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Attorneys for Plaintiff
GLENN KNOTT and the PROPOSED CLASS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

GLENN KNOTT, individually and on behalf
of all current and former similarly situated
employees in the State of California,

Plaintiff,

v.

Goodwill, Southern Los Angeles County;
and DOES 1 to 50, inclusive.

Defendant.

CASE NO.: 24STCV30004

ASSIGNED FOR ALL PURPOSES TO:

HON. JUDGE-----

CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:

- 1. FAILURE TO PAY WAGES FOR ALL HOURS WORKED; INCLUDING OVERTIME WAGES (VIOLATION OF CALIFORNIA LABOR CODE §§ 510, 1194, 1198; IWC WAGE ORDER NO.4.);**
- 2. FAILURE TO PROVIDE MEAL PERIODS (VIOLATION OF IWC WAGE ORDER 4-2001, CAL. LAB. CODE §§ 226.7, 512);**
- 3. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS (VIOLATION OF IWC WAGE ORDER 4-2001, CAL. LAB. CODE § 226.7);**
- 4. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (VIOLATION OF CALIFORNIA LABOR CODE §§ 226(a), 1174(d), and 246(i));**
- 5. WAITING TIME PENALTIES (VIOLATION OF CALIFORNIA LABOR CODE § § 201, 202, 203);**
- 6. FAILURE TO PAY ALL WAGES TIMELY DURING EMPLOYMENT IN**

**VIOLATION OF LABOR CODE § 204,
210, 215;**

7. UNFAIR BUSINESS PRACTICES IN VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200-17208;

8. FAILURE TO PROVIDE PERSONNEL RECORDS (CAL. LAB CODE § 1198.5);

9. INJUNCTIVE RELIEF;

10. PENALTIES, PURSUANT TO LABOR CODE § 2699 FOR VIOLATIONS OF LABOR CODE §§ 200, 510, 1198, 558, 1194, 226.7, 512, 201, 202, 203, 204, 210, 226, 226.3, 246, 246.5(a), 247.5, 233, 2802, and 2810.5.

UNLIMITED JURISDICTION

REQUEST FOR JURY TRIAL

INTRODUCTION

1. This is a class action and Representative Action, pursuant to California Code of Civil Procedure § 382 and the Labor Code Private Attorney General Act 2004 (“PAGA”), California Labor Code § 2698 *et seq.* brought by Plaintiff GLENN KNOTT, (“PLAINTIFF”) on behalf of himself and all others similarly situated current and former employees in the State of California, and the general public (hereinafter the “CLASS”) hereby alleges and complaints against defendants GOODWILL, SOUTHERN LOS ANGELES COUNTY; and DOES 1-50 (hereinafter collectively referred to as “DEFENDANTS”) to recover, damages, restitution, injunctive relief, civil and statutory penalties for failure to comply with various California Labor Code sections and the Industrial Welfare Commission Wage Orders 7-2001, (“IWO 7”), interest, attorneys’ fees, and costs and any other appropriate relief for DEFENDANTS’ violations of laws.

THE PARTIES

A. Plaintiff

1. PLAINTIFF is a resident of the State of California, County of Los Angeles who began working for DEFENDANTS as a Sales Associate/Material Handler from approximately August 2, 2022, until his termination on or about November 16, 2023. PLAINTIFF was classified as a non-exempt, hourly paid employee who worked for DEFENDANTS in Long Beach, California.

B. Defendants

2. At all relevant times alleged herein, PLAINTIFF is informed and believes, and thereon alleges that GOODWILL, SOUTHERN LOS ANGELES COUNTY, (“GOODWILL” or “DEFENDANT”) is, and at all times relevant hereto was and is, a California Corporation, authorized to conduct business in the State of California and does conduct business in the State of California, including the County of Los Angeles. GOODWILL operates retail stores and serves at least 22 cities and communities throughout Southern Los Angeles County.

3. The true names and capacities of DOES 1 through 50, inclusive, are unknown to PLAINTIFF therefore PLAINTIFF sues said DOE defendants by fictitious names. PLAINTIFF will amend this Complaint to show their true names and capacities when they have been ascertained. The defendants, and each of them, were alter egos of each other and/or engaged in a joint enterprise with each other.

1 4. PLAINTIFF is informed and believes, and based thereon alleges that GOODWILL
2 has engaged in unlawful conduct violating numerous California Labor Codes. Additionally, all of the
3 Defendants were joint employers of the PLAINTIFFS. Hereinafter in this Complaint, unless
4 otherwise specified, reference to DEFENDANTS, shall refer to GOODWILL, and DOES 1-50, and
5 each of them.

6 5. PLAINTIFF is informed and believes, and based thereon alleges that at all times
7 herein mentioned, that each of the DEFENDANTS is liable as an “employer” and/or “person” for
8 the claims asserted in this Complaint, including but not limited to, under Labor Code § 558.1 and
9 §18.

10 6. At all relevant times herein, PLAINTIFF was employed by DEFENDANTS under
11 employment agreements that were partly written, partly oral, and partly implied. In perpetrating the
12 acts and omissions alleged herein, DEFENDANTS, and each of them, acted pursuant to and in
13 furtherance of their policies and practices, *inter alia*, of failing to pay PLAINTIFF and the Class for
14 all for all hours worked including overtime and double time; failing to pay PLAINTIFF and the Class
15 for paid sick leave at the employee’s regular rate of pay; failing to pay PLAINTIFF and the Class for
16 one additional hour of pay at the employee’s regular rate of compensation for each workday that the
17 meal and rest period was not provided; failing to pay PLAINTIFF and the Class for bonuses
18 promised; failing to comply with various Cal/OSHA regulations; failing to provide accurate itemized
19 wage statements for each pay period; failing to timely pay wages; and failing to pay wages upon
20 termination of employment.

21 7. PLAINTIFF is informed and believes, and based thereon alleges that at all times
22 relevant herein, each of the DEFENDANTS named herein was an employer, was the principle, agent,
23 partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent
24 corporation, successor in interest and/or predecessor in interest of each of the other DEFENDANTS
25 named herein, and, in doing the acts and in carrying out the wrongful conduct alleged herein, was
26 engaged with some or all of the other DEFENDANTS in a joint enterprise for profit, and bore such
27 other relationships to some or all of the other DEFENDANTS so as to be liable for their conduct with
28 respect to the matters alleged in this Complaint. PLAINTIFF is further informed and believes and

1 thereon alleges that each of the DEFENDANTS acted pursuant to and within the scope of the
2 relationships alleged above, and that at all relevant times, each of the DEFENDANTS knew or should
3 have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct
4 of all other DEFENDANTS.

5 8. At all times mentioned herein, each of the DEFENDANTS was the co-conspirator,
6 agent, servant, employee, and/or joint venturer of each of the other DEFENDANTS and was acting
7 within the course and scope of said conspiracy, agency, employment, and/or joint venture and with
8 the permission and consent of each of the other DEFENDANTS.

9 9. PLAINTIFF is informed and believes and thereon alleges that each and every acts and
10 omissions alleged herein were performed by, and/or attributable to, all DEFENDANTS, each acting
11 as agents and/or employees, and/or under the directions and control of each of the other
12 DEFENDANTS, and that said acts and failure to act were within the course and scope of said agency,
13 employment and/or directions and control.

14 10. As a direct and proximate result of the unlawful actions of DEFENDANTS,
15 PLAINTIFF and the Class have suffered and continue to suffer from loss of earnings in amounts as
16 yet unascertained, but subject to proof at trial and within the jurisdiction of this Court.

17 **JURISDICTION**

18 11. This Court is the proper court, and this action is properly filed in the Superior Court
19 of the State of California, County of Los Angeles because DEFENDANTS operate and transact
20 business in the County of Los Angeles. Specifically, PLAINTIFF worked for DEFENDANTS in the
21 County of Los Angeles, city of Long Beach, and because DEFENDANTS' illegal policies and
22 practices, which are the subject of this action, were applied to the PLAINTIFF and members of the
23 CLASS in the County of Los Angeles.

24 **PLAINTIFF EXHAUSTED HIS ADMINISTRATIVE REMEDIES**

25 2. PLAINTIFF met all the jurisdictional requirements of proceeding with claims for civil
26 penalties under the Labor Code Private Attorney's General Act ("PAGA"), codified at Labor Code,
27 Section 2698 et seq. by timely giving written notice in the manner required by Labor Code § 2699.3
28 at the time of filing. Specifically, November 12, 2024, PLAINTIFF exhausted his administrative

1 remedies by notifying DEFENDANT via certified U. S. Mail, and by online filing to Labor and
2 Workforce Development Agency (“LWDA”) (a true and correct copy is attached hereto as Exhibit
3 “1” and incorporated by reference). Once sixty-five (65) days elapses after PLAINTIFF’S
4 notification and PLAINTIFF’S counsel receives no notice from LAWD stating their intention to
5 investigate or prosecute the claims, PLAINTIFF will allege the right to proceed, as a matter of right,
6 with all remedies provided by law on PLAINTIFF’S Complaint herein, with civil and all statutory
7 penalties which are collectible by PLAINTIFF under the provisions of Labor Code §§ 2698-2699.5,
8 PAGA.

9 **FACTUAL BACKGROUND**

10 12. This is a Class Action and Representative Action, brought pursuant to California Code
11 of Civil Procedure §382, California Business and Professions Code § 17200 *et seq.*, and the PAGA,
12 California Labor Code § 2698 *et seq.*; *Aris v. Superior Court* (2009) 46 Cal.4th 969, 980-981. PAGA
13 permits an “aggrieved employee” to bring a lawsuit on behalf of himself/himself and other current
14 and former employees to address an employer’s violations of the California Labor Code.
15 PLAINTIFF is an aggrieved employee, within the meaning of the statute, who brings this action on
16 behalf of himself and other current and former employees of DEFENDANTS to address
17 DEFENDANTS’ violations of the California Labor Code.

18 13. DEFENDANTS hired the PLAINTIFF on or about August 2, 2022 as a Sales
19 Associate/Material Handler and required PLAINTIFF and the CLASS to work for DEFENDANTS
20 promising them payment of hourly wages.

21 14. DEFENDANTS also promised the PLAINTIFF and the CLASS that they would
22 receive a non-discretionary Bonus Pay. PLAINTIFF was entitled to receive his bonus, which during
23 certain months, he did not receive. The amount of earned but unpaid bonuses that the PLAINTIFF
24 was entitled to receive constitute “wages” within the meaning of § 200 of the California Labor Code
25 because PLAINTIFF was promised additional compensation as an incentive for the performance of
26 such services to the benefit of the DEFENDANTS. DEFENDANTS unjustly reaped the benefits of
27 the services and labor performed by PLAINTIFF but failed to pay him for her labor.

28 15. PLAINTIFF worked for DEFENDANT and received Bonus Pay in the amount of
\$120.00 for several months during his employment (e.g. February 2023, March 2023, and June

1 through October 2023). However, the Bonus Pay was not included in PLAINTIFF’S “regular rate
2 of pay” for the purposes of overtime and double-time compensation. That is, DEFENDANT failed
3 to include his Bonus Pay in computing his regular rate for the purpose of computing his overtime
4 compensation.

5 16. DEFENDANTS failed to comply with Labor Code § 246(l)(1)-(2), by failing to pay
6 PLAINTIFF and Aggrieved Employees paid sick leave at the employee’s regular rate of pay for the
7 workweek in which the employee uses paid sick leave. Employers may calculate the regular rate of
8 pay either based on the workweek in which the employee uses sick leave or by using a 90-day look
9 back period. Clearly, Defendant did not pay the Plaintiff the proper amount taking into account his
10 regular rate of pay which should have included his Bonus Pay.

11 17. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
12 or should have known that PLAINTIFF and CLASS were entitled to meal periods in accordance with
13 the Labor Code or payment of one (1) additional hour of pay at their regular rates of pay when they
14 were not provided with timely, uninterrupted, thirty (30) minute meal periods and that PLAINTIFF
15 and CLASS were not provided with all meal periods or payment of one (1) additional hour of pay at
16 their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
17 period.

18 18. DEFENDANTS required PLAINTIFF and the CLASS to work during meal and rest
19 periods and failed to compensate them properly for missed meal and rest periods, including but not
20 limited to, failing to pay them any premium pay at their “regular rate of pay” which includes the non-
21 discretionary Bonus Pay.

22 19. California Labor Code section 1198 makes it illegal to employ an employee under
23 conditions of labor that are prohibited by the applicable wage order. The Labor Code provides that
24 labor conditions set by the Industrial Welfare Commission (Commission) shall be the standard labor
25 conditions for employees. A Commission wage order provides that employees shall be provided
26 suitable seating, if reasonable, during the performance of their duties. DEFENDANTS are in
27 violation of the Industrial Wage Order by failing to provide PLAINTIFF and Aggrieved Employees
28 with suitable seating even though providing such seating is reasonable during the performance of

1 their duties; therefore, DEFENDANTS have violated Lab Code § 1198.

2 20. DEFENDANTS engage in a policy and practice of failing to maintain payroll records,
3 and records pertaining to current and former employees within the state as provided in section
4 1174(c). Labor Code section 1174(d) requires an employer to keep, at a central location in *the state*
5 or at the plants or establishments at which employees are employed, payroll records showing the
6 hours worked daily by, and the wages paid to employees employed at the respective plants or
7 establishments. These records shall be kept on file for not less than three years.

8 21. DEFENDANTS willfully failed to permit the PLAINTIFF to inspect or copy his
9 *entire* personnel records within 30 calendar days of his request in direct violation of Cal. Lab. Code
10 § 1198.5. When PLAINTIFF's counsel requested his personnel records, only a few pages of records
11 were produced, omitting critical documents.

12 22. DEFENDANTS failed to comply with Lab Code 226(b) by failing to produce
13 PLAINTIFF'S wage statement pursuant to a written request to inspect and/or receive a copy of the
14 records. Counsel for PLAINTIFF submitted a signed written request by the PLAINTIFF to obtain
15 his wage statements; however, DEFENDANTS failed to produce the wage statements within 21
16 calendar days from the date of the request in direct violation of Lab Code 226.

17 23. PLAINTIFF (an African American) alleges that DEFENDANTS violated Cal. Lab.
18 Code §§ 1197.5(b) and 432.3 in that PLAINTIFF and the Aggrieved Employees of the African
19 American race were subject to hiring and compensation practices that resulted in a disparity in
20 compensation based on their race that violated Cal. Lab. Code §§ 1197.5(b) and/or 432.3.

21 24. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
22 or should have known that PLAINTIFF and the CLASS were entitled to rest periods in accordance
23 with the Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay
24 at their regular rates of pay when they were not provided with a compliant rest period and that
25 PLAINTIFF and CLASS were not provided compliant rest periods or payment of one (1) additional
26 hour of pay at their regular rates of pay when they were not provided a compliant rest period.

27 25. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
28 or should have known that PLAINTIFF and the CLASS were entitled to receive complete and

1 accurate wage statements in accordance with California law. In violation of the California Labor
2 Code, PLAINTIFF and the CLASS were not provided complete and accurate wage statements.

3 26. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
4 or should have known that they had a duty to maintain accurate and complete payroll records in
5 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and
6 intentionally failed to do so.

7 27. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
8 or should have known that PLAINTIFF and the CLASS were entitled to timely payment of all wages
9 earned during their employment and upon termination of employment. In violation of the California
10 Labor Code, PLAINTIFF and the CLASS did not receive payment of all wages due, including, but
11 not limited to, off the clock work, bonuses, split shift premium, overtime wages, minimum wages,
12 and meal and rest period premiums, within permissible time periods.

13 28. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
14 or should have known that they had a duty to compensate PLAINTIFF and CLASS for all hours
15 worked, and that DEFENDANTS had the financial ability to pay such compensation, but willfully,
16 knowingly, and intentionally failed to do so, and falsely represented to PLAINTIFF and CLASS that
17 they would be paid properly their wages but failed to do so all in order to increase DEFENDANTS'
18 profits.

19 29. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS knew
20 or should have known that they had a duty to furnish employment and a place of employment which
21 are safe and healthful for the PLAINTIFF and CLASS. DEFENDANTS knew or should have known
22 that Labor Code §6403(b) specifically states that no employer shall fail or neglect to adopt and use
23 methods and processes reasonably adequate to render the employment and place of employment safe;
24 §6403(c) of the Code also requires that employers to do every other thing reasonably necessary to
25 protect the life, safety, and health of employees. A reasonable and adequate practice to render
26 employment safe requires DEFENDANTS to adopt a safe and healthful practice by assigning
27 employees PPE, and maintaining a clean and healthful workplace. DEFENDANTS; however, failed
28 and neglected to adopt this reasonable process and practice to protect the health, and safety of the

1 PLAINTIFF and the CLASS.

2 30. In gross and reckless disregard to the health and safety of the PLAINTIFF and the
3 CLASS, DEFENDANTS certainly did not and do not “do every other thing reasonable necessary to
4 protect the life, safety, and health of [Employees].”

5 31. As stated above, DEFENDANTS failed to provide PPE, including but not limited to
6 gloves, respirators, helmets, clothing and other personal protection items that are designed to create
7 a barrier between the employee and workplace hazards. PPE is usually intended to protect the eyes,
8 ears, face, head, and extremities, and usually includes protective clothing, respiratory devices,
9 protective shields, eye and ear protection, and other barriers. DEFENDANTS failed to carefully
10 assess which type of equipment is needed to protect employees from the various hazards in the
11 workplace and failed to develop a written certification assessment. Specifically, DEFENDANTS’
12 workplace is filthy, infested with pests, and unsanitary. PLAINTIFF and the Aggrieved Employees
13 were required to go through unsanitary donations without proper PPE. As a result of
14 DEFENDANTS’ failure to provide a workplace that is safe and healthful, PLAINTIFF suffered and
15 continues to suffer chronic cough.

16 32. DEFENDANTS had the financial ability to provide safe and healthful employment
17 and a place of employment, but willfully, knowingly, and intentionally failed to do so, and falsely
18 represented to PLAINTIFF and CLASS that they would be provided a safe place of employment but
19 failed to do so all in order to increase DEFENDANTS’ profits.

20 33. PLAINTIFF and the CLASS have been harmed by DEFENDANTS’ unlawful
21 business policies and practices in that they did not receive the proper and correct amount, and have
22 had their earned wages be subject to unlawful forfeiture, as alleged herein, thereby diminishing their
23 agreed-upon compensation, in amounts to be proven at trial.

24 **CLASS ACTION ALLEGATIONS**

25 34. PLAINTIFF brings this lawsuit as a class action under Cal. Code Civ. Proc. Section
26 382, pursuant to California Business and Professions Code § 17200 *et seq.*, and the PAGA, California
27 Labor Code § 2698 *et seq.*, on behalf of himself and all persons within the class (“CLASS”) as
28 follows:

THE CLASS

35. All current and former employees, who were employed by DEFENDANTS in the State of California for a period of time within the four (4) years preceding the filing of this action until the time of trial, “THE RELEVANT TIME PERIOD”.

36. PLAINTIFF reserves the right under Rule 3.765, California Rules of Court, to amend or modify the CLASS description with greater specificity or further division into subclasses or limitations to particular issues.

37. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed CLASS is easily ascertainable. This action is appropriately suited for a Class Action because:

38. **Ascertainable Class:** The CLASS is ascertainable in that its members may be identified and located using information contained in DEFENDANTS’ personnel records.

39. **Numerosity:** The potential members of the CLASS as defined are so numerous that joinder of all members of the CLASS is impracticable. While the precise size of the CLASS has not been ascertained at this time, PLAINTIFF is informed and believes, and based thereon allege, that DEFENDANTS currently employees, and during THE RELEVANT TIME PERIOD employed, well over 200 persons in the State of California who fall within the CLASS definition. Accounting for employees’ turnover during THE RELEVANT PERIOD necessarily increases this number.

40. Additionally, this action has been brought and may properly be maintained as a representative action because there is a well-defined community of interest in the litigation and the Aggrieved Employees are easily ascertainable.

41. **Common Questions of Fact or Law:** This action involves questions of law and fact common to the CLASS that predominate over questions affecting only individual class members employees. The common questions of law and fact focuses on DEFENDANTS’ systematic course of illegal practices and policies, which were applied to all the entire CLASS in violation of the California Labor Code, IWC Orders, the California Business and Professions Code, which prohibits

1 unfair business practices arising from such violations. These common questions of law and fact
2 include, without limitations:

- 3 a. Whether DEFENDANTS failed to pay their employees for all hours worked including
4 overtime at the proper rate of pay;
- 5 b. Whether DEFENDANTS failed to pay their employees the proper regular rate of pay for
6 overtime, and double time wages due and owing to them at the proper rate of pay;
- 7 c. Whether DEFENDANTS failed to issue accurately itemized wage statements to PLAINTIFF
8 and the CLASS, in violation of Labor Code §§ 226(a);
- 9 d. Whether DEFENDANTS paid PLAINTIFF and the CLASS their final wages beyond the time
10 frames set forth in Labor Code §§ 201-203.

11 42. **Typicality:** The claims of the PLAINTIFF is typical of the CLASS because
12 DEFENDANTS subjected all of their employees to identical violations of the California Labor Code,
13 the PAGA, and California Business and Professions Code by, *inter alia*, failing to pay the
14 PLAINTIFF and the CLASS for all of their hours worked at the proper regular rate of pay; failing to
15 provide accurate itemized wage statements for each pay period; and failing to pay their final wages
16 beyond the time frames set forth in Labor Code §§ 201-203.

17 43. **Adequacy of Representation:** PLAINTIFF is fully prepared to take all necessary
18 steps to represent fairly and adequately the interest of the members of the CLASS. PLAINTIFF has
19 no interests that are adverse to the interests of the CLASS. PLAINTIFF's attorneys are ready, able
20 and willing to fully and adequately represent the CLASS and PLAINTIFF.

21 44. **Superiority of Class Action:** A class action is superior to other available means for
22 the fair and efficient adjudication of this controversy. Individual joinder of all proposed members of
23 the CLASS is not practicable, and questions of law and fact common to the proposed CLASS
24 predominate over any questions affecting only individual members of the proposed CLASS. Each
25 member of the proposed CLASS has been damaged and is entitled to recovery by reason of
26 DEFENDANTS' illegal policies and/or practices.

27 45. Class action treatment will allow those similarly situated persons to litigate their
28 claims in the manner that is most efficient and economical for the parties and the judicial system.

1 PLAINTIFF is unaware of any difficulties that are likely to be encountered in the management of
2 this action that would preclude its maintenance as a class action. Individualized litigation would
3 also present the potential for inconsistent or contradictory judgments, in addition of duplication of
4 efforts and expenses.

5 **FIRST CAUSE OF ACTION**
6 **FAILURE TO PAY WAGES FOR ALL HOURS WORKED; INCLUDING**
7 **OVERTIME WAGES (VIOLATION OF CALIFORNIA LABOR CODE §§ 510,**
8 **1194, 1198; IWC WAGE ORDER NO.4.)**
9 **(AGAINST ALL DEFENDANTS)**

10 3. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as
11 though fully set forth in this cause of action, and incorporates them by reference, and further alleges:

12 4. During the RELEVANT TIME PERIOD, PLAINTIFF and the CLASS were “non-exempt”
13 employees of DEFENDANTS entitled to overtime compensation pursuant to Cal. Lab. Code § 510
14 who did not receive proper amount of compensation for overtime work performed. Specifically,
15 DEFENDANTS failed to compensate PLAINTIFF and the CLASS, for all hours worked, including
16 overtime at the rate of no less than one and one-half times the regular rate of pay, which it includes
17 bonuses pursuant to Lab. Code § 510.

18 5. By failing to pay PLAINTIFF and the CLASS at the rate of no less than one and one-half
19 times the regular rate of pay, which it includes bonuses, DEFENDANTS deprived PLAINTIFF and
20 the CLASS proper protections and benefits of the laws governing the payment of wages for all hours
21 worked and overtime wages.

22 6. During the RELEVANT TIME PERIOD, PLAINTIFF and the CLASS regularly and/or
23 consistently worked in excess of eight (8) hours in a workday, and/or in excess of forty (40) hours in
24 a workweek. The precise number of overtime hours will be proven at trial. Despite the hours worked
25 by PLAINTIFF and the CLASS, DEFENDANTS intentionally, willfully, in bad faith, and in
26 knowing violation of the California Labor Code, and the applicable IWC Wage Order failed and
27 refused to compensate PLAINTIFF and the CLASS at the rate of no less than one and one-half times
28 the regular rate of pay, which it includes bonuses, pursuant to Lab. Code § 510 for all of the overtime
hours worked.

1 7. At all relevant times, DEFENDANTS were aware of, and were under a duty to comply with
2 the overtime provisions of the IWO Wage Orders, and California Labor Code including, but not
3 limited to, California Labor Code §§510, 1194 and 1198.

4 8. The IWC Wage Order provides that DEFENDANTS are and were required to pay
5 PLAINTIFF and the CLASS employed by DEFENDANTS, and working more than eight (8) hours
6 in a day or more than forty (40) hours in a workweek, at a rate of time-and-one half the employee's
7 regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty hours
8 (40) in a workweek.

9 9. The Applicable IWC Wage Order further provides that DEFENDANTS are and were
10 required to pay PLAINTIFF and the CLASS overtime compensation at the rate of two times their
11 regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

12 10. California Labor Code § 510 codifies the right to overtime compensation and provides, in
13 pertinent part:

14 “Any work in excess of eight hours in one workday and any work in excess of 40 hours in
15 any one workweek and the first eight hours worked on the seventh day of work in any one
workweek shall be compensated at the rate of no less than one and one-half times the **regular**
rate of pay for an employee.” [Emphasis added].

16 11. California Labor Code §1194, in pertinent part, provides:

17 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than
18 the legal minimum wage or the legal overtime compensation applicable to the employee is
19 entitled to recover in a civil action the unpaid balance of the full amount of this minimum
wage or overtime compensation, including interest thereon, reasonable attorney's fees and
cost of the suit.”

20 12. California Labor Code §1198, in pertinent part, provides:

21 “(t) the maximum hours of work and the standard conditions of labor fixed by the commission
22 shall be the maximum hours of work and the standard conditions of labor for employees. The
23 employment of any employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful.”

24 13. By refusing to compensate PLAINTIFF and the CLASS the proper overtime wages earned,
25 DEFENDANTS violated those California Labor Code provisions cited herein as well as the
26 applicable IWC Wage Order, and their actions are therefore unlawful.

27 14. PLAINTIFF and the CLASS are entitled to receive the proper amount of overtime
28 compensation for all hours worked in excess of eight (8) hours in one workday and any work in

1 excess of forty (40) hours in any workweek and the first eight hours worked on the seventh day of
2 work in any one workweek at the rate of no less than one and one half times the regular rate of pay
3 for each employee. In determining the regular rate of pay for each CLASS member, all remuneration
4 paid to each, including but not limited to performance bonuses, must be calculated.

5 15. As a direct and proximate result of DEFENDANTS' unlawful conduct, as set forth therein,
6 PLAINTIFF and the CLASS have sustained damages, including loss of earnings for hours of
7 overtime worked, in an amount to be established at trial.

8 16. Pursuant to California Labor Code §1194, PLAINTIFF and the CLASS are entitled to
9 recover unpaid overtime compensation and double time compensation, including interest thereon.

10 17. PLAINTIFF is also entitled to recover reasonable attorneys' fees and costs, pursuant to
11 California Labor Code §1194(a).

12 18. During the RELEVANT TIME PERIOD, DEFENDANTS were the PLAINTIFF'S and the
13 CLASS employer and/or person acting on behalf of the DEFENDANTS, within the meaning of
14 California Labor Code § 558, who violated or caused to be violated any section of the wage order
15 regulating the days and hours worked and, as such are individually liable to each member of the
16 CLASS for each such violations as set forth in the California Labor Code.

17 19. Labor Code § 558 imposes upon DEFENDANTS, for each initial violation, a penalty of
18 \$50.00 for each underpaid employee for each pay period for which the employee was underpaid in
19 addition to an amount sufficient to recover the underpaid wages, which shall be paid to each affected
20 employee. Furthermore, Labor Code § 558 imposes upon DEFENDANTS, for each subsequent
21 violation, a penalty of \$100.00 for each underpaid employee for each pay period for which the
22 employee was underpaid, in addition to an amount sufficient to recover the underpaid wages, which
23 shall be paid to each affected employee.

24 20. PLAINTIFF on behalf of himself and the CLASS seeks all available remedies for
25 DEFENDANTS' violations including any and all wages due, penalties, monies, interest, attorney's
26 fees, and costs to the extent permitted by law.

27 WHEREFORE, PLAINTIFF prays for relief as hereinafter requested.

28 ///

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
(VIOLATION OF IWC WAGE ORDER 4-2001, CAL. LAB. CODE §§ 226.7, 512)
(AGAINST ALL DEFENDANTS)

21. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as though fully set forth in this cause of action, and incorporates them by reference, and further alleges:

22. During the RELEVANT TIME PERIOD, the IWC Wage Order and California Labor Code sections 226.7 and 512 were applicable to PLAINTIFF and the CLASS employed by DEFENDANTS.

23. During the RELEVANT TIME PERIOD, PLAINTIFF and the CLASS were “non-exempt” employees of DEFENDANTS and did not receive meal periods or premium pay in lieu of meal periods.

24. By failing to comply with IWC Wage Order and California Labor Code sections 226.7 and 512, DEFENDANTS deprived PLAINTIFF and the CLASS proper protections and benefits of the laws governing meal periods.

25. During the RELEVANT TIME PERIOD, DEFENDANTS were aware of, and under a duty to comply with, California Labor Code §§226.7 and 512.

26. California Labor Code §226.7 provides:

“(a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.”

Moreover, California Labor Code §512 provides:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

27. Sections 11 and 12 of IWC Wage Order 4 mandate that the employer provide all applicable meal periods to employees. Section 11 of the applicable IWC Wage Order provides in pertinent part:

1 “No employer shall employ any person for a work period of more than of not less than 30
2 minutes... Unless the employee is relieved of all duty during a 30-minute meal period, the
meal period shall be considered an “on duty” meal period and counted as time worked.

3 If an employer fails to provide an employee a meal period in accordance with the applicable
4 provisions of this order the employer shall provide the employee one (1) hour of pay at the
employee’s regular rate of compensation for each workday that the meal period is not
5 provided.

6 28. PLAINTIFF and the CLASS regularly and consistently worked eight (8) hours or more per
day but were not provided an uninterrupted, thirty-minute meal period within the first five hours of
7 work each day. By failing to consistently provide PLAINTIFF and each member of the CLASS an
8 uninterrupted thirty-minute meal period within the first five hours of work each day, DEFENDANTS
9 violated the California Labor Code and applicable IWC Wage Order provisions.

10 29. During the RELEVANT TIME PERIOD, DEFENDANTS intentionally and willfully
11 required PLAINTIFF and the CLASS to work during meal periods and failed to compensate
12 PLAINTIFF and the CLASS the full meal period premium for work performed during meal periods.

13 30. PLAINTIFF is informed and believes and, on that basis, alleges, that DEFENDANTS failed
14 to pay the one-hour compensation as a premium payment to PLAINTIFF or any member of the
15 CLASS at the employee’s regular rate of compensation for each workday for all missed or interrupted
16 meal breaks due to their violation of the California Labor Code and applicable IWC Wage Order
17 provisions.

18 31. Defendant’s conduct violates the applicable IWC Wage Order and California Labor Code
19 sections 226.7 and 512(a).

20 32. As a direct and proximate result of DEFENDANTS unlawful conduct, as set forth herein,
21 PLAINTIFF and the CLASS have sustained damages including loss of compensation resulting from
22 missed meal periods, in an amount to be established at trial.

23 33. Pursuant to applicable IWC Wage Order and California Labor Code section 226.7(b),
24 PLAINTIFF and the CLASS are entitled to recover from DEFENDANTS one additional hour of pay
25 at the employee’s regular rate of compensation for each and every workday the meal or rest period
26 is not provided. In determining the regular rate of pay for each CLASS member, all remuneration
27 paid to each, including but not limited to performance bonuses, must be calculated.
28

1 34. During the RELEVANT TIME PERIOD, DEFENDANTS were and are the PLAINTIFF
2 and the CLASS' employers and/or persons acting on behalf of the DEFENDANTS, within the
3 meaning of California Labor Code § 558, who violated or caused to be violated any section of the
4 wage order regulating the days and hours worked and, as such are individually liable to each member
5 of the CLASS for each such violations as set forth in the California Labor Code.

6 35. Labor Code § 558 imposes upon DEFENDANTS, for each initial violation, a penalty of
7 \$50.00 for each underpaid employee for each pay period for which the employee was underpaid in
8 addition to an amount sufficient to recover the underpaid wages, which shall be paid to each affected
9 employee. Furthermore, Labor Code § 558 imposes upon DEFENDANTS, for each subsequent
10 violation, a penalty of \$100.00 for each underpaid employee for each pay period for which the
11 employee was underpaid, in addition to an amount sufficient to recover the underpaid wages, which
12 shall be paid to each affected employee.

13 36. As a direct result of DEFENDANTS' violations alleged herein, PLAINTIFF and the
14 CLASS have suffered and continue to suffer loss of wages and compensation, all in amounts to be
15 shown according to proof at trial and within the jurisdiction limitations of this Court. PLAINTIFF
16 and the CLASS seek all available remedies for DEFENDANTS' violations including, but not limited,
17 to any and all wages due, penalties, monies, interest, attorney's fees, and costs to the extent permitted
18 by law.

19 WHEREFORE, PLAINTIFF prays for relief as hereinafter requested.

20 **THIRD CAUSE OF ACTION**
21 **FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**
22 **(IN VIOLATION OF IWC WAGE ORDER 4-2001, CAL. LAB. CODE§ 226.7)**
23 **(AGAINST ALL DEFENDANTS)**

24 37. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as
25 though fully set forth in this cause of action, and incorporates them by reference, and further alleges:

26 38. During the RELEVANT TIME PERIOD, the IWC Wage Order and California Labor Code
27 sections 226.7 and 512 were applicable to PLAINTIFF and the Class employed by DEFENDANTS.

28 39. During the RELEVANT TIME PERIOD, PLAINTIFF and the CLASS were and continue
to be "non-exempt" employees of DEFENDANTS and did not receive rest periods or premium pay
in lieu of rest periods.

1 40. By failing to comply with California Labor Code sections 226.7 and 512, DEFENDANTS
2 deprived PLAINTIFF and the CLASS proper protections and benefits of the laws governing rest
3 periods.

4 41. During the RELEVANT TIME PERIOD, DEFENDANTS were aware of and under a duty
5 to comply with, California Labor Code §226.7 and Section 12 of Wage Order 7-2001.

6 42. California Labor Code. §226.7 states

7 “no employer shall require any employee to work during any meal or rest period mandated
8 by an applicable order of the Industrial Welfare Commission.”

9 Section 12 of Wage Order No. 4-2001 provides in relevant part that:

10 (A) Every employer shall authorize and permit all employees to take rest periods, which in
11 so far as practicable shall be in the middle of each work period., The authorized rest period
12 time shall be based on the total hours worked daily at the rate of ten (10 minutes net rest time
13 per four (4) hours or major fraction thereof. However, a rest period need not be authorized
for employees whose total daily work time is less than three and one-half (3 ‘A) hours.
Authorized rest period time shall be counted as hours worked for such there shall be no
deduction from wages.

14 43. During the RELEVANT TIME PERIOD, DEFENDANTS willfully required PLAINTIFF
15 and the CLASS to work four (4) or more hours without authorizing or permitting a ten (10) minute
16 rest period per each four (4) hours period worked.

17 44. During the RELEVANT TIME PERIOD, DEFENDANTS willfully required PLAINTIFF
18 and the CLASS to work during rest periods and failed to pay PLAINTIFF and the CLASS the full
19 rest period premium for work performed during rest periods.

20 45. If an employer fails to provide an employee a rest period in accordance with the applicable
21 provisions of this order, the employer shall pay the employee one (1) hour of pay at that employee’s
22 regular rate of compensation for each workday that the rest period is not provided.

23 46. During the RELEVANT TIME PERIOD, DEFENDANTS failed to pay PLAINTIFF and
24 the CLASS the full rest period premium at the employee’s regular rate of compensation for each
25 workday due pursuant to California Labor Code section 226.7 for all missed rest breaks.

26 47. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(b),
27 PLAINTIFF and the CLASS are entitled to recover from DEFENDANTS one additional hour of pay
28 at the employees’ regular rate of compensation for each and every workday that the rest period was

1 not provided. In determining the regular rate of pay for each CLASS member, all remuneration paid
2 to each, including but not limited to performance bonuses, must be calculated.

3 48. In committing the violations of state law as herein alleged, DEFENDANTS refused to
4 perform their obligations to authorize and permit rest periods and have also failed to pay rest premium
5 wages. As a direct result, PLAINTIFF and the CLASS have suffered, and continue to suffer,
6 substantial losses, including those related to the use and enjoyment of such compensation, wages,
7 and lost interest on such monies in seeking to compel DEFENDANTS to fully perform their
8 obligation under state law, all to their respective damage in amounts according to proof at trial and
9 within the jurisdictional limitations of this Court.

10 49. During the RELEVANT TIME PERIOD, DEFENDANTS are and/or were the PLAINTIFF
11 and the CLASS' employers and/or persons acting on behalf of DEFENDANTS within the meaning
12 of California Labor Code§ 558, who violated or caused to be violated, a section of Part 2, Chapter I,
13 of the California Labor Code or any provision regulating hours and days of work in any Order of the
14 Industrial Welfare Commission and, as such, are subject to penalties for each underpaid employee,
15 which shall be paid to each affected employee, as set forth in Labor Code § 558.

16 50. Labor Code § 558 imposes upon DEFENDANTS for each initial violation a penalty of
17 \$50.00 for each underpaid employee for each pay period for which the employee was underpaid in
18 addition to an amount sufficient to recover the underpaid wages, which shall be paid to each affected
19 employee. Furthermore, Labor Code§ 558 imposes upon DEFENDANTS for each subsequent
20 violation a penalty of \$100 for each underpaid employee for each pay period for which the employee
21 was underpaid, in addition to an amount sufficient to recover the underpaid wages, which shall be
22 paid to each affected employee.

23 51. The CLASS, including PLAINTIFF, suffered and continue to suffer loss of wages and
24 compensation, all in an amount to be shown according to proof at trial and within the jurisdictional
25 limitations of this Court.

26 52. PLAINTIFF seeks all available remedies for DEFENDANTS' violations including, but not
27 to, any and all wages due, penalties, interest, attorney's fees, costs to the extent permitted by law.

28 WHEREFORE, PLAINTIFF prays for relief as hereinafter requested.

FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(VIOLATION OF CAL. LAB. CODE §§ 226(a), 246(i), 1147(d)
(Against All DEFENDANTS)

46. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as though fully set forth in this cause of action, and incorporates them by reference, and further alleges:

47. Labor Code § 226(a) requires employers to furnish their employees with each wage payment an accurate, itemized writing that shows gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the period for which the employee is paid, the name of the employee and the portion of his or her social security number as required by law, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

48. DEFENDANTS engages in a policy and practice of violating California Labor Code §§ 226(a), by failing to provide PLAINTIFF and the CLASS with accurate itemized wage statements in compliance with the statutory requirement of §226(a).

49. DEFENDANTS knew or should have known that PLAINTIFF and the CLASS were entitled to receive accurate wage statements. In violation of the California Labor Code, DEFENDANTS failed to provide PLAINTIFF and the CLASS members with itemized wage statements or separate written statements *accurately* showing this information.

50. California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d).

1 51. During the relevant time period, and in violation of Labor Code section 1174(d),
2 DEFENDANTS willfully failed to maintain accurate payroll records for PLAINTIFF and the CLASS
3 showing the daily hours they worked and the wages paid thereto as a result of failing to record.

4 52. California Labor Code section 1198 provides that the maximum hours of work and
5 the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in
6 the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any
7 employees for longer hours than those fixed by the order or under conditions of labor prohibited by
8 the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep
9 accurate time records showing when the employee begins and ends each work period and meal
10 period. During the RELEVANT TIME PERIOD, DEFENDANTS failed, on a company-wide basis,
11 to keep accurate records of all hours worked, meal period start and stop times for PLAINTIFF and
12 CLASS, in violation of section 1198.

13 53. California Labor Code §246(i) provides “[a]n employer shall provide an employee
14 with written notice that sets forth the amount of paid sick leave available, or paid time off leave an
15 employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement
16 described in Section 226 or in a separate writing provided on the designated pay date with the
17 employee’s payment of wages. If an employer provides unlimited paid sick leave or unlimited paid
18 time off to an employee, the employer may satisfy this section by indicating on the notice or the
19 employee’s itemized wage statement “unlimited.” The penalties described in this article for a
20 violation of this subdivision shall be in lieu of the penalties for a violation of Section 226. This
21 subdivision shall apply to employers covered by Wage Order 11 or 12 of the Industrial Welfare
22 Commission only on and after January 21, 2016.”

23 54. DEFENDANTS failed to provide wages statements to PLAINTIFF and the CLASS
24 that complied with Labor Code §§ 226, and 246(i).

25 55. PLAINTIFF and the CLASS, suffered and continue to suffer injuries, including
26 substantial losses related to the use and enjoyment of such wages, lost interest on such wages and
27 expenses and attorney’s fees in seeking to compel DEFENDANTS to fully perform its obligations
28 under state law, all to their respective damage in amounts according to proof at trial. Pursuant to

1 Labor Code §§ 226(e)(2) and 226(c)(2)(B)(i), PLAINTIFF and the CLASS are deemed to have
2 suffered injury as a result of DEFENDANTS' failure to provide accurate and complete information
3 as required by Labor Code § 226(a).

4 56. Labor Code § 226, in part, permits employees suffering injury to collect actual
5 damages or the amount specified in Labor Code § 226. Thus, Labor Code § 226(e) requires
6 DEFENDANTS to pay the greater of all actual damages or fifty dollars (\$50.00) for the initial pay
7 period in which a violation occurred and one hundred dollars (\$100.00) per employee for each
8 violation in subsequent pay periods, plus attorney's fees and costs, to each member of the CLASS,
9 including PLAINTIFF, who were injured by DEFENDANTS' failure to comply with Labor Code §
10 226(a). The exact amount of the applicable penalty is all in an amount to be shown according to proof
11 at trial.

12 57. Furthermore, Labor Code § 226(g) permits an employee to bring an action for
13 injunctive relief to ensure compliance with Labor Code § 226. Thus, PLAINTIFF and the CLASS
14 additionally seek injunctive relief to ensure compliance with Labor Code § 226.

15 58. PLAINTIFF seeks all available remedies for DEFENDANTS' violations including,
16 but not limited to, any and all wages due, actual damages, penalties, payments pursuant to Labor
17 Code § 226(e) and 226.3, monies, interest, attorney's fees, costs and injunctive relief.

18 WHEREFORE, PLAINTIFF prays for relief as hereinafter requested.

19 **FIFTH CAUSE OF ACTION**
20 **WAITING TIME PENALTIES**
21 **(VIOLATION OF CAL. LAB. CODE §§ 201, 202, 203)**
22 **(Against All DEFENDANTS)**

23 59. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs
24 as though fully set forth in this cause of action, and incorporates them by reference, and further
25 alleges:

26 60. At all times herein mentioned, PLAINTIFF and the CLASS were employees of
27 DEFENDANTS and DEFENDANTS were subject to California law.

28 61. California Labor Code §§ 201 and 202 require that an employer promptly pay all
wages due to quitting or discharged employees. Labor Code section 203 provides a penalty for the

1 willful failure to pay all wages due to an employee who is discharged under section 201 or quit under
2 § 202. This penalty consists of an amount equal to the sum of the employee's wages at the
3 employee's prior rate of pay, until the unpaid wages are paid, in an amount not to exceed the
4 equivalent of 30 days' pay.

5 62. As set forth in § 201, upon the end of the PLAINTIFF's and the CLASS' employment,
6 DEFENDANTS were obligated to pay all compensation earned and unpaid at the time of termination.
7 DEFENDANTS failed to do so.

8 63. At the time of termination of the PLAINTIFF and the CLASS, DEFENDANTS failed
9 to timely pay the PLAINTIFF and the CLASS for all their hours worked, including overtime
10 compensation, meal and rest premium, and paid sick leave. DEFENDANTS are obligated to pay
11 PLAINTIFF and the CLASS waiting-time penalty equivalent to thirty (30) full working days' worth
12 of wages. DEFENDANTS violated 201-203 by willfully failing to pay all wages due to PLAINTIFF
13 and the CLASS who have been discharged or who have quit.

14 64. PLAINTIFF seeks costs, interest, disbursements, and attorneys' fees, as provided by
15 Labor Code §§ 218.5 and 218.6, 1194(a), under PAGA and any other relevant statutes.

16 **SIXTH CAUSE OF ACTION**
17 **FAILURE TO PAY ALL WAGES TIMELY DURING EMPLOYMENT IN VIOLATION**
18 **OF LABOR CODE §§204, 210**
(Against All DEFENDANTS)

19 65. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs
20 as though fully set forth in this cause of action, and incorporates them by reference, and further
21 alleges:

22 66. Lab. Code § 204 (a) provides "[a]ll wages, other than those mentioned in
23 Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and
24 payable twice during each calendar month, on days designated in advance by the employer as the
25 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month
26 shall be paid for between the 16th and the 26th day of the month during which the labor was
27 performed, and labor performed between the 16th and the last day, inclusive, of any calendar month,
28 shall be paid for between the 1st and 10th day of the following month."

67. Lab. Code § 210(a) provides “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3 shall be subject to a penalty as follows:

(1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.

(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

68. DEFENDANTS intentionally refused to comply with Lab Code §204 by failing to pay meal and rest premium, overtime and double time compensation, and paid sick leave to the PLAINTIFF and the CLASS as part of their regular paycheck on the designated payday.

69. California Labor Code section 215 makes it a misdemeanor for “[a]ny person, or the agent, manager, superintendent or officer thereof” to fail to pay wages in accordance with Section 204.

70. PLAINTIFF seeks all available remedies for DEFENDANTS' violations including, but not limited to, any and all wages due, and applicable penalties, attorney's fees, costs and injunctive relief.

SEVENTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES IN VIOLATION OF CALIFORNIA BUSINESS AND
PROFESSIONS CODE §§ 17200-17208
(AGAINST ALL DEFENDANTS)

71. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as though fully set forth in this cause of action, and incorporates them by reference, and further alleges:

72. The foregoing conduct, as alleged, violates the California Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200 et seq. Section 17200 of the Cal. Bus. & Prof. Code prohibits unfair competition by prohibiting, inter alia, any unlawful or unfair business acts or practices.

73. Throughout the course of PLAINTIFF's employment, DEFENDANTS committed acts of unfair competition, as defined by the UCL, by, among other things, engaging in the acts and practices described herein, including but not limited to, failing to pay employees at the rate of no less than one and one-half times the regular rate of pay, which includes bonuses pursuant to Lab. Code §

1 510; failing to pay employees paid sick time under Cal. Lab. Code 246 at the regular rate of pay for
2 the workweek in which the employee uses paid sick time; failing to provide accurate itemized wage
3 statements for each pay period; failing to pay employees for all hours worked; and failing to pay
4 wages upon termination of employment.

5 74. DEFENDANTS' conduct as herein alleged has damaged the PLAINTIFFS and
6 therefore was substantially injurious to the PLAINTIFF and the CLASS.

7 75. DEFENDANTS' course of conduct, acts, and practices in violation of the California
8 laws mentioned herein constitute a separate and independent violation of the UCL. DEFENDANTS'
9 conduct described herein violates the policy or spirit of such laws or otherwise significantly threatens
10 or harms competition. PLAINTIFF seeks disgorgement in the amount of the respective unpaid wages
11 and equity and such other legal and equitable relief from DEFENDANTS' unlawful and willful
12 conduct as the Court deems just and proper.

13 76. WHEREFORE, PLAINTIFF requests the relief as described below.

14 **EIGHTH CAUSE OF ACTION**
15 **FAILURE TO PROVIDE PERSONNEL RECORDS**
16 **(CAL. LAB CODE § 1198.5)**
17 **(Against All DEFENDANTS)**

18 77. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs
19 as though fully set forth in this cause of action, and incorporates them by reference, and further
20 alleges:

21 78. Lab Code § 1198.5 provides:

22 (a) Every current and former employee, or his or her representative, has the right to inspect
23 and receive a copy of the personnel records that the employer maintains relating to the
24 employee's performance or to any grievance concerning the employee.

25 (b) (1) The employer shall make the contents of those personnel records available for
26 inspection to the current or former employee, or his or her representative, at reasonable
27 intervals and at reasonable times, but not later than 30 calendar days from the date the
28 employer receives a written request, unless the current or former employee, or his or her
representative, and the employer agree in writing to a date beyond 30 calendar days to
inspect the records, and the agreed-upon date does not exceed 35 calendar days from the
employer's receipt of the written request. Upon a written request from a current or former
employee, or his or her representative, the employer shall also provide a copy of the
personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30
calendar days from the date the employer receives the request, unless the current or former
employee, or his or her representative, and the employer agree in writing to a date beyond

30 calendar days to produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Except as provided in paragraph (2) of subdivision (c), the employer is not required to make those personnel records or a copy thereof available at a time when the employee is actually required to render service to the employer, if the requester is the employee.

(k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

(l) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

79. DEFENDANTS willfully failed to permit the PLAINTIFF to inspect or copy his personnel file within 30 calendar days of his request in direct violation of Cal. Lab. Code § 1198.5.

WHEREFORE, PLAINTIFF requests the relief as described below.

NINTH CAUSE OF ACTION
INJUNCTIVE RELIEF
(Against All DEFENDANTS)

80. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as though fully set forth in this cause of action, and incorporates them by reference, and further alleges:

81. DEFENDANTS unlawful conduct of failing to comply with California law, including but not limited to, Cal. Lab. Code §§ 510, 246 threatens real and immediate harm to PLAINTIFF, Aggrieved, Employees, and the CLASS who will suffer irreparable harm.

82. PLAINTIFF is therefore entitled to an order restraining and ordering DEFENDANTS, representatives, attorneys, servants, and agents from further harm pending final judgment on this matter.

TENTH CAUSE OF ACTION
PENALTIES, PURSUANT TO LABOR CODE § 2699 FOR VIOLATIONS OF
LABOR CODE §§ 200, 510, 1198, 558, 1194, 226.7, 512, 201, 202, 203, 204, 210, 226,
226.3, 246, 246.5(a), 247.5, 1197.5, 432.3, 6400(a), 6401, 6306, 6402, 6403, 6407, 6409,
6423, 6427, 6428, and 1198.5.
(AGAINST ALL DEFENDANTS)

83. PLAINTIFF repeats and re-alleges all allegations contained in preceding paragraphs as though fully set forth in this cause of action, and incorporates them by reference, and further

1 alleges:

2 84. Cal. Labor Code § 2698 et seq., the Labor Code Private Attorney General Act of 2004
3 expressly establishes that any provision of the Cal. Labor Code which provides for a civil penalty to
4 be assessed and collected by the Labor and Workforce Development Agency, or any of its
5 departments, divisions, commissions, boards agencies or employees for a violation of the Cal. Labor
6 Code, may be recovered through a civil action brought by an aggrieved employee on behalf of
7 himself or herself, and collectively on behalf of all other current or former employees.

8 85. Whenever the Labor and Workforce Development Agency, or any of its departments,
9 divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a
10 court in a civil action is authorized to exercise the same discretion, subject to the same limitation and
11 conditions, to assess a civil penalty.

12 86. PLAINTIFF, and the CLASS of “aggrieved employees”, as defined by Cal. Labor
13 Code § 2699, who are all current and former employees of DEFENDANTS, and against them one or
14 more of the alleged violations was committed.

15 87. Having complied with the Notice and administrative provisions of PAGA,
16 PLAINTIFF holds a right to bring an action on behalf of himself and other employees acting as a
17 proxy of the LWDA. Pursuant to Labor Code § 2699 et seq., PLAINTIFF seeks to recover civil
18 penalties for which DEFENDANTS are liable as a result of violations of the Labor Code, as set forth
19 in this Complaint and the Labor Code Private Attorney General Notice attached hereto as Exhibit
20 “1” and incorporated by reference including, but not limited to, violations of Labor Code §§ 200,
21 510, 1198, 558, 1194, 226.7, 512, 201, 202, 203, 204, 210, 226, 226.3, 246, 246.5(a), 247.5, 1197.5,
22 432.3, 6400(a), 6401, 6306, 6402, 6403, 6407, 6409, 6423, 6427, 6428, and 1198.5.

23 88. As a result of the violations alleged herein, PLAINTIFF, individually and on behalf
24 of all aggrieved employees in their capacity as private attorneys general seeks penalties under Labor
25 Code § 2699(f), which states:

26 (f) For all provisions of this code except those for which a civil penalty is specifically
27 provided, there is established a civil penalty for a violation of these provisions, as follows:

28 (1) If, at the time of the alleged violation, the person does not employ one or more
employees, the civil penalty is five hundred dollars (\$500).

(2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is as follows:

(A) One hundred dollars (\$100) for each aggrieved employee per pay period, except that:

(i) If, at the time of the alleged violation, the person employs one or more employees, and the alleged violation is a violation of paragraphs (1) to (7), inclusive, or paragraph (9) of subdivision (a) of Section 226, the only civil penalty applicable under this part is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226, the civil penalty applicable under this part for the violation is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer. This subdivision does not apply if the employer has failed to provide an itemized payroll statement during any of the pay periods at issue.

(ii) The civil penalty is fifty (\$50) for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods.

(B) The civil penalty is two hundred dollars (\$200) for each aggrieved employee per pay period if either of the following are met:

(i) Within the five years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful.

(ii) The court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive.

(3) If the alleged violation is a failure to act by the Labor and Workforce Development Agency, or any of its departments, divisions, commissions, boards, agencies, or employees, there shall be no civil penalty.

89. To the extent that any violation alleged herein does not carry penalties under Cal. Labor Code § 2699(a), PLAINTIFF seeks civil penalties pursuant to Cal. Lab. Code § 2699(f) for PLAINTIFF and each member of the CLASS for each pay period in which they were aggrieved, in the amounts established by Cal. Lab. Code § 2699(f).

90. For each such violation, PLAINTIFF and all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial. The penalties will be allocated 65% to LWDA, and 35% to the CLASS, (i.e., affected employees.)

1 91. Pursuant to Cal. Labor Code §§2699(k)(1) PLAINTIFF and aggrieved employees are
2 entitled to seek and recover reasonable attorneys' fees and costs.

3 92. PLAINTIFF, on behalf of himself and the CLASS, requests relief through PAGA as
4 described herein and below.

5 **DEMAND FOR JURY TRIAL**

6 PLAINTIFF, hereby, demands a trial by jury on all issues so triable.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, PLAINTIFF, on behalf of himself, the CLASS, and Aggrieved Employees
9 prays for relief and judgment against DEFENDANTS, jointly and severally, as follows:

10 1. For an Order certifying the proposed CLASS and/or any other appropriate subclasses under
11 CCP § 382;

12 2. For an Order appointing PLAINTIFF as the representative of the CLASS;

13 3. For an Order appointing counsel for PLAINTIFF as counsel for the CLASS;

14 4. For a finding that DEFENDANTS violated the provisions of the California Labor Code,
15 including but not limited to, §§ 204, 201-203, 226, 226.3, 226.7, 510, 512, 1194, 1198, 2699, *et seq.*
16 as to PLAINTIFF and the CLASS;

17 5. That the Court declare, adjudge, and decree that DEFENDANTS violated California Business
18 and Professions Code §§ 17200 *et seq.* as alleged herein;

19 6. That the Court make an award to PLAINTIFF and the CLASS of damages for the amount of
20 unpaid wages, including interest thereon and penalties, in amounts to be proven, in a formulaic
21 manner, at trial;

22 7. For special damages, according to proof;

23 8. For actual damages pursuant to Labor Code § 226(e);

24 9. For reasonable attorneys' fees as provided by statute, including but not limited to California
25 Code of Civil Procedures § 1021.5 and California Labor Code §§ 218.5, 226, 1194;

26 10. For penalties as permitted under California Labor Code for violations of each of the sections
27 identified herein, including but not limited to §§210, 225.5, 226, 226.3, 1174.5, and 558;

28 11. For waiting time penalties and other penalties according to proof pursuant to California Labor

1 Code section 203 for all employees who have left DEFENDANTS' employment;

2 12. For injunctive relief, including but not limited to, pursuant to California Labor Code section

3 226(h);

4 13. For cost of suit herein;

5 14. For the appointment of a receiver to receive, manage and distribute any and all funds

6 disgorged from DEFENDANTS and determined to have been wrongfully acquired by

7 DEFENDANTS as a result of violations of California Business & Professions Code sections 17200

8 et seq.;

9 15. For disgorgement of all monies which DEFENDANTS have illegally gained;

10 16. For an award of additional hour of pay at the regular rate of compensation pursuant to Labor

11 Code §226.7(b) for each meal and rest period not in compliance with the applicable Wage Order of

12 the IWC;

13 17. For penalties and subsequent violation of a section of Chapter 1 of Labor Code, Div. 2, Part

14 2, or any provision regulating hours and days of work in any Order of the IWC for each underpaid

15 employee for each pay period for which the employee was underpaid, in addition to an amount

16 sufficient to recover the underpaid wages to be paid to each affected employee pursuant to Labor

17 Code §558;

18 18. For an accounting to determine all money wrongfully obtained and held by DEFENDANTS;

19 19. For all other Orders, findings, and determinations identified and sought in this Complaint

20 and/or the Court finds just and proper;

21 20. For prejudgment interest, and post judgment interest, according to proof;

22 21. For penalties according to the schedule as laid out in PAGA for each aggrieved employee per

23 pay period for any subsequent violation, and reasonable attorneys' fees and costs pursuant to

24 California Labor Code § 2699;

25 22. For any other such relief as the Court deems just and proper due to the misconduct committed

26 by the DEFENDANTS as alleged in this Complaint.

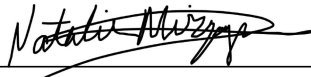
27 23. PLAINTIFF reserves the right to amend her prayer for relief.

28

1 Dated: November 14, 2024

Respectfully submitted,

3 **MIRZAYAN LAW, APLC**

4 By:  _____

5 Natalie Mirzayan, Esq.

6 Attorney for Plaintiff

7 GLENN KNOTT and the PROPOSED CLASS

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EXHIBIT 1

MIRZAYAN LAW, APLC

November 12, 2024



VIA ONLINE FILING

Labor & Workforce Development Agency

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

1515 Clay Street, Suite 801

Oakland, CA 94612

VIA ONLINE FILING

Department of Industrial Relations

Division of Occupational Safety and Health

320 West 4th St., Room 820

Los Angeles, CA 90013

DOSHLA@dir.ca.gov

1500 Hughes Way, Suite C-201

Long Beach, CA 90810

DOSHLBO@dir.ca.gov

VIA CERTIFIED MAIL

Goodwill, Southern Los Angeles County

Agent for Service of Process

Kimberly Hall

800 W. Pacific Coast Highway

Long Beach, CA 90806

Re: **Notification Of Labor Code Private Attorney General Action, Labor Code 2698
et. seq. Against Goodwill, Southern Los Angeles County**

Dear Sir or Madame:

This notification is provided in advance of a civil action under Labor Code Private Attorneys General Act of 2004, ("PAGA"). This office represents Mr. Glenn Knott ("Plaintiff") who was employed by Goodwill, Southern Los Angeles County ("Defendant") as a Sales Associate/Material Handler at 8155 E. Wardlow Rd, Long Beach, CA 90808 between approximately August 2, 2022, until his termination on or about November 16, 2023.

26632 Towne Centre Drive, Ste. # 300
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mirzayanlaw@outlook.com

November 12, 2024

Page 2

This letter is a notice and a request, pursuant to California Labor Code §2699.3 that your agency investigates the claims in this impending civil action. If the agency does not intend to investigate the alleged violations, we specifically and respectfully request notification so that we can file our civil action to include our PAGA claims.

This action is brought on behalf of the Plaintiff and other similarly situated and aggrieved current and former employees of Defendant working in the state of California (hereinafter “**Aggrieved Employees**”). The impending action is to recover penalties for the following Labor Code Violations as detailed below:

I. Violation of Labor Code §§ 510, 1194, 1198, 558 (Payment for Overtime and Double time):

Plaintiff worked for Defendant and received Bonus Pay in the amount of \$120.00 for several months during his employment, including February 2023, March 2023, and June through October 2023. However, the Bonus Pay was not included in Plaintiff’s and the Aggrieved Employees “regular rate of pay” for the purposes of overtime compensation. That is, Defendant failed to include his Bonus Pay in computing his regular rate for the purpose of computing his overtime compensation.

California Labor Code § 510 codifies the right to overtime compensation and provides, in pertinent part:

“Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated **at the rate of no less than one and one-half times the regular rate of pay for an employee.**” [Emphasis added].

California Labor Code §1194, in pertinent part, provides:

“Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal **overtime compensation** applicable to the employee is entitled to recover in a civil action *the unpaid balance of the full amount* of this minimum wage or ***overtime compensation, including interest thereon, reasonable attorney’s fees and cost of the suit.***” [Emphasis added].

California Labor Code §1198, in pertinent part, provides:

“The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 558 provides:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work

in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

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

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

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

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, any provision regulating hours and days of work in any order of the Industrial Welfare Commission, or any applicable local overtime law, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) In a jurisdiction where a local entity has the legal authority to issue a citation against an employer for a violation of any applicable local overtime law, the Labor Commissioner, pursuant to a request from the local entity, may issue a citation against an employer for a violation of any applicable local overtime law if the local entity has not cited the employer for the same violation. If the Labor Commissioner issues a citation, the local entity shall not cite the employer for the same violation.

(d) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

(e) This section does not change the applicability of local overtime wage laws to any entity.

As stated above, Defendant engaged in a policy and practice of suffering its employees to work more than 8 hours per day and/or forty hours in a work week by failing to compensate them for overtime and double time as required by law. Specifically, Defendants failed to properly calculate Plaintiff's and the Aggrieved Employees' "regular rate of pay" for purposes of overtime and double time compensation because the value of the employee's non-discretionary bonus (the monthly Bonus Pay) was not included in the calculation of the Plaintiff's regular rate of pay in violation of Cal. Lab. Code § 510.

Therefore, Plaintiff and Aggrieved Employees were entitled to receive certain wages for overtime and double time compensation but were not properly paid for overtime and double time hours.

II. Labor Code §§ 246(a), 246(i), 246.5(a):

Labor Code 246(a) requires an employer to provide employees that work in California on or after July 1, 2015, for 30 or more days within a year from the commencement of employment,

paid sick days to accrue at a rate of not less than one hour per every 30 hours worked or in the alternative must comply with the requirements of section 246(b)(3).

Section 246(i) requires an employer to provide an employee with written notice that sets forth the amount of paid sick leave **available**, or PTO leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement as described in Section 226 or in a separate writing provided on the designated pay date with the employees' payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited."

Section 246(l) provides:

(l) For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

Defendants failed to comply with Labor Code § 246(l)(1)-(2), by failing to pay Plaintiff and Aggrieved Employees paid sick leave at the employee's regular rate of pay for the workweek in which the employee uses paid sick leave. Employers may calculate the regular rate of pay either based on the workweek in which the employee uses sick leave or by using a 90-day look back period. Clearly, Defendant did not pay the Plaintiff the proper amount taking into account his regular rate of pay which should have included his Bonus Pay.

III. Violation of Labor Code §§ 226.7 and 512 (Meal and Rest Break Period):

Defendants violated Labor Code § 226.7 which requires employers to provide a ten-minute rest period during each four-hour of work or major fraction thereof. Defendants further violated Labor Code § 226.7 and 512 by failing to provide Plaintiff and all Aggrieved Employees with a meal period of not less than 30 minutes for each work period more than 5 hours per day and a second meal period of not less than 30 minutes for a work period of more than 10 hours-day. The meal period must be provided prior to the 5th hour of work. California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Defendants required Plaintiff and other Aggrieved Employees to work during meal and rest periods and failed to compensate them properly for missed meal and rest periods, including but not limited to, failing to

pay them any premium pay at their “regular rate of pay” which includes the non-discretionary Bonus Pay.

IV. Violation of Labor Code §§ 201, 202, 203 (Waiting Time Penalty):

California Labor Code section 201 provides that if an employer discharges an employee, the employee’s wages that have been earned and are unpaid at the time of discharge shall be paid immediately. Labor Code § 202 provides that if an employee quits, his or her wages become due no later than 72 hours thereafter or if an employee gives 72-hours previous notice of his or her intention to quit, the employees’ wages are due at the time of quitting. Labor Code §203 provides that if the employer willfully fails to pay any wages of an employee who is discharged or who quits, the employee’s wages shall continue as a penalty from the due date of the payment of wages, at the same rate, until such wages paid, or an action commenced, but not more than 30 days. Defendant willfully failed to provide Plaintiff and the Aggrieved Employees with all wages due and owing, including all regular and overtime wages, and meal and rest period premium wages, and sick time as specified by Labor Code §§ 201 and 202, as alleged herein.

As a result, Defendant is liable for wages due, interest, and waiting time penalties, any other statutory penalties, other damages together with attorneys’ fees and costs.

V. Violation of Labor Code §§ 226, and 226.3:

Labor Code 226 requires employers to maintain accurate records for each employee’s hours of work and to provide each employee with an accurate wage statements in writing setting forth, among other things: gross wages earned; total hours worked by the employee; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, all deductions made, and the name and address of the legal entity of the employer

Defendant engages in a policy and practice of willfully and intentionally failing to furnish their employees with accurate itemized wage statements in compliance with the statutory requirement of §226(a). Defendant knowingly and intentionally failed to provide to the Plaintiff and the Aggrieved Employees, the above described writing required by Labor Code § 226 through actions alleged herein, including a failure to provide total hours worked, the correct applicable hourly rate, and all wages earned.

All the above violations were suffered by Plaintiff and all other similarly situated and Aggrieved Employees working for Defendant in California daily as a result of Defendant’s uniform policies and practices, and managerial instructions. Defendant knowingly, intentionally and willfully refused and continue to refuse to comply with California law.

Furthermore, Defendant failed to comply with Lab Code 226(b) by failing to produce Plaintiff's wage statement pursuant to a written request to inspect and/or receive a copy of the records. Counsel for Plaintiff submitted a signed written request by the Plaintiff to obtain his wage statements; however, Defendants failed to produce the wage statements within 21 calendar days from the date of the request. Lab Code 226 (c) states that "[a] violation of this subdivision is an infraction."

Labor Code § 1174: Labor Code section 1174(d) requires an employer to keep, at a central location in *the state* or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by, and the wages paid to employees employed at the respective plants or establishments. These records shall be kept on file for not less than three years.

Defendant engages in a policy and practice of failing to maintain payroll records, and records pertaining to current and former Aggrieved Employees within the state as provided in section 1174(c).

VI. Violation of Labor Code §1198 (Failure to Provide Suitable Seating):

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. The Labor Code provides that labor conditions set by the Industrial Welfare Commission (Commission) shall be the standard labor conditions for employees. A Commission wage order provides that employees shall be provided suitable seating, if reasonable, during the performance of their duties. Defendant is in violation of the Industrial Wage Order by failing to provide Plaintiff's and Aggrieved Employees with suitable seating even though providing such seating is reasonable during the performance of their duties, therefore, Defendant has violated Lab Code § 1198.

PAGA permits an "aggrieved employee" to recover penalties on behalf of himself or herself and other current and former employees as a result of the employer's violations of certain sections of the California Labor Code. Plaintiff is an aggrieved employee, in that Plaintiff was employed by Defendants and was not provided with a seat, in violation of Lab. Code section 1198 and the Wage Order.

VII. Violation of Lab Code § 1198.5 (Failure to Produce Current/Former Employee's Personnel Records):

Lab Code § 1198.5 provides:

(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

(b) (1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her

representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the employer receives the request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Except as provided in paragraph (2) of subdivision (c), the employer is not required to make those personnel records or a copy thereof available at a time when the employee is actually required to render service to the employer, if the requester is the employee.

(k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

(l) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

Defendant willfully failed to permit the Plaintiff to inspect or copy his *entire* personnel records within 30 calendar days of his request in direct violation of Cal. Lab. Code § 1198.5. When Plaintiff's counsel requested his personnel records, only a few pages of records was produced, omitting critical documents.

VIII. Violation of Labor Code §§ 1197.5(b) and 432.3(a) (Pay Discrimination Based on Race):

Lab. Code § 1197.5(b) states that "[a]n employer shall not pay any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions except where the employer demonstrates:

(1) The wage differential is based upon one or more of the following factors:

(A) A seniority system.

(B) A merit system.

(C) A system that measures earnings by quantity or quality of production.

(D) A bona fide factor other than race or ethnicity, such as education, training, or experience. This factor shall apply only if the employer demonstrates that the factor is not based on or derived from a race- or ethnicity-based differential in compensation, is job related with respect to the position in question, and is consistent with a business necessity. For purposes of this subparagraph, "business necessity" means an overriding legitimate

business purpose such that the factor relied upon effectively fulfills the business purpose it is supposed to serve. This defense shall not apply if the employee demonstrates that an alternative business practice exists that would serve the same business purpose without producing the wage differential.

(2) Each factor relied upon is applied reasonably.

(3) The one or more factors relied upon account for the entire wage differential.

(4) Prior salary shall not justify any disparity in compensation. Nothing in this section shall be interpreted to mean that an employer may not make a compensation decision based on a current employee's existing salary, so long as any wage differential resulting from that compensation decision is justified by one or more of the factors listed in this subdivision.

Lab. Code §432.3 (a) states, in pertinent part: "An employer shall not rely on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant."

Plaintiff (an African American) alleges that Defendant violated Cal. Lab. Code §§ 1197.5(b) and 432.3 in that Plaintiff and the Aggrieved Employees of the African American race were subject to hiring and compensation practices that resulted in a disparity in compensation based on their race that violated Cal. Lab. Code §§ 1197.5(b) and/or 432.3.

IX. Violation of Labor Code §§6400(a), 6401, 6403, 6407:

Labor Code §6400(a) and §6401 "Every employer shall furnish employment and a place of employment which are safe and healthful for the employees." Lab. Code § 6400.

Lab Code § 6401, provides that every employer shall do every thing "reasonably necessary to protect the life, safety, and health of employees."

Labor Code §6306(a) defines "Safe," "safety," and "health" as applied to an employment or a place of employment to mean such freedom from danger to the life, safety, or health of employees as the nature of the employment reasonably permits. Labor Code §6306 (b) states that "Safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger. *Id.*

Cal. Lab. Code § 6402: No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

Cal. Lab. Code § 6404: No employer shall occupy or maintain any place of employment that is not safe and healthful.

Labor Code §6403(b): Labor Code §6403(b) specifically states that no employer shall fail or neglect to adopt and use methods and processes reasonably adequate to render the employment

and place of employment safe; §6403(c) of the Code also requires that employers to do every other thing reasonably necessary to protect the life, safety, and health of employees.

A reasonable and adequate practice to render employment safe requires Defendant to adopt a safe and healthful practice by assigning Employees PPE, and maintaining a clean and healthful workplace. Defendant; however, failed and neglected to adopt this reasonable process and practice to protect the health, and safety of its Employees. The specific requirements relating to PPE clearly specified in Title 8 California Code of Regulations § 3380, 29 Code of Federal Regulation §1910.132(a), and CCR §3387.

In gross and reckless disregard to the health and safety of its Employees, Defendant certainly does not “do every other thing reasonable necessary to protect the life, safety, and health of [Employees].”

As stated above, Defendant failed to provide PPE, including but not limited to gloves, respirators, helmets, clothing and other personal protection items that are designed to create a barrier between the employee and workplace hazards. PPE is usually intended to protect the eyes, ears, face, head, and extremities, and usually includes protective clothing, respiratory devices, protective shields, eye and ear protection, and other barriers. Defendant failed to carefully assess which type of equipment is needed to protect employees from the various hazards in the workplace and failed to develop a written certification assessment.

Specifically, Defendant’s workplace is filthy, infested with pests, and unsanitary. Plaintiff and Aggrieved Employees were required to go through unsanitary donations without proper PPE. As a result of Defendant’s failure to provide a workplace that is safe and healthful, Plaintiff suffered and continues to suffer chronic cough.

Defendant Fails to File Injury or Illness Reports: Every employer must file a written report of every employee occupational injury or illness that results in lost time beyond the date of the injury or illness or that requires medical treatment beyond first aid. Cal. Lab. Code § 6409.1(a); 8 Cal. Code Reg. § 14001(a). Lost time means absence from work for a full day or shift beyond the date of the injury or illness. *Id.*

For this purpose, “occupational illness” is defined as any abnormal condition or disorder caused by exposure to environmental factors associated with employment, including acute and chronic illnesses or diseases that may be caused by inhalation, absorption, ingestion, or direct contact. Cal. Lab. Code § 6409(b); 8 Cal. Code Reg. § 14000.00. Reportable injuries and illnesses include those that arose, or are alleged to have arisen out of and in the course of employment. Cal. Lab. Code § 6409.1(a).

“Any employer who violates any of the posting or recordkeeping requirements as prescribed by regulations adopted pursuant to Sections 6408 and 6410, or who fails to post any notice required by Section 3550, shall be assessed a civil penalty of up to twelve thousand four hundred seventy-one dollars (\$12,471) for each violation.” Cal Lab Code § 6431(a).

Defendant fails to file a complete report of every occupational injury or occupational illness of each employee with the Division of Occupational Safety and Health within the Department of Industrial Relations. Several Employees, including the Plaintiff, have suffered injuries and Defendant either fails to maintain proper records regarding employee injuries and illnesses, or manipulates some employees to falsely testify as to the true cause of the injuries suffered by Employees to shield its liability.

Labor Code §6423, §6427, § 6428, and §6429: California Labor Code §6423, §6427, § 6428, and §6429 provide civil penalties against an employer that commits violations of the Occupational Safety and Health Act.

The California Corporate Criminal Liability Act provides criminal penalties for corporate employers and their managers who fail to inform the Division in writing within a specified period of time of any “serious concealed danger,” as defined in the Act, that may exist in the workplace. *See*, Penal Code § 387.

Cal. Lab. Code § 6407:

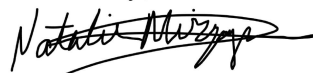
Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

Since specific standards to cover every possible safety situation would be impossible to formulate, Cal/OSHA impose a general duty on employers to maintain conditions of employment and a place of employment free from recognized hazards that may cause injury or death to workers.

Defendant has failed to furnish employment and a place of employment which is safe and healthful for its employees; thereby, violating, among others, Lab Code §§ 6400 and 6401.

The purpose of this letter is to satisfy the requirements created by California Labor Code section 2699 prior to seeking penalties allowed by law for the aforementioned violations. We look forward to determining whether the agency intends to take any action in reference to these violations.

Sincerely,

A handwritten signature in black ink, appearing to read "Natalie Mirzayan", with a stylized flourish at the end.

Natalie Mirzayan, Esq.

MIRZAYAN LAW, APLC

November 14, 2024



VIA ONLINE FILING

Labor & Workforce Development Agency

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

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Department of Industrial Relations

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VIA CERTIFIED MAIL

Goodwill, Southern Los Angeles County

Agent for Service of Process

Donna Snell

800 W. Pacific Coast Highway

Long Beach, CA 90806

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mirzayanlaw@outlook.com

November 14, 2024

Page 2

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California Labor Code § 510 codifies the right to overtime compensation and provides, in pertinent part:

“Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated **at the rate of no less than one and one-half times the regular rate of pay for an employee.**” [Emphasis added].

California Labor Code §1194, in pertinent part, provides:

“Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal **overtime compensation** applicable to the employee is entitled to recover in a civil action *the unpaid balance of the full amount* of this minimum wage or ***overtime compensation, including interest thereon, reasonable attorney’s fees and cost of the suit.***” [Emphasis added].

California Labor Code §1198, in pertinent part, provides:

“The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 558 provides:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work

in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

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

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

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

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, any provision regulating hours and days of work in any order of the Industrial Welfare Commission, or any applicable local overtime law, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) In a jurisdiction where a local entity has the legal authority to issue a citation against an employer for a violation of any applicable local overtime law, the Labor Commissioner, pursuant to a request from the local entity, may issue a citation against an employer for a violation of any applicable local overtime law if the local entity has not cited the employer for the same violation. If the Labor Commissioner issues a citation, the local entity shall not cite the employer for the same violation.

(d) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

(e) This section does not change the applicability of local overtime wage laws to any entity.

As stated above, Defendant engaged in a policy and practice of suffering its employees to work more than 8 hours per day and/or forty hours in a work week by failing to compensate them for overtime and double time as required by law. Specifically, Defendants failed to properly calculate Plaintiff's and the Aggrieved Employees' "regular rate of pay" for purposes of overtime and double time compensation because the value of the employee's non-discretionary bonus (the monthly Bonus Pay) was not included in the calculation of the Plaintiff's regular rate of pay in violation of Cal. Lab. Code § 510.

Therefore, Plaintiff and Aggrieved Employees were entitled to receive certain wages for overtime and double time compensation but were not properly paid for overtime and double time hours.

II. Labor Code §§ 246(a), 246(i), 246.5(a):

Labor Code 246(a) requires an employer to provide employees that work in California on or after July 1, 2015, for 30 or more days within a year from the commencement of employment,

paid sick days to accrue at a rate of not less than one hour per every 30 hours worked or in the alternative must comply with the requirements of section 246(b)(3).

Section 246(i) requires an employer to provide an employee with written notice that sets forth the amount of paid sick leave **available**, or PTO leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement as described in Section 226 or in a separate writing provided on the designated pay date with the employees' payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited."

Section 246(l) provides:

(l) For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

Defendants failed to comply with Labor Code § 246(l)(1)-(2), by failing to pay Plaintiff and Aggrieved Employees paid sick leave at the employee's regular rate of pay for the workweek in which the employee uses paid sick leave. Employers may calculate the regular rate of pay either based on the workweek in which the employee uses sick leave or by using a 90-day look back period. Clearly, Defendant did not pay the Plaintiff the proper amount taking into account his regular rate of pay which should have included his Bonus Pay.

III. Violation of Labor Code §§ 226.7 and 512 (Meal and Rest Break Period):

Defendants violated Labor Code § 226.7 which requires employers to provide a ten-minute rest period during each four-hour of work or major fraction thereof. Defendants further violated Labor Code § 226.7 and 512 by failing to provide Plaintiff and all Aggrieved Employees with a meal period of not less than 30 minutes for each work period more than 5 hours per day and a second meal period of not less than 30 minutes for a work period of more than 10 hours-day. The meal period must be provided prior to the 5th hour of work. California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Defendants required Plaintiff and other Aggrieved Employees to work during meal and rest periods and failed to compensate them properly for missed meal and rest periods, including but not limited to, failing to

pay them any premium pay at their “regular rate of pay” which includes the non-discretionary Bonus Pay.

IV. Violation of Labor Code §§ 201, 202, 203 (Waiting Time Penalty):

California Labor Code section 201 provides that if an employer discharges an employee, the employee’s wages that have been earned and are unpaid at the time of discharge shall be paid immediately. Labor Code § 202 provides that if an employee quits, his or her wages become due no later than 72 hours thereafter or if an employee gives 72-hours previous notice of his or her intention to quit, the employees’ wages are due at the time of quitting. Labor Code §203 provides that if the employer willfully fails to pay any wages of an employee who is discharged or who quits, the employee’s wages shall continue as a penalty from the due date of the payment of wages, at the same rate, until such wages paid, or an action commenced, but not more than 30 days. Defendant willfully failed to provide Plaintiff and the Aggrieved Employees with all wages due and owing, including all regular and overtime wages, and meal and rest period premium wages, and sick time as specified by Labor Code §§ 201 and 202, as alleged herein.

As a result, Defendant is liable for wages due, interest, and waiting time penalties, any other statutory penalties, other damages together with attorneys’ fees and costs.

V. Violation of Labor Code §§ 226, and 226.3:

Labor Code 226 requires employers to maintain accurate records for each employee’s hours of work and to provide each employee with an accurate wage statements in writing setting forth, among other things: gross wages earned; total hours worked by the employee; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, all deductions made, and the name and address of the legal entity of the employer

Defendant engages in a policy and practice of willfully and intentionally failing to furnish their employees with accurate itemized wage statements in compliance with the statutory requirement of §226(a). Defendant knowingly and intentionally failed to provide to the Plaintiff and the Aggrieved Employees, the above described writing required by Labor Code § 226 through actions alleged herein, including a failure to provide total hours worked, the correct applicable hourly rate, and all wages earned.

All the above violations were suffered by Plaintiff and all other similarly situated and Aggrieved Employees working for Defendant in California daily as a result of Defendant’s uniform policies and practices, and managerial instructions. Defendant knowingly, intentionally and willfully refused and continue to refuse to comply with California law.

Furthermore, Defendant failed to comply with Lab Code 226(b) by failing to produce Plaintiff's wage statement pursuant to a written request to inspect and/or receive a copy of the records. Counsel for Plaintiff submitted a signed written request by the Plaintiff to obtain his wage statements; however, Defendants failed to produce the wage statements within 21 calendar days from the date of the request. Lab Code 226 (c) states that "[a] violation of this subdivision is an infraction."

Labor Code § 1174: Labor Code section 1174(d) requires an employer to keep, at a central location in *the state* or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by, and the wages paid to employees employed at the respective plants or establishments. These records shall be kept on file for not less than three years.

Defendant engages in a policy and practice of failing to maintain payroll records, and records pertaining to current and former Aggrieved Employees within the state as provided in section 1174(c).

VI. Violation of Labor Code §1198 (Failure to Provide Suitable Seating):

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. The Labor Code provides that labor conditions set by the Industrial Welfare Commission (Commission) shall be the standard labor conditions for employees. A Commission wage order provides that employees shall be provided suitable seating, if reasonable, during the performance of their duties. Defendant is in violation of the Industrial Wage Order by failing to provide Plaintiff's and Aggrieved Employees with suitable seating even though providing such seating is reasonable during the performance of their duties, therefore, Defendant has violated Lab Code § 1198.

PAGA permits an "aggrieved employee" to recover penalties on behalf of himself or herself and other current and former employees as a result of the employer's violations of certain sections of the California Labor Code. Plaintiff is an aggrieved employee, in that Plaintiff was employed by Defendants and was not provided with a seat, in violation of Lab. Code section 1198 and the Wage Order.

VII. Violation of Lab Code § 1198.5 (Failure to Produce Current/Former Employee's Personnel Records):

Lab Code § 1198.5 provides:

(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

(b) (1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her

representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the employer receives the request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Except as provided in paragraph (2) of subdivision (c), the employer is not required to make those personnel records or a copy thereof available at a time when the employee is actually required to render service to the employer, if the requester is the employee.

(k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

(l) A current or former employee may also bring an action for injunctive relief to obtain compliance with this section, and may recover costs and reasonable attorney's fees in such an action.

Defendant willfully failed to permit the Plaintiff to inspect or copy his *entire* personnel records within 30 calendar days of his request in direct violation of Cal. Lab. Code § 1198.5. When Plaintiff's counsel requested his personnel records, only a few pages of records was produced, omitting critical documents.

VIII. Violation of Labor Code §§ 1197.5(b) and 432.3(a) (Pay Discrimination Based on Race):

Lab. Code § 1197.5(b) states that "[a]n employer shall not pay any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions except where the employer demonstrates:

(1) The wage differential is based upon one or more of the following factors:

(A) A seniority system.

(B) A merit system.

(C) A system that measures earnings by quantity or quality of production.

(D) A bona fide factor other than race or ethnicity, such as education, training, or experience. This factor shall apply only if the employer demonstrates that the factor is not based on or derived from a race- or ethnicity-based differential in compensation, is job related with respect to the position in question, and is consistent with a business necessity. For purposes of this subparagraph, "business necessity" means an overriding legitimate

business purpose such that the factor relied upon effectively fulfills the business purpose it is supposed to serve. This defense shall not apply if the employee demonstrates that an alternative business practice exists that would serve the same business purpose without producing the wage differential.

(2) Each factor relied upon is applied reasonably.

(3) The one or more factors relied upon account for the entire wage differential.

(4) Prior salary shall not justify any disparity in compensation. Nothing in this section shall be interpreted to mean that an employer may not make a compensation decision based on a current employee's existing salary, so long as any wage differential resulting from that compensation decision is justified by one or more of the factors listed in this subdivision.

Lab. Code §432.3 (a) states, in pertinent part: "An employer shall not rely on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant."

Plaintiff (an African American) alleges that Defendant violated Cal. Lab. Code §§ 1197.5(b) and 432.3 in that Plaintiff and the Aggrieved Employees of the African American race were subject to hiring and compensation practices that resulted in a disparity in compensation based on their race that violated Cal. Lab. Code §§ 1197.5(b) and/or 432.3.

IX. Violation of Labor Code §§6400(a), 6401, 6403, 6407:

Labor Code §6400(a) and §6401 "Every employer shall furnish employment and a place of employment which are safe and healthful for the employees." Lab. Code § 6400.

Lab Code § 6401, provides that every employer shall do every thing "reasonably necessary to protect the life, safety, and health of employees."

Labor Code §6306(a) defines "Safe," "safety," and "health" as applied to an employment or a place of employment to mean such freedom from danger to the life, safety, or health of employees as the nature of the employment reasonably permits. Labor Code §6306 (b) states that "Safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger. *Id.*

Cal. Lab. Code § 6402: No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

Cal. Lab. Code § 6404: No employer shall occupy or maintain any place of employment that is not safe and healthful.

Labor Code §6403(b): Labor Code §6403(b) specifically states that no employer shall fail or neglect to adopt and use methods and processes reasonably adequate to render the employment

and place of employment safe; §6403(c) of the Code also requires that employers to do every other thing reasonably necessary to protect the life, safety, and health of employees.

A reasonable and adequate practice to render employment safe requires Defendant to adopt a safe and healthful practice by assigning Employees PPE, and maintaining a clean and healthful workplace. Defendant; however, failed and neglected to adopt this reasonable process and practice to protect the health, and safety of its Employees. The specific requirements relating to PPE clearly specified in Title 8 California Code of Regulations § 3380, 29 Code of Federal Regulation §1910.132(a), and CCR §3387.

In gross and reckless disregard to the health and safety of its Employees, Defendant certainly does not “do every other thing reasonable necessary to protect the life, safety, and health of [Employees].”

As stated above, Defendant failed to provide PPE, including but not limited to gloves, respirators, helmets, clothing and other personal protection items that are designed to create a barrier between the employee and workplace hazards. PPE is usually intended to protect the eyes, ears, face, head, and extremities, and usually includes protective clothing, respiratory devices, protective shields, eye and ear protection, and other barriers. Defendant failed to carefully assess which type of equipment is needed to protect employees from the various hazards in the workplace and failed to develop a written certification assessment.

Specifically, Defendant’s workplace is filthy, infested with pests, and unsanitary. Plaintiff and Aggrieved Employees were required to go through unsanitary donations without proper PPE. As a result of Defendant’s failure to provide a workplace that is safe and healthful, Plaintiff suffered and continues to suffer chronic cough.

Defendant Fails to File Injury or Illness Reports: Every employer must file a written report of every employee occupational injury or illness that results in lost time beyond the date of the injury or illness or that requires medical treatment beyond first aid. Cal. Lab. Code § 6409.1(a); 8 Cal. Code Reg. § 14001(a). Lost time means absence from work for a full day or shift beyond the date of the injury or illness. *Id.*

For this purpose, “occupational illness” is defined as any abnormal condition or disorder caused by exposure to environmental factors associated with employment, including acute and chronic illnesses or diseases that may be caused by inhalation, absorption, ingestion, or direct contact. Cal. Lab. Code § 6409(b); 8 Cal. Code Reg. § 14000.00. Reportable injuries and illnesses include those that arose, or are alleged to have arisen out of and in the course of employment. Cal. Lab. Code § 6409.1(a).

“Any employer who violates any of the posting or recordkeeping requirements as prescribed by regulations adopted pursuant to Sections 6408 and 6410, or who fails to post any notice required by Section 3550, shall be assessed a civil penalty of up to twelve thousand four hundred seventy-one dollars (\$12,471) for each violation.” Cal Lab Code § 6431(a).

Defendant fails to file a complete report of every occupational injury or occupational illness of each employee with the Division of Occupational Safety and Health within the Department of Industrial Relations. Several Employees, including the Plaintiff, have suffered injuries and Defendant either fails to maintain proper records regarding employee injuries and illnesses, or manipulates some employees to falsely testify as to the true cause of the injuries suffered by Employees to shield its liability.

Labor Code §6423, §6427, § 6428, and §6429: California Labor Code §6423, §6427, § 6428, and §6429 provide civil penalties against an employer that commits violations of the Occupational Safety and Health Act.

The California Corporate Criminal Liability Act provides criminal penalties for corporate employers and their managers who fail to inform the Division in writing within a specified period of time of any “serious concealed danger,” as defined in the Act, that may exist in the workplace. *See*, Penal Code § 387.

Cal. Lab. Code § 6407:

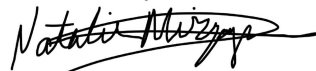
Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

Since specific standards to cover every possible safety situation would be impossible to formulate, Cal/OSHA impose a general duty on employers to maintain conditions of employment and a place of employment free from recognized hazards that may cause injury or death to workers.

Defendant has failed to furnish employment and a place of employment which is safe and healthful for its employees; thereby, violating, among others, Lab Code §§ 6400 and 6401.

The purpose of this letter is to satisfy the requirements created by California Labor Code section 2699 prior to seeking penalties allowed by law for the aforementioned violations. We look forward to determining whether the agency intends to take any action in reference to these violations.

Sincerely,

A handwritten signature in black ink, appearing to read "Natalie Mirzayan", with a stylized flourish at the end.

Natalie Mirzayan, Esq.