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Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF VENTURA**

HAROLD POLLITT, as an individual and on  
behalf of all others similarly situated, and as a  
private attorney general,

Plaintiff,

vs.

ABPRO, a California corporation; and DOES 1  
through 50, inclusive,

Defendants.

Case No. 2024CUOE033109

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION COMPLAINT**

- (1) Unreimbursed Business Expenses  
(Lab. Code § 2802);**
- (2) Unfair or Unlawful Business Practices  
(Bus. & Prof. Code §§ 17200 et seq.); and**
- (3) Violations of the California Labor Code  
(Lab. Code §§ 2698 et seq.)**

**DEMAND OVER \$25,000.00**

1 On behalf of himself and other similarly situated current and former employees of Defendants,  
2 and as a proxy for the State of California, Plaintiff, Harold Pollitt, submits this First Amended Class and  
3 Representative Action Complaint (the “Complaint”) against Defendant, Abpro, and Does 1 through 50  
4 (collectively, “Defendants”).

## 5 INTRODUCTION

6 1. This class and representative action challenges systemic employment practices resulting  
7 in violations of the California Labor Code against individuals who worked for Defendants. Plaintiff is  
8 informed and believes that Defendants have jointly and severally acted intentionally and with deliberate  
9 indifference and conscious disregard to the rights of employees by failing to reimburse necessary and  
10 reasonable business expenses. The Complaint seeks damages, penalties, and other relief pursuant to,  
11 among other provisions, Labor Code section 2802 and 2698 et seq. and the Unfair Competition Law,  
12 codified at Business and Professions Code sections 17200 et seq. (the “UCL”).<sup>1</sup>

13 2. Defendants routinely fail to reimburse Plaintiff and other employees for necessary  
14 business expenses incurred in performing their work for Defendants. Specifically, although Plaintiff and  
15 other employees were required to use their personal vehicles to perform their job duties, Defendants did  
16 not sufficiently reimburse Plaintiff and other employees for their mileage expenses. For example,  
17 although the standard IRS mileage rate is much higher, Plaintiff was paid no more than approximately  
18 \$0.31 per mile.

19 3. Plaintiff is informed and believes that Defendants engage in, among other things, a  
20 system of willful violations of the Labor Code by creating and maintaining policies, practices, and  
21 customs that knowingly deny its employees the above stated rights and benefits.

22 4. The policies, practices, and customs of Defendants result in unjust enrichment of  
23 Defendants and an unfair business advantage over businesses that comply with the Labor Code.

## 24 JURISDICTION AND VENUE

25 5. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of  
26 Defendants’ violations of Section 2802 and the UCL.

27  
28  

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<sup>1</sup> Except as otherwise noted, all “Section” references are to the Labor Code.

6. Venue is proper in the County of Ventura. Plaintiff worked for Defendants in Camarillo, Oxnard, and Port Hueneme, California, among other locations.

## PARTIES

7. In February of 2023 Plaintiff began working for Defendants as a driver. Plaintiff was required to use his personal vehicle to perform his job duties. Defendants, however, did not sufficiently reimburse Plaintiff for his mileage expenses. For example, although the standard IRS mileage rate is much higher, Plaintiff was paid no more than approximately \$0.31 per mile. Plaintiff thus is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived her of the rights guaranteed by the Labor Code and the UCL.

8. Plaintiff is informed and believes that Defendant, Abpro, was and is a California Corporation. Plaintiff is informed and believes that at all times herein mentioned named defendants and Does 1 through 50, were and are corporations, business entities, individuals, or partnerships that are and were licensed to do business and actually doing business in the State of California. Based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to Section 2802 and the UCL.

9. Plaintiff does not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

10. At all times mentioned herein, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

11. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with, each of the other Defendants and was acting within the course and scope of such agency, employment,

1 joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by  
2 certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or  
3 omissions of the acting Defendants.

4 12. Plaintiff is informed and believes that at all times material hereto each of the Defendants  
5 (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the  
6 alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in  
7 pursuance of, a joint venture, partnership, or common enterprise.

#### 8 **CLASS ACTION ALLEGATIONS**

9 13. **Definition:** Pursuant to Code of Civil Procedure section 382, Plaintiff seeks class  
10 certification of the following class: all current and former employees of Defendants in the State of  
11 California who at any time since November 8, 2020, was required to use their personal vehicle for  
12 work-related purposes (the “Class”).

13 14. **Numerosity and Ascertainability:** The members of the Class are so numerous that  
14 joinder of all members would be impractical, if not impossible. The identities of the members of the  
15 Class are readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is  
16 informed and believes that Defendants violate Sections 2802 and the UCL against Plaintiff and the  
17 Class by failing to reimburse necessary and reasonable business expenses.

18 15. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to  
19 represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready,  
20 willing, and able to fully and adequately represent Plaintiff and the Class. Plaintiff’s attorneys have  
21 prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-  
22 and-hour class actions currently pending in California state and federal courts.

23 16. **Common Question of Law and Fact:** There are predominant common questions of law  
24 and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is  
25 informed and believes that Defendants uniformly administer a corporate policy and practice of routinely  
26 failing to reimburse necessary and reasonable business expenses.

27 17. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class  
28 in that Plaintiff suffered the alleged harms in a similar and typical manner as other members of the Class

1 suffered. As with other members of the Class, Plaintiff was required to use his personal vehicle to  
2 perform his job duties. Defendants, however, did not sufficiently reimburse Plaintiff for his mileage  
3 expenses. For example, although the standard IRS mileage rate is much higher, Plaintiff was paid no  
4 more than approximately \$0.31 per mile. Plaintiff thus is a member of the Class and has suffered the  
5 alleged violations of the Labor Code.

6 18. The Labor Code is broadly remedial in nature. Its laws serve an important public interest  
7 in establishing minimum working conditions and requirements in California. These labor standards  
8 protect employees from onerous terms and conditions of employment or exploitation by employers who  
9 have superior economic and bargaining power.

10 19. The nature of this action and the format of laws available to Plaintiff and members of the  
11 Class make the class action format a particularly efficient and appropriate procedure to redress the  
12 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate  
13 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and  
14 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and  
15 legal resources. Requiring each member of the Class to pursue an individual remedy would also  
16 discourage the assertion of lawful claims by employees who would be disinclined to file an action  
17 against their former or current employer for real and justifiable fear of retaliation and permanent  
18 damage to their careers at their current or subsequent employment.

19 20. The prosecution of separate actions by individual members of the Class, even if possible,  
20 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual  
21 members of the Class that would establish potentially incompatible standards of conduct for  
22 Defendants, or (b) adjudications with respect to individual members of the Class that would, as a  
23 practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests  
24 of other members of the Class not parties to the adjudications. Further, the claims of the individual  
25 members of the Class are not sufficiently large to warrant vigorous individual prosecution considering  
26 the concomitant costs and expenses.

27 21. Defendants' pattern, practice, and uniform administration of corporate policy in violation  
28 of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the

rights of Plaintiff and the Class under Section 2802, applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section 1021.5, among other provisions, to recover damages and restitution, including unpaid wages and interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit.

22. This action is brought for the benefit of the Class, which is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

### **FIRST CAUSE OF ACTION**

#### **Unreimbursed Business Expenses (Lab. Code § 2802)**

##### **(By Plaintiff and the Class Against All Defendants)**

23. The preceding paragraphs are re-alleged and incorporated by this reference.

24. Section 2802 requires that an employer must reimburse employees for all necessary expenditures and losses incurred in the performance of their jobs. Section 2802 is intended to prevent employers from placing their operating expenses and cost of doing business on employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

25. As a matter of policy and practice, Defendants fail to reimburse Plaintiff and the Class for necessary business expenses incurred in performing their work for Defendants. As a matter of policy and practice, Plaintiff and the Class were required to use their personal vehicles to perform their job duties. Although Plaintiff and the Class were required to use their personal vehicles to perform their job duties, Defendants did not sufficiently reimburse Plaintiff and the Class for their mileage expenses.

26. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiff and the Class to recover unreimbursed expenses, including interest thereon, attorneys' fees, and costs of suit.

### **SECOND CAUSE OF ACTION**

#### **Unfair or Unlawful Business Practices (Bus. & Prof. Code §§ 17200 et seq.)**

##### **(By Plaintiff and the Class Against All Defendants)**

27. The preceding paragraphs are re-alleged and incorporated by this reference.

28. Plaintiff is informed and believes that Defendants have engaged and continue to engage

1 in unfair and unlawful business practices in California by utilizing the employment policies and  
2 practices alleged herein, including the failures to reimburse necessary and reasonable business expenses.

3 29. Defendants' utilization of such unfair and unlawful business practices constitutes unfair  
4 or unlawful competition and provides an unfair advantage over Defendants' competitors, as proscribed  
5 by the UCL. Defendants have deprived Plaintiff and the Class the minimum working condition  
6 standards and conditions due to them under the Labor Code and applicable IWC Wage Orders.

7 30. Such a pattern, practice, and uniform administration of corporate policy is unlawful and  
8 entitles Plaintiff and the Class to full restitution of all monies withheld, acquired, or converted by  
9 Defendants by means of the unfair practices complained of herein, including interest thereon, attorneys'  
10 fees, and costs of suit.

### 11 **THIRD CAUSE OF ACTION**

#### 12 **Violations of California Labor Code (Lab. Code §§ 2698 et seq.)**

#### 13 **(By Plaintiff as a Proxy for the State Against All Defendants)**

14 31. The preceding paragraphs are re-alleged and incorporated by this reference.

15 32. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698  
16 et seq. ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this  
17 capacity, Plaintiff seeks penalties for Defendants' violations of Section 2802 committed since  
18 November 8, 2023, against all aggrieved employees. As stated herein, Defendants fail to reimburse  
19 necessary and reasonable business expenses. Under Section 2699(c), Plaintiff is an "aggrieved  
20 employee," as one or more of the alleged violations was committed against Plaintiff as an employee of  
21 Defendants.

22 33. On or about November 8, 2024, Plaintiff sent written notice to the Labor & Workforce  
23 Development Agency ("LWDA") of specific facts and theories for Defendants' above violations.  
24 Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the filing  
25 of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the  
26 allegations in the written notice.

34. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all applicable penalties pursuant to Section 2699(a), (f), and (g) for Defendants' violations against all aggrieved employees for the period described above.

**PRAYER FOR RELIEF**

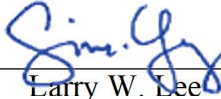
WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action for damages, including interest thereon, and attorneys' fees and costs;
5. Upon the Second Cause of Action for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and attorneys' fees and costs;
6. Upon the Third Cause of Action for penalties pursuant to Section 2699(a), (f), and (g), and for attorneys' fees and costs;
7. Upon each cause of action for attorneys' fees and costs as provided by the Labor Code, UCL, and Code of Civil Procedure section 1021.5; and
8. For such other and further relief that the Court may deem just and proper.

DATED: March 12, 2025

DIVERSITY LAW GROUP, P.C.

By: \_\_\_\_\_

  
Larry W. Lee  
Simon L. Yang  
Attorneys for Plaintiff

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3  
4 STATE OF CALIFORNIA ]  
5 ]ss.  
6 COUNTY OF LOS ANGELES ]

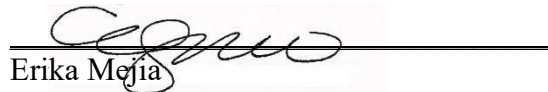
7 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
8 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,  
9 Los Angeles, California 90071.

10 On March 12, 2025, I served the following document(s) described as: **FIRST**  
11 **AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested  
12 parties in this action as follows:

13 ABPRO  
14 c/o James Timar  
15 25201 Paseo de Alicia, #240  
16 Laguna Hills, CA 92653  
17 *Authorized Agent for Service of Process*

18  X  BY MAIL: by placing \_\_\_\_\_ the original or  X  a true and correct copy  
19 thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the  
20 attached mailing list. I am readily familiar with the firm's practice for collection and processing  
21 of correspondence and other materials for mailing with the United States Postal Service. On this  
22 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for  
23 collection and mailing on this date at the address above following our office's ordinary business  
24 practices. The envelope(s) will be deposited with the United States Postal Service on this date,  
25 in the ordinary course of business.

26 I declare under penalty of perjury under the laws of the State of California that the above  
27 is true and correct. Executed on March 12, 2025, at Los Angeles, California.

28  
  
Erika Mejia