more specifically, Plaintiff is
2 informed and believes, and based thereon alleges, that Defendants had and have a practice or policy
3 of requiring Plaintiff and other Aggrieved Employees to agree in writing to confidentiality policies
4 that unlawfully restrain trade by prohibiting employees from speaking with prospective employers
5 about their work with Defendants, including but not limited to their wages and working conditions.
6 Defendants also required Plaintiff and Aggrieved Employees to inform prospective employers of
7 Defendants' restrictions of Plaintiff's and Aggrieved Employees' freedom to work. As a result,
8 Employee is informed and believes that Employer violated Labor Code sections 432.5, 1700.31 and
9 1198. As such, Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other
10 Aggrieved Employees personally suffered these violations, and that Defendants violated, without
11 limitation, Labor Code section 432.5 and Government Code section 12952, entitling Plaintiff and
12 other Aggrieved Employees to damages. Plaintiff further informed and believes, and based thereon
13 alleges, that Defendants' conduct above gave rise to such violations was malicious, fraudulent, or
14 oppressive. Defendants would also be liable for civil penalties pursuant to Labor Code sections
15 432.5, 1198, 1700.31 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
16 Defendants would further be liable for civil penalties pursuant to Labor Code section
17 2699(f)(2)(B)(ii).

18 40. From on or about March 22, 2024, Plaintiff is informed and believes, and based
19 thereon alleges, that Defendants had and have a practice or policy of conducting unlawful
20 background checks on prospective and current employees, including without limitation Plaintiff,
21 prior to making a conditional offer. Plaintiff is informed and believes, and based thereon alleges,
22 that Defendants violated applicable laws by, without limitation: requiring job applicants and
23 employees to disclose their conviction history before Defendants made a conditional offer of
24 employment; inquiring into or considering the conviction history of applicants before Defendants
25 made any conditional offers of employment; considering, distributing, or disseminating information
26 about arrests not followed by conviction, referrals to or participation in a pretrial or posttrial
27 diversion program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated
28 pursuant to law, or any conviction for which the convicted person has received a full pardon or has

1 been issued a certificate of rehabilitation, while conducting conviction history background checks
2 in connection with any applications for employment; intending to deny an applicant a position of
3 employment solely or in part because of the applicant's conviction history; and asking applicants
4 for employment to disclose, through any written form or verbally, information concerning or related
5 to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that
6 occurred while the person was subject to the process and jurisdiction of the juvenile court, to the
7 detriment of Employee and other aggrieved employees. As such, Plaintiff is informed and believes,
8 and based thereon alleges, that Plaintiff and other Aggrieved Employees personally suffered these
9 violations, as well as violation of Labor Code section 1198, and that Employer violated, without
10 limitation, Labor Code sections 432.7 and 1198, as well as Government Code section 12952,
11 entitling Plaintiff and other Aggrieved Employees to damages. Plaintiff is further informed and
12 believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations was
13 malicious, fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to
14 Labor Code sections 432.7, 432.8, 1198, and 2699, or injunctive relief under sections 2699(e)(1)
15 and 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section
16 2699(f)(2)(B)(ii).

17 41. From on or about March 22, 2024, Plaintiff is informed and believes, and based
18 thereon alleges, that Defendants had and have a practice or policy of relying on the salary history
19 information of an applicant for employment as a factor in determining whether to offer employment
20 to an applicant or what salary to offer the applicant in violation of Labor Code section 432.3 by
21 including, on Defendants' application for employment, an inquiry regarding current and/or former
22 salary history information, including, without limitation, compensation and benefits of the applicant
23 for employment. Plaintiff is informed and believes that this practice has resulted in unequal pay.
24 Specifically, for this reason, as well as for other reasons, Plaintiff is informed and believes, and
25 based thereon alleges, that Employer has failed to pay its employees at wage rates less than those
26 paid to employees of the opposite sex and/or another race or ethnicity for substantially similar work,
27 when viewed as a composite of skill, effort, and responsibility, and/or performed under similar
28 working conditions without sufficient legal rationale. Finally, Plaintiff is informed and believes,

1 and based thereon alleges that Employer has discharged and/or discriminated and/or retaliated
2 against Plaintiff and Aggrieved Employees by reason of an action taken by them to invoke or assist
3 in the enforcement of Labor Code section 1197.5. As such, Plaintiff is informed and believes, and
4 based thereon alleges, that Defendants violated, without limitation, Labor Code sections 432.3,
5 1102.5, 1197.5, and 1198. Plaintiff also alleges that Plaintiff and other Aggrieved Employees
6 personally suffered these violations, and that Plaintiff and other Aggrieved Employees are entitled
7 to damages. Plaintiff further informed and believes, and based thereon alleges, that Defendants'
8 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
9 would also be liable for civil penalties pursuant to Labor Code sections 432.3, 1198 and 2699, or
10 injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil
11 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

12 42. From on or about March 22, 2024, Plaintiff is informed and believes, and based
13 thereon alleges that Defendants and others in connection with the Defendants (including, without
14 limitation, the owner of the property, controller, and others in concert with the Defendants)
15 employed, permitted and/or suffered to work minors under the age of sixteen (16) years in
16 connection with a manufacturing establishment or other place of employment; in adjusting belts to
17 machinery, sewing or lacing machine belts in a workshop or factory, and/or oiling, wiping, cleaning
18 machinery and/or assisting therewith; in operating or assisting in operating machines, including
19 circular or band saws, wood shapers, wood-jointers, planers, sandpaper machinery, wood-polishing
20 machinery, wood turning or boring machinery, picker machines, machines used in picking wool,
21 cotton, hair or other material, carding machines, leather-burnishing machines, laundry machines,
22 printing-presses, boring or drill presses, stamping machines used in sheet-metal and tinware, in
23 paper and leather manufacturing, in washer and nut factories, metal or paper-cutting machines,
24 paper-lace machines, corner-staying machines in paper-box factories, corrugating rolls, dough
25 brakes, cracker machinery, wire or iron straightening or drawing machinery, rolling mill machinery,
26 power punches or shears, washing, grinding or mixing machinery, calendar rolls in paper and rubber
27 manufacturing, steam boilers, and others, even in or out of proximity to hazardous or unguarded
28 belts, machinery or gearing; and in occupations declared hazardous as set forth in Labor Code

1 section 1293.1; all in violation of Labor Code sections 1290, 1292, 1293, 1294.1 and 1301. In
2 addition, Employee is informed and believes, and based thereon alleges that Aggrieved Employees
3 are covered by Labor Code section 1391, Educational Code 49112 and Educational Code 49116.
4 Plaintiff is informed and believes, and based thereon alleges, that Defendants had and has a policy
5 or practice of requiring Aggrieved Employees, who are fifteen (15) years old or younger to work
6 for more than eight (8) hours in one day of twenty-four (24) hours, and/or more than forty (40) hours
7 in one week, and/or before 7:00 a.m. or after 7:00 p.m. Plaintiff is further informed and believes,
8 and based thereon alleges, that Defendants had and have a policy or practice of, among other things,
9 requiring its employees, who are fourteen (14) or (15) years old to work, while school is in session,
10 for more than three hours in any schoolday and/or more than eighteen (18) hours in any week.
11 Plaintiff is further informed and believes, and based thereon alleges, that Defendants had and has a
12 policy or practice of, among other things, requiring its employees, who are sixteen (16) or seventeen
13 (17) years old, to work for more than eight (8) hours in one day, and/or more than 48 hours in one
14 week, and/or before 5 a.m., and/or after 10 p.m. on any day preceding a schoolday, and/or to work
15 more than four (4) hours on a schoolday. Accordingly, for violations of Labor Code section 1391,
16 *et seq.*, As such, Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 violated, without limitation, Labor Code sections 1290, 1292, 1293, 1294.1 and 1301, 1391 and
18 1198. Employee also alleges that Aggrieved Employees personally suffered these violations, and
19 that Aggrieved Employees are entitled to damages. Plaintiff further informed and believes, and
20 based thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
21 fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to Labor Code
22 sections 1290, 1292, 1293, 1294.1 and 1301, 1391 and 1198 and 2699, or injunctive relief under
23 sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties pursuant to
24 Labor Code section 2699(f)(2)(B)(ii).

25 43. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
26 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
27 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
28 Employees pursuant to PAGA.

1 **PARTIES**

2 **A. Plaintiff**

3 44. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
4 is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-
5 exempt employee. Plaintiff is informed and believes that Plaintiff worked for Defendants from
6 approximately July of 2024 through approximately August of 2024.

7 **B. Defendants**

8 45. Plaintiff is informed and believes and based thereon alleges that defendant
9 PHEENIX is, and at all times relevant hereto was, a Limited Liability Company organized and
10 existing under and by virtue of the laws of the State of California and doing business in the County
11 of San Francisco, State of California.

12 46. The true names and capacities, whether individual, corporate, associate, or otherwise,
13 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
14 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
15 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
16 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
17 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
18 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
19 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
20 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
21 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
22 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
23 include PHEENIX, and any of its parent, subsidiary, or affiliated companies within the State of
24 California, as well as DOES 1 through 100 identified herein.

25 **JOINT LIABILITY ALLEGATIONS**

26 47. Plaintiff is informed and believes, and based thereon alleges, that at all times
27 mentioned herein, each of the defendants was the agent, principal, employee, employer,
28 representative, joint venture or co-conspirator of each of the other defendants, either actually or

1 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
2 employment, joint venture, and conspiracy.

3 48. All of the acts and conduct described herein of each and every corporate defendant
4 was duly authorized, ordered, and directed by the respective and collective defendant corporate
5 employers, and the officers and management-level employees of said corporate employers. In
6 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
7 their said employees, agents, and representatives, and each of them; and upon completion of the
8 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
9 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
10 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
11 aforementioned corporate employees, agents and representatives.

12 49. Plaintiff is informed and believes, and based thereon alleges, that despite the
13 formation of the purported corporate existence of PHEENIX and DOES 1 through 50, inclusive (the
14 “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through 100
15 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

16 a. The Alter Ego Defendants are completely dominated and controlled by the
17 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
18 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego
19 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
20 inequitable purpose;

21 b. The Individual Defendants derive actual and significant monetary benefits by
22 and through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego Defendants as
23 the funding source for the Individual Defendants’ own personal expenditures;

24 c. Plaintiff is informed and believes, and thereon alleges, that the Individual
25 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
26 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
27 accomplishing some other wrongful or inequitable purpose;

28 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs

1 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
2 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
3 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
4 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
5 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
6 herein were, the alter egos of the Individual Defendants;

7 e. The recognition of the separate existence of the Individual Defendants from
8 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
9 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
10 and other statutory violations. The corporate existence of these defendants should thus be
11 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
12 and injustice to Plaintiff herein;

13 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
14 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
15 disregarded.

16 50. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
17 thereon alleges that Defendants, and each of them, are joint employers.

18 51. Moreover, Plaintiff is informed and believes, and based thereon alleges, that
19 Individual Defendants, and each of them, are liable for the civil penalties, or some of them, described
20 herein because Individual Defendants, and each of them, caused or are otherwise contributed to the
21 violations described herein, or some of them.

22 **FIRST AND ONLY CAUSE OF ACTION**

23 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

24 52. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
25 preceding paragraphs as though fully set forth hereat.

26 **Civil Penalties Under Labor Code § 210**

27 53. At all relevant times herein, Labor Code section 204, requires and required that:
28 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for

1 between the 16th and 26th day of the month during which the labor was performed, and labor
2 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
3 between the 1st and 10th day of the following month.” Starting from March 22, 2024.

4 54. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
5 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
6 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
7 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
8 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
9 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
10 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

11 55. At all relevant times herein, Defendants have had a consistent policy or practice of
12 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
13 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
14 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
15 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
16 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
17 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
18 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
19 violation in connection with each payment that was made in violation of Labor Code section 204.

20 Civil Penalties Under Labor Code § 226.3

21 56. From on or about March 22, 2024 Defendants had and have a policy or practice of
22 failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
23 Plaintiff and Aggrieved Employees with itemized wage statements that accurately reflect gross
24 wages earned; total hours worked; net wages earned; the name and address of each employer with
25 whom they have been placed to work; all applicable hourly rates in effect during the pay period and
26 the corresponding number of hours worked at each hourly rate; the legal name of the employer
27 and/or the name and address of the legal entity securing the employer’s services if the employer is
28 a farm labor contractor; and other such information as required by Labor Code section 226,

1 subdivision (a) and/or Labor Code section 226.2 to the extent it does not include for piece-rate work
2 the information required therein including, without limitation, the quantity, rate and units worked
3 per piece, as well as separately itemized non-productive time and rest and recovery periods

4 57. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
5 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
6 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
7 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
8 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

9 58. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
10 this section are in addition to any other penalty provided by law.”

11 59. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
12 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
13 statements as set forth in the preceding paragraphs.

14 60. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
15 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
16 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
17 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
18 period for each subsequent violation.

19 Violation of Labor Code § 558

20 61. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
21 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
22 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
23 penalty as follows:

24 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
25 pay period for which the employee was underpaid in addition to an amount sufficient
26 to recover underpaid wages;

27 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
28 employee for each pay period for which the employee was underpaid in addition to

1 an amount sufficient to recover underpaid wages;

2 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

3 62. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
4 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
5 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
6 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
7 regular payday designated by employer, the name of the employer, including any “doing business
8 as” names used, the name, address, and telephone number of the workers’ compensation insurance
9 carrier, information regarding paid sick leave, and other pertinent information.

10 63. From on or about March 22, 2024 As a direct and proximate result of the herein-
11 described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved
12 Employees are entitled to recover civil penalties for Defendants’ herein-described Labor Code
13 violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the
14 initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for
15 each subsequent violation.

16 Violation of Labor Code § 1174.5

17 64. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
18 every person employing labor in California to “[a]llow any member of the commission or the
19 employees of the Division of Labor Standards Enforcement free access to the place of business or
20 employment of the person to secure any information or make any investigation that they are
21 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
22 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
23 or papers of the person.”

24 65. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
25 every person employing labor in California to “[k]eep a record showing the names and addresses of
26 all employees employed and the ages of all minors.”

27 66. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
28 every person employing labor in California to “[k]eep, at a central location in the state or at the

1 plants or establishments at which employees are employed, payroll records showing the hours
2 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
3 piece rate paid to, employees employed at the respective plants or establishments. These records
4 shall be kept in accordance with rules established for this purpose by the commission, but in any
5 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
6 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
7 earned.”

8 67. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
9 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
10 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
11 member of the commission or employees of the division to inspect records pursuant to subdivision
12 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

13 68. From on or about March 22, 2024, Plaintiff is informed and believes, and based
14 thereon alleges, that Defendants have willfully failed to keep adequate or accurate time records
15 including wage statements and similar payroll documents under Labor Code section 226, documents
16 signed to obtain or hold employment under Labor Code section 432, personnel records under Labor
17 Code section 1198.5, and time records under Labor Code section 1174.

18 69. As a direct and proximate result of the herein-described Labor Code violations,
19 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
20 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
21 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

22 Violation of Labor Code § 1197.1

23 70. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
24 person acting either individually or as an officer, agent, or employee of another person, who pays
25 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
26 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
27 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
28 Section 203 as follows:

- 1 (1) For any initial violation that is intentionally committed, one hundred dollars
2 (\$100) for each underpaid employee for each pay period for which the
3 employee is underpaid. This amount shall be in addition to an amount
4 sufficient to recover underpaid wages, liquidated damages pursuant to Section
5 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 6 (2) For each subsequent violation for the same specific offense, two hundred fifty
7 dollars (\$250) for each underpaid employee for each pay period for which the
8 employee is underpaid regardless of whether the initial violation is
9 intentionally committed. This amount shall be in addition to an amount
10 sufficient to recover underpaid wages, liquidated damages pursuant to Section
11 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 12 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
13 Section 203, recovered pursuant to this section shall be paid to the affected
14 employee.”

15 71. From on or about March 22, 2024, Plaintiff is informed and believes, and based
16 thereon alleges, that Defendants caused Plaintiff and Aggrieved Employees not to be paid minimum
17 wages as a result of Defendants, without limitation, routinely failing to pay Plaintiff or other
18 Aggrieved Employees’ minimum wages for all hours worked or otherwise under Defendants’
19 control due to, without limitation, routinely failing to accurately track and/or pay for all hours
20 actually worked; detrimental rounding or manipulation of time entries; paying straight pay instead
21 of overtime or otherwise failing to pay overtime hours at the proper overtime rate of pay; engaging,
22 suffering, or permitting employees to work off the clock, entitling Plaintiff and other Aggrieved
23 Employees to actual and liquidated damages.

24 72. As a direct and proximate result of the herein-described Labor Code violations,
25 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
26 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
27 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
28 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each

1 subsequent violation.

2 Civil Penalties Under Labor Code § 2699

3 73. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
4 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
5 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
6 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
7 action brought by an aggrieved employee on behalf of himself or herself and other current or former
8 employees pursuant to the procedures specified in Labor Code section 2699.3.

9 74. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
10 each of them, violated the Labor Code sections described in the preceding paragraphs.

11 75. As such, Plaintiff and aggrieved employees are entitled to injunctive relief, one
12 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
13 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
14 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

15 76. Moreover, Plaintiff and other Aggrieved Employees within the State of California
16 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
17 connection with their herein-described claims for civil penalties.

18 **PRAYER**

19 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
20 judgment against Defendants as follows:

- 21 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
22 1174.5, 1197.1, and 2699;
- 23 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
24 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 25 C. For equitable, including, without limitation, injunctive relief;
- 26 C. Pre-judgment and post-judgment interest;
- 27 D. For costs of suit incurred herein; and
- 28 E. Such other and further relief as the Court deems just and proper.

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Dated: May 5, 2025

BIBIYAN LAW GROUP, P.C.

BY: /s/ Rafael Yedoyan
DAVID D. BIBIYAN
SARAH H. COHEN
RAFAEL YEDOYAN
Attorneys for Plaintiff KENNETH DURHAM
, as an aggrieved employee, and on behalf of
all other aggrieved employees under the Labor
Code Private Attorneys' General Act of 2004,

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