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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
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By: Mariah Mora, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

KALIPH CHENEVERT, individually,
and on behalf of other members of the
general public similarly situated, and
as an aggrieved employee pursuant to
the Private Attorneys General Act
("PAGA"),

Plaintiff,

vs.

L & W SUPPLY CORPORATION, a
Delaware corporation; AMERICAN
BUILDERS & CONTRACTORS
SUPPLY CO., INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIVSB2501423

**CLASS ACTION COMPLAINT &
ENFORCEMENT ACTION UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (2) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (3) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (4) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11070 Subdivision 5(A) (Failure to Provide Reporting Time Pay;

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- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Claim for Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Kaliph Chenevert, individually, and on behalf of all other members of the
2 public similarly situated, and as an aggrieved employee and on behalf of all other aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of civil penalties sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice.

23 3. Venue is proper in this Court, because Defendants employ persons within the
24 County of San Bernardino, and have violated the requirements of the California Labor Code
25 and applicable Wage Order in this county which give rise to the penalties sought in this
26 action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of
27 the California Labor Code and applicable IWC Wage Order in at least one location within the
28 County of San Bernardino, including Defendants’ facility in Redlands (616 Iowa Street

Redlands, California 92373). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty or forfeiture imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in San Bernardino County and Plaintiff could bring this action to recover penalties in San Bernardino County, venue is proper.

THE PARTIES

4. Plaintiff Kaliph Chenevert is a resident of Palm Desert, in Riverside County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately March 2023 to February 2024. Plaintiff worked for Defendants as a Branch Helper/Stocker and Driver Assistant at their Palm Springs, California location. Plaintiff typically worked eight (8) or more hours per day, and five (5) or more days per week. At the time Plaintiff's employment with Defendants ended, he was compensated approximately \$20.00 per hour. Plaintiff's job duties included, without limitation, assisting drivers with loading, spotting, and equipment maintenance; stocking and inventory tasks; and organizing and staging materials at jobsites.

5. L & W SUPPLY CORPORATION was and is, upon information and belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

6. AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. was and is, upon information and belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

7. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of L & W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. at all relevant times.

1 9. Plaintiff is informed and believes, and thereon alleges, that each and all of the
2 acts and omissions alleged herein was performed by, or is attributable to, L & W SUPPLY
3 CORPORATION; AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC.; and/or
4 DOES 1 through 10 (collectively, “Defendants” or “L&W”), each acting as the agent,
5 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
6 Defendants and was acting within the course and scope of such agency, employment, joint
7 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
8 and all Defendants were in accordance with, and represent, the official policy of Defendants.

9 10. At all relevant times, Defendants, and each of them, ratified each and every act
10 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
11 and abetted the acts and omissions of each and all the other Defendants in proximately causing
12 the damages herein alleged.

13 11. Plaintiff is informed and believes, and thereon alleges, that each of said
14 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
15 omissions, occurrences, and transactions alleged herein.

16 12. Under California law, Defendants are jointly and severally liable as employers
17 for the violations alleged herein because they have each exercised sufficient control over the
18 wages, hours, working conditions, and employment status of Plaintiff and class members.
19 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
20 controlled their work schedule and/or conditions of employment, determined their rate of pay,
21 and maintained their employment records. Defendants suffered or permitted Plaintiff and
22 class members to work and/or “engaged” Plaintiff and class members so as to create a
23 common-law employment relationship. As joint employers of Plaintiff and class members,
24 Defendants are jointly and severally liable for the civil penalties available to Plaintiff and
25 class members under the law.

26 13. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
27 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
28 members because Defendants have:

- 1 (a) jointly exercised meaningful control over the work performed by
2 Plaintiff and class members;
- 3 (b) jointly exercised meaningful control over Plaintiff's and class members'
4 wages, hours, and working conditions, including the quantity, quality
5 standards, speed, scheduling, and operative details of the tasks
6 performed by Plaintiff and class members;
- 7 (c) jointly required that Plaintiff and class members perform work which is
8 an integral part of Defendants' businesses; and
- 9 (d) jointly exercised control over Plaintiff and class members as a matter of
10 economic reality in that Plaintiff and class members were dependent on
11 Defendants, who shared the power to set the wages of Plaintiff and class
12 members and determined their working conditions, and who jointly
13 reaped the benefits from the underpayment of their wages and
14 noncompliance with other statutory provisions governing their
15 employment.

16 14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
17 there has existed a unity of interest and ownership between Defendants such that any
18 individuality and separateness between the entities has ceased.

19 15. L & W SUPPLY CORPORATION; AMERICAN BUILDERS &
20 CONTRACTORS SUPPLY CO., INC.; and/or DOES 1 through 10 are therefore alter egos of
21 each other.

22 16. Adherence to the fiction of the separate existence of Defendants would permit
23 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
24 from liability for the wrongful acts committed by them under the name L&W.

25 17. Plaintiff further alleges, upon information and belief, that the Defendants L &
26 W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY
27 CO., INC. are alter egos of each other for the following reasons:

- 28 (a) According to the California Secretary of State's website

(<https://bizfileonline.sos.ca.gov/>), L & W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. share the same agent for service of process, CSC – LAWYERS INCORPORATING SERVICE;

(b) According to their most recent “Statement of Information” forms filed with the California Secretary of State, L & W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. share the same officers, including, but not limited to, Jim Anderson, who serves as the Chief Financial Officer; Keith [F] Rozolis, who serves a Chief Executive Officer; and Karl Leo, who serves as Secretary for L & W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC.; and

(c) On information and belief, L & W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

18. Defendants are one of the nation’s largest distributors of wallboard, insulation, steel framing, acoustical ceilings and other interior building materials for the needs of commercial and residential contractors. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Chicago, Illinois, or, Beloit, Wisconsin, for all non-exempt, hourly paid employees working for Defendants in California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

19. In particular, Plaintiff and class members, on information and belief, received

1 the same standardized documents and/or written policies. Upon information and belief, the
2 usage of standardized documents and/or written policies, including new-hire documents,
3 indicate that Defendants dictated policies at the corporate level and implemented them
4 company-wide, regardless of their employees' assigned locations or positions. Upon
5 information and belief, Defendants set forth uniform policies and procedures in several
6 documents provided at an employee's time of hire.

7 20. Upon information and belief, Defendants maintain a centralized Payroll
8 department at their corporate headquarters in Chicago, Illinois, or, Beloit, Wisconsin, which
9 processes payroll for all non-exempt, hourly paid employees working for Defendants at their
10 various locations in California, including Plaintiff and class members. Based upon
11 information and belief, Defendants issue the same formatted wage statements to all non-
12 exempt, hourly paid employees in California, irrespective of their work locations. Upon
13 information and belief, Defendants process payroll for departing employees in the same
14 manner throughout the State of California, regardless of the manner in which each employee's
15 employment ends.

16 21. Defendants continue to employ non-exempt or hourly paid employees in
17 California.

18 22. Plaintiff is informed and believes, and thereon alleges, that at all times herein
19 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
20 and advisors knowledgeable about California labor and wage law, employment and personnel
21 practices, and about the requirements of California law.

22 23. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
23 members were not paid for all hours worked because all hours worked were not recorded.

24 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to meal periods in
26 accordance with the California Labor Code and applicable IWC Wage Order or payment of
27 one (1) additional hour of pay at their regular rates of pay when they were not provided with
28 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members

1 were not provided with all meal periods or payment of one (1) additional hour of pay at their
2 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
3 period.

4 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and class members were entitled to rest periods in
6 accordance with the California Labor Code and applicable IWC Wage Order or payment of
7 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
8 permitted to take a compliant rest period and that Plaintiff and class members were not
9 authorized and permitted to take compliant rest periods or provided with payment of one (1)
10 additional hour of pay at their regular rates of pay when they were not authorized and
11 permitted to take a compliant rest period.

12 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to receive certain wages for
14 overtime compensation and that they were not receiving certain wages for overtime
15 compensation.

16 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to receive at least minimum
18 wages for compensation and that they were not receiving at least minimum wages for work
19 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
20 and class members were not paid at least minimum wages for work done off-the-clock.

21 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and class members were entitled to receive complete and
23 accurate wage statements in accordance with California law. In violation of the California
24 Labor Code, Plaintiff and class members were not provided complete and accurate wage
25 statements.

26 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that they had a duty to maintain accurate and complete payroll records in
28 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,

1 and intentionally failed to do so.

2 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and class members were entitled to timely payment of all
4 wages earned upon termination of employment. In violation of the California Labor Code,
5 Plaintiff and class members did not receive payment of all wages due, including, but not
6 limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting
7 time pay, within permissible time periods.

8 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and class members were entitled to timely payment of wages
10 during their employment. In violation of the California Labor Code, Plaintiff and class
11 members did not receive payment of all wages, including, but not limited to, overtime wages,
12 minimum wages, meal and rest period premiums, and/or reporting time pay, within
13 permissible time periods.

14 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that they were prohibited from issuing instruments for the payment of
16 wages that were not payable in cash on demand, without discount and with authorization, but
17 did so, in violation of the California Labor Code.

18 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and class members were entitled to the portion of wages
20 previously paid and subsequently unlawfully deducted by Defendants.

21 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and class members were entitled to payment of wages as
23 designated by statute. In violation of the California Labor Code, Defendants secretly paid
24 Plaintiff and class members lower wages than required by statute while purporting to pay
25 them proper wages.

26 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and class members were entitled to be paid reporting time
28 pay when they reported to work for their usual or scheduled shift but were put to work for less

1 than half of the usual or scheduled shift. In violation of the California Labor Code,
2 Defendants did not pay Plaintiff and class members reporting time pay due.

3 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to receive reimbursement
5 for all business-related expenses and costs they incurred during the course and scope of their
6 employment and that they did not receive reimbursement of applicable business-related
7 expenses and costs incurred.

8 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
9 mentioned, Defendants knew or should have known that they had a duty to compensate
10 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
11 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
12 falsely represented to Plaintiff and class members that they were properly denied wages, all in
13 order to increase Defendants' profits.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

15 38. At all times herein set forth, PAGA provides that any provision of law under
16 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
17 assessed and collected by the LWDA for violations of the California Labor Code and
18 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
19 civil action brought on behalf of themselves and other current or former employees pursuant
20 to procedures outlined in California Labor Code section 2699.3.

21 39. PAGA defines an "aggrieved employee" in Labor Code section 2699(c)(1) as
22 "any person who was employed by the alleged violator and personally suffered each of the
23 violations alleged each of the violations alleged."

24 40. Plaintiff and other current and former employees of Defendants are "aggrieved
25 employees" as defined by Labor Code section 2699(c)(1) in that they are all Defendants'
26 current or former employees and each of the alleged violations were committed against them.

27 41. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
28 employee, including Plaintiff, may pursue a civil action arising under PAGA after the

1 following requirements have been met:

- 2 (a) The aggrieved employee shall give written notice by online filing
3 (hereinafter "Employee's Notice") to the LWDA and by certified mail
4 to the employer of the specific provisions of the California Labor Code
5 alleged to have been violated, including the facts and theories to support
6 the alleged violations.
- 7 (b) An aggrieved employee's notice filed with the LWDA pursuant to
8 2699.3(a) and any employer response to that notice shall be
9 accompanied by a filing fee of seventy-five dollars (\$75).
- 10 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
11 employer and the aggrieved employee by certified mail that it does not
12 intend to investigate the alleged violation within sixty (60) calendar
13 days of the postmark date of the Employee's Notice. Upon receipt of
14 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
15 five (65) calendar days of the postmark date of the Employee's Notice,
16 the aggrieved employee may commence a civil action pursuant to
17 California Labor Code section 2699 to recover civil penalties in addition
18 to any other penalties to which the employee may be entitled.

19 42. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
20 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
21 provision other than those listed in Section 2699.5 after the following requirements have been
22 met:

- 23 (a) The aggrieved employee or representative shall give written notice by
24 online filing to the LWDA and by certified mail to the employer of the
25 specific provisions of the California Labor Code alleged to have been
26 violated (other than those listed in Section 2699.5), including the facts
27 and theories to support the alleged violation.
- 28 (b) An aggrieved employee's notice filed with the LWDA pursuant to

2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

43. On November 6, 2024, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-1060440-24. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated November 6, 2024, is attached hereto as "Exhibit 1."

44. As of the filing date of this complaint, over 65 days have passed since Plaintiff sent the written notice described above, and the LWDA has not responded that it intends to investigate Plaintiff's claims, and Defendants have not cured the violations.

45. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

46. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any

1 provision regulating hours and days of work in any order of the Industrial Welfare
2 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
3 dollars (\$50) for each underpaid employee for each pay period for which the employee was
4 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
5 underpaid employee for each pay period for which the employee was underpaid” Labor
6 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
7 to any other civil or criminal penalty provided by law.”

8 47. Defendants, at all times relevant to this complaint, were employers or persons
9 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
10 rights by violating various sections of the California Labor Code as set forth above.

11 48. As set forth below, Defendants have violated numerous provisions of both the
12 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
13 Order.

14 49. Pursuant to PAGA, and in particular, California Labor Code sections 1994.5,
15 2699(a), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest
16 as a private attorney general, seeks assessment and collection of civil penalties and injunctive
17 relief for himself, all other aggrieved employees, and the State of California against
18 Defendants for violations of California Labor Code sections 201, 202, 204, 212, 213, 221,
19 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and
20 2802.

21 **CLASS ACTION ALLEGATIONS**

22 50. Plaintiff brings this action on his own behalf, as well as on behalf of each and
23 all other persons similarly situated, and thus seeks class certification under California Code of
24 Civil Procedure section 382.

25 51. All claims alleged herein arise under California law for which Plaintiff seeks
26 relief authorized by California law.

27 52. Plaintiff’s proposed class consists of and is defined as follows:

28 All persons who worked for Defendants as non-exempt, hourly

1 paid employees in California, within four years prior to the filing
2 of the initial complaint until the date of trial (“Class”).

3 53. Plaintiff’s proposed subclass consists of and is defined as follows:

4 All persons who worked for Defendants as non-exempt, hourly
5 paid employees in California and who received at least one wage
6 statement within one (1) year prior to the filing of the initial
7 complaint until the date of trial (“Subclass”).

8 54. Members of the Class and Subclass are referred to herein as “class members.”

9 55. Plaintiff reserves the right to redefine the Class and Subclass and to add
10 additional subclasses as appropriate based on further investigation, discovery, and specific
11 theories of liability.

12 56. There are common questions of law and fact as to class members that
13 predominate over questions affecting only individual members, including, but not limited to:

- 14 (a) Whether Defendants failed to provide Plaintiff and class members with
15 meal periods;
- 16 (b) Whether Defendants failed to authorize and permit Plaintiff and class
17 members to take rest periods;
- 18 (c) Whether Defendants required Plaintiff and class members to work over
19 eight (8) hours per day, over twelve (12) hours per day, or over forty
20 (40) hours per week and failed to pay all legally required overtime
21 compensation to Plaintiff and class members;
- 22 (d) Whether Defendants failed to pay Plaintiff and class members at least
23 minimum wages for all hours worked;
- 24 (e) Whether Defendants provided Plaintiff and class members with
25 complete and accurate wage statements as required by California Labor
26 Code section 226(a);
- 27 (f) Whether Defendants maintained accurate payroll records as required by
28 California Labor Code section 1174(d);
- (g) Whether Defendants failed to pay earned overtime wages, minimum
wages, meal and rest period premiums, and/or reporting time pay due to

- 1 Plaintiff and class members upon their discharge;
- 2 (h) Whether Defendants failed to timely pay overtime wages, minimum
- 3 wages, meal and rest period premiums, and/or reporting time pay due to
- 4 Plaintiff and class members during their employment;
- 5 (i) Whether Defendants issued instruments for the payment of wages that
- 6 were not payable in cash, on demand, without discount, and with prior
- 7 authorization, in violation of California Labor Code sections 212 and
- 8 213;
- 9 (j) Whether Defendants unlawfully deducted a portion of wages previously
- 10 paid to Plaintiff and class members, in violation of California Labor
- 11 Code sections 221 and 224;
- 12 (k) Whether Defendants secretly paid Plaintiff and class members lower
- 13 wages than required by statute while purporting to pay the proper
- 14 wages, in violation of California Labor Code section 223;
- 15 (l) Defendants required Plaintiff and class members to report to work, but
- 16 failed to provide them with work or provided them with less than half
- 17 their usual or scheduled day's work, without properly compensating
- 18 them as required by California Code of Regulations, Title 8, section
- 19 11070(5);
- 20 (m) Whether Defendants failed to reimburse Plaintiff and class members for
- 21 necessary and required business-related expenditures and/or losses
- 22 incurred by them in the scope of their employment;
- 23 (n) Whether Defendants engaged in unlawful and unfair business practices
- 24 in violation of California Business & Professions Code sections 17200,
- 25 *et seq.*; and
- 26 (o) The appropriate amount of damages, restitution, or monetary penalties
- 27 resulting from Defendants' violations of California law.

28 57. There is a well-defined community of interest in the litigation and the class

members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members as demonstrated herein.
- (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that he has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- (d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

(e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights while simultaneously protecting their privacy.

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period Violations (Against all Defendants)

58. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

59. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

60. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

61. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay

1 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
2 total hours worked is no more than twelve (12) hours, the second meal period may be waived
3 by mutual consent of the employer and the employee only if the first meal period was not
4 waived.

5 62. First, during the relevant period, Defendants had, and continue to have, a
6 company-wide policy and/or practice of understaffing their jobsites while assigning heavy
7 workloads, including pressure to keep up with time-sensitive deliveries, which has resulted in
8 a lack of meal period coverage and prevented Plaintiff and class members from taking all
9 timely, uninterrupted meal periods to which they were entitled. Further, Defendants had a
10 company-wide practice and/or policy of failing to schedule meal periods, which further caused
11 Plaintiff and class members to not be relieved of their duties for compliant meal periods.

12 63. As a result, Plaintiff and class members had to work through all or part of their
13 meal periods, had their meal periods interrupted, and/or had to wait extended periods of time
14 before taking meal periods. For example, Plaintiff was sometimes required to work straight
15 through his meal periods in order to keep up with the demands of the workload and complete
16 time-sensitive deliveries to multiple construction sites in a day. As another example,
17 Plaintiff's supervisors sometimes required him to return early from his meal periods to keep
18 up with Defendants' workload. Additionally, Plaintiff sometimes took his meal periods late,
19 after the fifth hour of work, due to the lack of coverage and Defendants' failure to schedule
20 meal periods.

21 64. Second, on information and belief, because Defendants frowned upon
22 employees accruing meal period premiums, Defendants' management pressured Plaintiff and
23 class members to clock out for meal periods, even when they did not receive a compliant meal
24 period. For example, Plaintiff was required to clock out for his meal periods to record that he
25 had received compliant meal periods on shifts when he had not, in fact, received these timely,
26 uninterrupted meal periods.

27 65. Third, Defendants did not provide Plaintiff and class members with second 30-
28 minute meal periods on days that they worked in excess of 10 hours in one day. During his

1 employment, Plaintiff worked shifts in excess of ten (10) or more hours per day but was never
2 provided a second 30-minute meal period. Plaintiff and class members did not sign valid meal
3 period waivers on days that they were entitled to meal periods and were not relieved of all
4 duties.

5 66. Moreover, Defendants had a company-wide policy of requiring all newly hired
6 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
7 the position that non-exempt, hourly paid employees had waived their rights to first and/or
8 second meal periods for the entirety of their employment and, on that basis, did not provide
9 them with all meal periods to which they were entitled. Further, Defendants' "Voluntary
10 Waiver of First meal Periods" and "Voluntary Waiver of Second Meal Periods" forms require
11 employees to provide written notice should they wish to revoke the waivers. Defendants'
12 presumption that meal periods would not be provided for shifts in excess of five (5) hours but
13 less than six (6) hours and/or for shifts in excess of ten (10) hours but less than twelve (12)
14 hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on
15 employees to revoke waivers by providing written notice, discouraged and impeded Plaintiff
16 and class members from taking all meal periods to which they were entitled.

17 67. Furthermore, an employer's obligation to provide a meal period is only
18 "triggered" when the employer "employs an employee for a work period of more than five
19 hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits
20 anyone to work for a full five hours, its meal break obligation is triggered.").

21 [A]fter the meal break obligation is triggered . . . an employer is put to a
22 choice: it must (1) afford an off-duty meal period; (2) consent to a
23 mutually agreed-upon waiver if one hour or less will end the shift; or (3)
24 obtain written agreement to an on-duty meal period if circumstances
permit. Failure to do one of these will render the employer liable for
premium pay.

25 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
26 required Plaintiff and class members to sign meal period waivers simultaneously at or near the
27 time of hire (as opposed to on a specific work day) renders them invalid and unenforceable,
28 because Defendants' obligation to provide Plaintiff and class members with meal periods did

1 not arise until Defendants had employed them for a full five (5) hours.

2 68. At all times herein mentioned, Defendants knew or should have known that, as
3 a result of these policies, Plaintiff and class members were prevented from being relieved of
4 all duties to take timely, uninterrupted meal periods. Defendants further knew or should have
5 known that they did not pay Plaintiff and class members meal period premiums when meal
6 periods were late, interrupted, shortened, and/or missed.

7 69. Moreover, Defendants engaged in a company-wide practice and/or policy of not
8 paying all meal period premiums owed when compliant meal periods are not provided. Because
9 of this practice and/or policy, Plaintiff and class members have not received premium pay for all
10 missed, late, and interrupted meal periods.

11 70. Defendants' conduct violates the applicable IWC Wage Order, and California
12 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
13 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
14 rate of compensation for each work day that the meal period was not provided.

15 **SECOND CAUSE OF ACTION**

16 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 17 **(Against all Defendants)**

18 71. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 72. At all relevant times, the applicable IWC Wage Order provides that “[e]very
21 employer shall authorize and permit all employees to take rest periods, which insofar as
22 practicable shall be in the middle of each work period” and that the “rest period time shall be
23 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
24 hours or major fraction thereof” unless the total daily work time is less than three and one-half
25 (3 ½) hours.

26 73. At all relevant times, California Labor Code section 226.7 provides that no
27 employer shall require an employee to work during any rest period mandated by an applicable
28 order of the California IWC. To comply with its obligation to authorize and permit rest

1 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
2 employer must “relinquish any control over how employees spend their break time, and
3 relieve their employees of all duties—including the obligation that an employee remain on
4 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
5 *Inc.*, 2 Cal. 5th 257, 273 (2016).

6 74. Pursuant to the applicable IWC Wage Order and California Labor Code section
7 226.7(c), Plaintiff and class members are entitled to recover from Defendants one (1)
8 additional hour of pay at their regular rates of pay for each work day that a required rest
9 period was not authorized and permitted.

10 75. During the relevant time period, Defendants regularly failed to authorize and
11 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
12 period worked or major fraction thereof. As with meal periods, Defendants’ company-wide
13 practices, including understaffing and assigning heavy workloads, prevented Plaintiff and
14 class members from being relieved of all duty to take rest periods. Additionally, Defendants
15 failed to schedule rest periods, which, coupled with Defendants’ failure to provide adequate
16 rest period coverage, further led to Plaintiff and class members not being authorized and
17 permitted to take rest periods.

18 76. Furthermore, upon information and belief, Defendants maintained and
19 implemented a company-wide on-premises rest period policy, which effectively required that
20 Plaintiff and class members remain on the premises during their rest periods. Because Plaintiff
21 and class members were restricted from leaving Defendants’ premises during rest periods, they
22 were denied the ability to use their rest periods freely for their own purposes, such as
23 completing personal errands. Thus, Defendants effectively maintained control over Plaintiff and
24 class members during rest periods.

25 77. As a result of Defendants’ practices and policies, Plaintiff and class members
26 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
27 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
28 throughout his employment, Plaintiff had to forgo some of his rest periods, because of the

1 pressure to keep up with time-sensitive deliveries, lack of rest period coverage, and
2 Defendants' failure to schedule rest periods for employees. When Plaintiff was able to take
3 rest periods, they would often be interrupted by supervisors requiring him to return to work to
4 complete inventory counts, unload materials, or attend to customers.

5 78. Defendants have also engaged in a company-wide practice and/or policy of not
6 paying all rest period premiums owed when compliant rest periods are not authorized and
7 permitted. Because of this practice and/or policy, Plaintiff and class members have not
8 received premium pay for all missed rest periods.

9 79. Defendants' conduct violates the applicable IWC Wage Order and California
10 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
11 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
12 compensation for each work day that a compliant rest period was not authorized and
13 permitted.

14 **THIRD CAUSE OF ACTION**

15 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 16 **(Against all Defendants)**

17 80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
18 and every allegation set forth above.

19 81. Labor Code section 1198 makes it illegal to employ an employee under
20 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
21 Code section 1198 requires that "... the standard conditions of labor fixed by the commission
22 shall be the ... standard conditions of labor for employees. The employment of any employee
23 ... under conditions of labor prohibited by the order is unlawful."

24 82. California Labor Code section 1198 and the applicable IWC Wage Order
25 provide that it is unlawful to employ persons without compensating them at a rate of pay
26 either time-and-one-half or two-times that person's regular rate of pay, depending on the
27 number of hours worked by the person on a daily or weekly basis.

28 83. Specifically, the applicable IWC Wage Order provides that Defendants are and

1 were required to pay Plaintiff and class members working more than eight (8) hours in a day
2 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
3 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
4 workweek.

5 84. The applicable IWC Wage Order further provides that Defendants are and were
6 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
7 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
8 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
9 employee, including nondiscretionary bonuses and incentive pay.

10 85. California Labor Code section 510 codifies the right to overtime compensation
11 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
12 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
13 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
14 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
15 in a day on the seventh (7th) day of work.

16 86. During the relevant time period, Defendants willfully failed to pay all overtime
17 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
18 class members were not paid overtime premiums for all of the hours they worked in excess of
19 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
20 hours in a week, because all hours worked were not recorded.

21 87. First, as stated, Defendants had, and continue to have, company-wide policies
22 and/or practices of understaffing their facilities and jobsites while assigning heavy workloads,
23 including pressure to keep up with time-sensitive deliveries. Defendants' policies and/or
24 practices resulted in a failure to provide Plaintiff and class members with adequate meal
25 period coverage, and thus, Plaintiff and class members were not always afforded uninterrupted
26 30-minute meal periods during shifts when they were entitled to receive a meal period. As
27 also stated, Defendants had a practice of failing to schedule meal periods which, in
28 conjunction with the assignment of heavy workloads, further caused Plaintiff and class

1 members to not be relieved of their duties for compliant meal periods. For example, as stated,
2 Plaintiff worked through all or part of his meal periods due to lack of coverage and heavy
3 workload. Defendants did not compensate Plaintiff and class members for the time they spent
4 working off the clock during unpaid meal periods.

5 88. Second, as stated, on information and belief, because Defendants frowned upon
6 employees accruing meal period premiums, Defendants' management pressured employees to
7 clock out for meal periods, regardless of whether they had received a compliant meal period
8 or not. Thus, Defendants did not record all hours worked during meal periods, and Plaintiff
9 and class members performed work during meal periods for which they were not paid.

10 89. Defendants knew or should have known that as a result of these company-wide
11 practices and/or policies, Plaintiff and class members were performing their assigned duties off-
12 the-clock during their meal periods, and were suffered or permitted to perform work for which
13 they were not paid. Because Plaintiff and/or class members worked shifts of eight (8) hours a
14 day or more, or more or forty (40) hours a week or more, some of this off-the-clock work
15 qualified for overtime premium pay. Therefore, Plaintiff and class members were not paid
16 overtime wages for all of the overtime hours they actually worked.

17 90. Defendants' failure to pay Plaintiff and class members the balance of overtime
18 compensation as required by California law, violates the provisions of California Labor Code
19 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
20 members are entitled to recover from Defendants their unpaid overtime compensation, as well
21 as interest, costs, and attorneys' fees.

22 **FOURTH CAUSE OF ACTION**

23 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 24 **Minimum Wages** 25 **(Against all Defendants)**

26 91. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
27 and every allegation set forth above.

28 92. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and

1 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
2 to be paid to employees, and the payment of a wage less than the minimum so fixed is
3 unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the time
4 during which an employee is suffered or permitted to work for the employer, whether or not
5 required to do so.” Cal. Code Regs. tit. 8, § 11070(2)(H) (defining “Hours Worked”).

6 93. As stated above, due to Defendants’ policies and/or practices of understaffing
7 their facilities and jobsites while assigning heavy workloads, which included pressuring
8 employees to meet time-sensitive repair deadlines, and failing to schedule meal periods,
9 Plaintiff and class members were prevented from taking all uninterrupted meal periods to
10 which they were entitled and were required to work off-the-clock during meal periods, have
11 their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid
12 meal periods.

13 94. Also, as stated above, on information and belief, because Defendants frowned
14 upon employees accruing meal period premiums, Defendants’ managers pressured employees
15 to clock out for meal periods to reflect compliant meal periods, even when they did not
16 receive a compliant meal period. Thus, Defendants systematically failed to pay Plaintiff and
17 class members for actual hours worked during unpaid meal periods because these hours were
18 not always correctly recorded.

19 95. Defendants did not pay at least minimum wages for all hours worked by
20 Plaintiff and class members. To the extent that these off-the-clock hours did not qualify for
21 overtime premium payment, Defendants did not pay at least minimum wages for those hours
22 worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and
23 1198.

24 96. Defendants’ failure to pay Plaintiff and class members minimum wages violates
25 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
26 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from
27 Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and
28 interest thereon.

1 **FIFTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
3 **Statements and Failure to Maintain Accurate Payroll Records**
4 **(Against all Defendants)**

5 97. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 98. At all relevant times herein, California Labor Code section 226(a) provides that
8 every employer shall furnish each of his or her employees an accurate and complete itemized
9 wage statement in writing, including, but not limited to, the name and address of the legal
10 entity that is the employer, the inclusive dates of the pay period, total hours worked, and all
11 applicable rates of pay.

12 99. During the relevant time period, Defendants have knowingly and intentionally
13 provided Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage
14 statements. For example, Defendants issued uniform wage statements to Plaintiff and
15 Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages
16 earned; the address of the legal entity that is the employer; and all applicable hourly rates in
17 effect during the pay period, including rates of pay for overtime wages, and the corresponding
18 number of hours worked at each hourly rate. Specifically, Defendants violated sections
19 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

20 100. Because Defendants did not record the time Plaintiff and Subclass members
21 spent working off-the-clock and deducted time from their records for meal periods that were
22 missed and/or interrupted (and therefore time for which they should have been paid),
23 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and
24 Subclass members in compliance with section 226(a)(1) and section 226(a)(5), respectively.
25 For the same reason, Defendants failed to accurately list the total number of hours worked by
26 Plaintiff and Subclass members, in violation of section 226(a)(2), and failed to list the
27 applicable hourly rates of pay in effect during the pay period and the corresponding accurate
28 number of hours worked at each hourly rate, in violation of section 226(a)(9).

1 101. Further, and separate from these violations, Defendants issued uniform wage
2 statements to Plaintiff and Subclass members that failed to correctly list the address of the legal
3 entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to
4 provide California employees with transparency as to the true identity of their employer, to
5 allow the employee to contact their employer during employment or in the future for various
6 reasons, including filing an administrative claim, judicial claim, or other action to seek relief
7 against their employer, to obtain unemployment benefits, etc. Plaintiff's and Subclass
8 members' wage statements incorrectly list the employer's address as "One ABC Parkway
9 Beloit, WI 53511" but, according to the California Secretary of State's website, the correct
10 address is "300 RIVERSIDE PLAZA STE 200 CHICAGO, IL 60606".

11 102. The wage statement deficiencies also include, among other things, failing to list
12 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
13 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
14 for which aggrieved employees were paid; failing to list the name of the employee and only
15 the last four digits of his or her social security number or an employee identification number
16 other than a social security number; failing to list the name of legal entity that is the employer;
17 and/or failing to state all hours worked as a result of not recording or stating hours worked
18 off-the-clock.

19 103. California Labor Code section 1174(d) provides that "[e]very person employing
20 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
21 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
22 plants or establishments at which employees are employed, payroll records showing the hours
23 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
24 applicable piece rate paid to, employees employed at the respective plants or
25 establishments" Labor Code section 1174.5 provides that employers are subject to a
26 \$500 civil penalty if they fail to maintain accurate and complete records as required by section
27 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
28 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass

1 members showing the daily hours they worked and the wages paid thereto as a result of failing
2 to record the off-the-clock hours that they worked.

3 104. California Labor Code section 1198 provides that the maximum hours of work
4 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
5 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
6 employment of any employees for longer hours than those fixed by the order or under
7 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
8 Wage Order, employers are required to keep accurate time records showing when the
9 employee begins and ends each work period and meal period. During the relevant time
10 period, Defendants engaged in company-wide practices and/or policies of failing to record
11 actual hours worked, and thereby failed to keep accurate records of work period and meal
12 period start and end times for Plaintiff and Subclass members, in violation of section 1198.
13 Also, in light of Defendants’ failure to provide Plaintiff and Subclass members with second
14 30-minute meal periods to which they were entitled, Defendants kept no records of meal start
15 and end times for second meal periods.

16 105. Plaintiff and Subclass members are entitled to recover from Defendants the
17 greater of their actual damages caused by Defendants’ failure to comply with California Labor
18 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
19 employee.

20 **SIXTH CAUSE OF ACTION**

21 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 22 **Termination** 23 **(Against all Defendants)**

24 106. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
25 and every allegation set forth above.

26 107. This cause of action is dependent upon, and wholly derivative of, the overtime
27 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
28 not timely paid to Plaintiff those class members no longer employed by Defendants upon their

1 termination.

2 108. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
3 that if an employer discharges an employee, the wages earned and unpaid at the time of
4 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
5 her employment, his or her wages shall become due and payable not later than seventy-two
6 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
7 his or her intention to quit, in which case the employee is entitled to his or her wages at the
8 time of quitting.

9 109. During the relevant time period, Defendants willfully failed to pay Plaintiff and
10 class members who are no longer employed by Defendants the earned and unpaid wages set
11 forth above, including but not limited to, overtime wages, minimum wages, meal and rest
12 period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-
13 two (72) hours of their leaving Defendants' employ.

14 110. Defendants' failure to pay Plaintiff and class members who are no longer
15 employed by Defendants their wages earned and unpaid at the time of discharge, or within
16 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
17 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
18 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
19 thirty (30) day maximum pursuant to California Labor Code section 203.

20 **SEVENTH CAUSE OF ACTION**

21 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During**
22 **Employment**
23 **(Against all Defendants)**

24 111. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
25 and every allegation set forth above.

26 112. This cause of action is dependent upon, and wholly derivative of, the overtime
27 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
28 not timely paid to Plaintiff and class members during their employment.

113. At all relevant times herein set forth, California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed. Labor Code section 204 further provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

114. At all relevant times herein, California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

115. During the relevant time period, Defendants willfully failed to pay Plaintiff and class members all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within the time periods specified by California Labor Code section 204.

116. Defendants' failure to pay Plaintiff and class members all wages due violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

EIGHTH CAUSE OF ACTION

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 5(A)—Failure to Provide Reporting Time Pay (Against all Defendants)

117. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

118. California Labor Code section 1198 makes it illegal to employ an employee

1 under conditions of labor that are prohibited by the applicable IWC Wage Order. California
2 Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the
3 commission shall be the . . . standard conditions of labor for employees. The employment of
4 any employee . . . under conditions of labor prohibited by the order is unlawful.”

5 119. California Code of Regulations, Title 8, section 11070(5)(A) provides that
6 “[e]ach workday an employee is required to report for work and does report, but is not put to
7 work or is furnished less than half said employee’s usual or scheduled day’s work, the
8 employee shall be paid for half the usual or scheduled day’s work, but in no event for less
9 than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which
10 shall not be less than the minimum wage.” The “primary purpose of the reporting time
11 regulation” is “to guarantee at least partial compensation for employees who report to work
12 expecting to work a specified number of hours, and who are deprived of that amount because
13 of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch*
14 *Cellular*, 209 Cal. App. 4th 556 (2012).

15 120. During the relevant time period, Defendants violated California Labor Code
16 section 1198 and California Code of Regulations, Title 8, section 11070(5)(A), because
17 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
18 work for their scheduled shift but were put to work for less than half of the usual or scheduled
19 day’s work.

20 121. Defendants had a company-wide practice of sending Plaintiff and class
21 members home early from their shifts, including before they had worked at least half of their
22 usual or scheduled shift, but would not pay Plaintiff and class members for half of their usual
23 or scheduled shift. For example, when scheduled to work a shift of eight (8) hours,
24 Defendants’ managers sent Plaintiff home one (1) hour after the start of his shift. Although
25 Plaintiff and class members would report to work based on the schedule that Defendants
26 provided to them, Defendants would send them home before they worked at least half of their
27 usual or scheduled shifts. When this occurred, Defendants did not pay Plaintiff and class
28 members for at least half of their scheduled day’s work or the minimum reporting time pay.

122. Accordingly, Plaintiff and class members were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A). Plaintiff and class members are therefore entitled to recover from Defendants unpaid wages and interest.

NINTH CAUSE OF ACTION

Violation of California Labor Code § 2802—Unpaid Business-Related Expenses (Against all Defendants)

123. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

124. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001 provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” IWC Wage Order No. 7-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

125. During the relevant time period, Plaintiff and class members were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but Defendants failed to reimburse them for the costs of their work-related mobile device expenses. For example, Plaintiff was required to use his personal cellular phone to communicate with his supervisors to discuss the progress of assignments and to take and send pictures of work completed, and for calculating measurements. Although

1 Defendants required Plaintiff and class members to utilize their personal mobile devices
2 and/or mobile data to carry out their work-related responsibilities, Defendants failed to
3 reimburse them for these costs.

4 126. Also, during the relevant time period, Defendants required Plaintiff and class
5 members to wear uniforms bearing the Defendants company logo, including high visibility
6 shirts and pants. Due to the nature of construction work, Plaintiff's uniforms would become
7 sweaty, soiled, and/or stained by dirt and drywall materials, such that they were unable to mix
8 these clothes in with other laundry. As a result, he had to wash his uniform items separately
9 from his regular clothing, thus incurring additional laundry expenses for the upkeep of his
10 uniforms. Thus, Defendants failed to maintain uniforms they required Plaintiff and class
11 members to wear during their shifts and forced them to incur the cost of maintaining employee
12 uniforms.

13 127. Defendants could have provided Plaintiff and class members with the actual
14 equipment for use on the job, such as company mobile devices as well as access to laundering
15 services. Or, Defendants could have reimbursed employees for the costs of their mobile
16 device usage and laundering expenses or provided a uniform maintenance allowance. Instead,
17 Defendants passed these operating costs onto Plaintiff and class members. At all relevant
18 times, Plaintiff did not earn at least two (2) times the minimum wage.

19 128. Defendants' company-wide policy and/or practice of not reimbursing
20 employees for expenses necessarily incurred and passing on their operating costs to Plaintiff
21 and class members violates California Labor Code section 2802. Defendants have
22 intentionally and willfully failed to reimburse Plaintiff and class members for necessary
23 business-related expenses and costs.

24 129. Plaintiff and class members are entitled to recover from Defendants their
25 business-related expenses incurred during the course and scope of their employment, plus
26 interest.

27 //

28 //

1 **TENTH CAUSE OF ACTION**

2 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

3 **(Against all Defendants)**

4 130. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 131. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
7 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
8 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 212, 213, 221,
9 223, 224, 1174(d), and 1198. Labor Code section 2699.3(c) permits aggrieved employees,
10 including Plaintiff, to recover civil penalties for violations of those Labor Code sections not
11 found in section 2699.5, including sections 226(a), 226.7, 510, 512(a), 516, 1182.12, 1194,
12 1197, and 2802.

13 132. Defendants’ conduct, as alleged herein, violates numerous sections of the
14 California Labor Code, including, but not limited to, the following:

- 15 (a) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
16 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
17 and other aggrieved employees with meal periods, as alleged herein;
- 18 (b) Violation of Labor Code sections 226.7, 516, and 1198, and the
19 applicable IWC Wage Order for Defendants’ failure to authorize and
20 permit Plaintiff and other aggrieved employees to take rest periods, as
21 alleged herein;
- 22 (c) Violation of Labor Code sections 510 and 1198, and the applicable IWC
23 Wage Order for Defendants’ failure to compensate Plaintiff and other
24 aggrieved employees with all required overtime pay, as alleged herein;
- 25 (d) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and
26 the applicable IWC Wage Order for Defendants’ failure to compensate
27 Plaintiff and other aggrieved employees with at least minimum wages
28 for all hours worked, as alleged herein;

- (e) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiff and other aggrieved employees, as alleged herein;
- (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as alleged herein;
- (g) Violation of Labor Code sections 201 and 202 for failure to pay all earned wages upon termination, as alleged herein;
- (h) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as alleged herein;
- (i) Violation of Labor Code sections 212 and 213 for issuing instruments for the payment of wages that were not payable in cash on demand, without discount, and with prior authorization, as set forth below;
- (j) Violation of Labor Code sections 221 and 224 for unlawfully deducting a portion of wages previously paid to Plaintiff and other aggrieved employees, as set forth below;
- (k) Violation of Labor Code section 223 for secretly paying Plaintiff and other aggrieved employees lower wages than required by statute, while purporting to pay the proper wages, as set forth below;
- (l) Violation of Labor Code section 1198 and the applicable IWC Wage Order for failure to pay reporting time pay when Plaintiff and other aggrieved employees were put to work for less than half of their regular scheduled shifts, as alleged herein; and
- (m) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other aggrieved employees for all business expenses necessarily incurred, as alleged herein.

133. At all relevant times herein, California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are

negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement (“DLSE”) decision deeming payroll debit card program permissible relied heavily on:

. . . [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that “[t]he success of the described procedure, in practice, will of course require that . . . it is presented as an *alternative* method for wage payment for which [the employees’] participation is optional.” The DLSE also stated, “[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing. . . .” (internal citations omitted).

134. In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

. . . (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”; (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”; (3) the employees receive “an itemized wage statement,”; and (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

135. Further, the DLSE notes that the Labor Code manifests:

. . . [A] strong public policy that prohibits an employer (or its agent) from

1 imposing conditions or obstacles which interfere with or prevent an
2 employee's (sic) from promptly receiving their due wages in *full*. The
3 imposition of a fee in order to readily *access* one's earned and paid wages
4 under a payroll card program which is designed to discharge the
5 employer's wage payment obligations could impermissibly interfere with
an employee's receipt of paid wages by creating a financial condition
which would have the *effect* of reducing or discounting wages because
such fee would be charged against the same account in which wages are
deposited. (emphases in original)

6 *DLSE opinion letter* 2008.07.07. The DLSE has also acknowledged that payroll service
7 providers "effectively act as agents of the client employers in discharging the employer's
8 wage payment obligations." *Id.* In a second opinion letter, the DLSE stated that "[w]hile the
9 Labor Code does not purport to regulate the specific arrangements between employers and
10 payroll service providers, both an employer and, under the express language in Labor Code
11 § 212- their agent, must comply with its requirements." *DLSE opinion letter* 2008.07.07-2.

12 136. During the relevant time period, Defendants had an agreement with a payroll
13 service provider, Wisely, for the issuance of payroll debit cards to employees, including
14 Plaintiff and other aggrieved employees, to discharge their wage payment obligations to their
15 employees. On information and belief, Defendants had a practice of and/or policy of
16 automatically issuing payroll debit cards to departing employees without giving them the
17 option to elect their form of payment for their final wages. For example, Plaintiff received his
18 final wages on a payroll debit card without a choice of an alternate method of payment, such
19 as a written check. Instead, Defendants automatically enrolled Plaintiff in their payroll debit
20 card program for the purpose of issuing Plaintiff's final wages to him without prior, voluntary
21 approval from Plaintiff.

22 137. Moreover, under Defendants' payroll debit card program, Plaintiff and other
23 aggrieved employees did not have easy access to the entirety of their wages without incurring
24 a fee. Plaintiff and other aggrieved employees were unable to withdraw their entire wages in
25 at least one transaction without incurring a fee, which resulted in a discount in their pay. For
26 example, Plaintiff was subjected to transaction fees when withdrawing his wages from an out-
27 of-network ATM. Thus, Defendants' payroll debit card program was, and continues to be,
28 unlawful as it did not give Plaintiff and other aggrieved employees access to their entire

1 wages without discount and without delay.

2 138. California courts recognize a policy favoring the full and prompt payment of
3 wages to employees. Defendants' payroll card program is inconsistent with this policy
4 because Defendants' program is involuntary and presents a number of obstacles and hurdles
5 that, together, make it difficult for Plaintiff and other aggrieved employees to access their
6 entire wages without discount and without delay, in violation of California Labor Code
7 sections 212 and 213. Plaintiff and other aggrieved employees are therefore entitled to
8 recover civil penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

9 139. At all times relevant herein, California Labor Code section 221 provides that it
10 shall be unlawful for any employer to collect or receive from an employee any part of wages
11 theretofore paid by said employer to said employee. California Labor Code section 224 also
12 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
13 deduction is expressly authorized in writing by the employee."

14 140. During the relevant time period, upon information and belief, Defendants
15 unlawfully deducted a portion of wages previously paid to Plaintiff and other aggrieved
16 employees in violation of California Labor Code section 221. On information and belief,
17 Defendants systematically, and on a company-wide basis, provided Plaintiff and other
18 aggrieved employees with payroll debit cards as payment of their wages and/or final wages.
19 Under Defendants' payroll debit card program, Plaintiff and other aggrieved employees were
20 assessed various fees in connection with their use of the payroll debit cards. For example, as
21 described above, Plaintiff and other aggrieved employees were required to pay out-of-network
22 ATM withdrawal fees and/or other fees to obtain and/or spend their earned and due wages.
23 The fees charged to Plaintiff and other aggrieved employees resulted in a discount of their
24 wages.

25 141. Defendants' practice which resulted in a discount of wages to employees, is
26 tantamount to taking deductions from Plaintiff's and other aggrieved employees' paychecks
27 without their written authorization and therefore constitutes an unlawful deduction of wages,
28 in violation of Labor Code sections 221 and 224. Plaintiff and other aggrieved employees are

1 therefore entitled to recover civil penalties pursuant to Labor Code sections 225.5 and/or
2 2699(a), (f), and (k).

3 142. At all times, California Labor Code section 223 makes it unlawful for an
4 employer to secretly pay wages lower than required by statute while purporting to pay legal
5 wages.

6 143. During the relevant time period, Defendants willfully and systematically issued
7 payroll debit cards to Plaintiff and other aggrieved employees that discounted their wages by
8 charging various fees in connection with the use of the payroll debit cards. Defendants'
9 payroll debit card program resulted in the payment of less than statutorily required wages to
10 Plaintiff and other aggrieved employees. Thus, Defendants paid Plaintiff and other aggrieved
11 employees lower wages than those they were entitled to while purporting that Plaintiff and
12 other aggrieved employees were properly paid.

13 144. Defendants' failure to pay Plaintiff and other aggrieved employees the correct
14 designated wage, while purporting to pay legal wages, is a violation of California Labor Code
15 section 223. Plaintiff and other aggrieved employees are therefore entitled to recover civil
16 penalties pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

17 **ELEVENTH CAUSE OF ACTION**

18 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

19 **Unlawful Business Practices**

20 **(Against all Defendants)**

21 145. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 146. Defendants are "persons" as defined by California Business & Professions
24 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
25 and/or associations.

26 147. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
27 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
28 suffered injury in fact and has lost money as a result of Defendants' unlawful business

practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

148. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

149. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies and practices have violated state law in at least the following respects:

- (a) Failing to pay at least minimum wage to Plaintiff and class members in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (b) Failing to provide all meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (c) Requiring non-exempt, hourly paid employees, including Plaintiff and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198, and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to authorize and permit Plaintiff and class members to take all rest periods in violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (e) Failing to provide Plaintiff and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein;
- (f) Failing timely to pay all earned wages to Plaintiff and class members in violation of California Labor Code section 204, as alleged herein; and

- 1 (g) Failing to pay reporting time pay in violation of California Labor Code
2 section 1198 and the applicable IWC Wage Order, as alleged herein;
- 3 (h) Issuing instruments to Plaintiff and class members for the payment of
4 wages that were not payable in cash, on demand, without discount, and
5 with prior authorization, in violation of California Labor Code sections
6 212 and 213, as set forth below;
- 7 (i) Collecting or receiving wages already paid from Plaintiff and/or class
8 members in violation of California Labor Code sections 221 and 224, as
9 set forth below;
- 10 (j) Failing to pay the statutorily designated wage scale in violation of
11 California Labor Code section 223, as set forth below; and
- 12 (k) Failing to reimburse Plaintiff and class members for all business
13 expenses necessarily incurred in violation of California Labor Code
14 section 2802, as alleged herein.

15 150. At all relevant times herein, California Labor Code section 212 prohibits
16 employers from issuing any instruments for the payment of wages unless such instruments are
17 negotiable and payable in cash on demand and without discount. California Labor Code
18 section 213 permits employers to pay employees via direct deposit so long as the employee
19 authorizes payment via direct deposit. Under California law, employers are also permitted to
20 fulfill their wage payment obligations to employees by using payroll debit cards, but only
21 under certain circumstances. Employer use of payroll debit cards is permitted only so long as
22 the employee is given the choice as to whether to accept a payroll debit card as a form of
23 payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx,
24 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division
25 of Labor Standards Enforcement (“DLSE”) decision deeming payroll debit card program
26 permissible relied heavily on:

27 . . . [T]he fact that the pay programs were optional, thereby allowing an
28 employee to either participate in the program or receive his or her pay in
some other way, such as direct deposit. Specifically, the DLSE opined

1 that “[t]he success of the described procedure, in practice, will of course
2 require that . . . it is presented as an *alternative* method for wage payment
3 for which [the employees’] participation is optional.” The DLSE also
4 stated, “[i]t is significant that the program does not mandate employee
5 participation in the Money Network Service and that it is designed to
6 provide an alternative for employees receiving their wage payment.
7 Employees are also given the option of having their pay direct deposited
8 into an account of their choosing. . . .” (internal citations omitted).

5 151. In addition, employers can only utilize payroll debit card programs if they
6 provide employees with effective access to their wages without discount. The DLSE has
7 interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards
8 where the following requirements are satisfied:

9 . . . (1) [T]he “wages [are] payable at some established place of business
10 in the state and there be at least 30 days of sufficient funds for payment,”;
11 (2) the employees are “fully informed of the service and procedures and
12 that it is represented as an alternative method for wage payment for which
13 their participation is optional,”; (3) the employees receive “an itemized
14 wage statement,”; and (4) “at least one transaction per pay period [is]
15 without fee.”

13 *Ortiz v. Randstad North America, L.P.*, No. C-13-5050 MMC, 2015 WL 6202298
14 at 3.

15 152. Further, the DLSE notes that the Labor Code manifests:

16 . . . [A] strong public policy that prohibits an employer (or its agent) from
17 imposing conditions or obstacles which interfere with or prevent an
18 employee’s (sic) from promptly receiving their due wages in *full*. The
19 imposition of a fee in order to readily *access* one’s earned and paid wages
20 under a payroll card program which is designed to discharge the
21 employer’s wage payment obligations could impermissibly interfere with
22 an employee’s receipt of paid wages by creating a financial condition
23 which would have the *effect* of reducing or discounting wages because
24 such fee would be charged against the same account in which wages are
25 deposited. (emphases in original)

22 *DLSE opinion letter* 2008.07.07. The DLSE has also acknowledged that payroll service
23 providers “effectively act as agents of the client employers in discharging the employer’s
24 wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the
25 Labor Code does not purport to regulate the specific arrangements between employers and
26 payroll service providers, both an employer and, under the express language in Labor Code
27 § 212- their agent, must comply with its requirements.” *DLSE opinion letter* 2008.07.07-2.

28 153. During the relevant time period, Defendants had an agreement with a payroll

1 service provider, Wisely, for the issuance of payroll debit cards to employees, including
2 Plaintiff and class members, to discharge their wage payment obligations to their employees.
3 On information and belief, Defendants had a practice of and/or policy of automatically issuing
4 payroll debit cards to departing employees without giving them the option to elect their form
5 of payment for their final wages. For example, Plaintiff received his final wages on a payroll
6 debit card without a choice of an alternate method of payment, such as a written check.
7 Instead, Defendants automatically enrolled Plaintiff in their payroll debit card program for the
8 purpose of issuing Plaintiff's final wages to him without prior, voluntary approval from
9 Plaintiff.

10 154. Moreover, under Defendants' payroll debit card program, Plaintiff and class
11 members did not have easy access to the entirety of their wages without incurring a fee.
12 Plaintiff and class members were unable to withdraw their entire wages in at least one
13 transaction without incurring a fee, which resulted in a discount in their pay. For example,
14 Plaintiff was subjected to transaction fees when withdrawing his wages from an out-of-
15 network ATM. Thus, Defendants' payroll debit card program was, and continues to be,
16 unlawful as it did not give Plaintiff and class members access to their entire wages without
17 discount and without delay.

18 155. California courts recognize a policy favoring the full and prompt payment of
19 wages to employees. Defendants' payroll card program is inconsistent with this policy
20 because Defendants' program is involuntary and presents a number of obstacles and hurdles
21 that, together, make it difficult for Plaintiff and class members to access their entire wages
22 without discount and without delay, in violation of California Labor Code sections 212 and
23 213.

24 156. At all times relevant herein, California Labor Code section 221 provides that it
25 shall be unlawful for any employer to collect or receive from an employee any part of wages
26 theretofore paid by said employer to said employee. California Labor Code section 224 also
27 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
28 deduction is expressly authorized in writing by the employee."

1 157. During the relevant time period, upon information and belief, Defendants
2 unlawfully deducted a portion of wages previously paid to Plaintiff and class members in
3 violation of California Labor Code section 221. On information and belief, Defendants
4 systematically, and on a company-wide basis, provided Plaintiff and class members with
5 payroll debit cards as payment of their wages and/or final wages. Under Defendants' payroll
6 debit card program, Plaintiff and class members were assessed various fees in connection with
7 their use of the payroll debit cards. For example, as described above, Plaintiff and class
8 members were required to pay out-of-network ATM withdrawal fees and/or other fees to
9 obtain and/or spend their earned and due wages. The fees charged to Plaintiff and class
10 members resulted in a discount of their wages.

11 158. Defendants' practice which resulted in a discount of wages to employees, is
12 tantamount to taking deductions from Plaintiff's and class members' paychecks without their
13 written authorization and therefore constitutes an unlawful deduction of wages, in violation of
14 Labor Code sections 221 and 224.

15 159. At all times, California Labor Code section 223 makes it unlawful for an
16 employer to secretly pay wages lower than required by statute while purporting to pay legal
17 wages.

18 160. During the relevant time period, Defendants willfully and systematically issued
19 payroll debit cards to Plaintiff and class members that discounted their wages by charging
20 various fees in connection with the use of the payroll debit cards. Defendants' payroll debit
21 card program resulted in the payment of less than statutorily required wages to Plaintiff and
22 class members. Thus, Defendants paid Plaintiff and class members lower wages than those
23 they were entitled to while purporting that Plaintiff and class members were properly paid.

24 161. Defendants' failure to pay Plaintiff and class members the correct designated
25 wage, while purporting to pay legal wages, is a violation of California Labor Code section
26 223.

27 162. As a result of the violations of California law herein described, Defendants
28 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members

1 have suffered pecuniary loss by Defendants’ unlawful business acts and practices alleged
2 herein.

3 163. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
4 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
5 Defendants during a period that commences four years prior to the filing of the initial
6 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to
7 Plaintiff and class members; and an award of attorneys’ fees pursuant to California Code of
8 Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

9 **TWELFTH CAUSE OF ACTION**

10 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

11 **Unfair Business Practices**

12 **(Against all Defendants)**

13 164. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

15 165. Defendants are “persons” as defined by California Business & Professions
16 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
17 and/or associations.

18 166. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
19 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
20 injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff
21 seeks to enforce important rights affecting the public interest within the meaning of Code of
22 Civil Procedure section 1021.5.

23 167. Defendants’ activities, namely Defendants’ company-wide practice and/or
24 policy of not paying Plaintiff and class members all meal and rest period premiums due to
25 them under Labor Code section 226.7, deprived Plaintiff and class members of the
26 compensation guarantee and enhanced enforcement implemented by section 226.7. The
27 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
28 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v.*

1 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
2 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
3 and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an
4 unfair business practice in violation of California Business & Professions Code sections
5 17200, *et seq.* (*Id.*)

6 168. A violation of California Business & Professions Code sections 17200, *et seq.*
7 may be predicated on any unfair business practice. In the instant case, Defendants' policies
8 and practices have violated the spirit of California's meal and rest period laws and constitute
9 acts against the public policy behind these laws.

10 169. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
11 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
12 benefits implemented by section 226.7 withheld and retained by Defendants during a period
13 that commences four years prior to the filing of the initial complaint; a permanent injunction
14 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
15 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
16 Procedure section 1021.5 and other applicable laws; and an award of costs.

17 **REQUEST FOR JURY TRIAL**

18 Plaintiff requests a trial by jury.

19 **PRAYER FOR RELIEF**

20 Plaintiff, on behalf of all class members, prays for relief and judgment against
21 Defendants, jointly and severally, as follows:

22 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
23 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
24 reserves the right to amend his prayer for relief to seek a different amount.

25 **Class Certification**

- 26 2. That this case be certified as a class action;
27 3. That Plaintiff be appointed as the representative of the Class and Subclass;
28 4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and class members;

6. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

7. For all actual, consequential, and incidental losses and damages, according to proof;

8. For premiums pursuant to California Labor Code section 226.7(c);

9. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

10. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

11. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

12. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully failing to authorize and permit Plaintiff and class members to take all rest periods;

13. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

14. For all actual, consequential, and incidental losses and damages, according to proof;

15. For premiums pursuant to California Labor Code section 226.7(c);

16. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

1 17. For attorneys' fees pursuant to California Code of Civil Procedure section
2 1021.5, or as otherwise provided by law; and

3 18. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Third Cause of Action**

6 19. That the Court declare, adjudge, and decree that Defendants violated California
7 Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to
8 pay all overtime wages due to Plaintiff and class members;

9 20. For general unpaid wages at overtime wage rates and such general and special
10 damages as may be appropriate;

11 21. For pre-judgment interest on any unpaid overtime compensation commencing
12 from the date such amounts were due, or as otherwise provided by law;

13 22. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
14 California Labor Code section 1194(a); and

15 23. For such other and further relief as the Court may deem equitable and
16 appropriate.

17 **As to the Fourth Cause of Action**

18 24. That the Court declare, adjudge and decree that Defendants violated California
19 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage
20 Order by willfully failing to pay minimum wages to Plaintiff and class members;

21 25. For general unpaid wages and such general and special damages as may be
22 appropriate;

23 26. For pre-judgment interest on any unpaid compensation from the date such
24 amounts were due, or as otherwise provided by law;

25 27. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
26 California Labor Code section 1194(a);

27 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

28 29. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For injunctive relief pursuant to California Labor Code section 226(h);

33. For statutory penalties pursuant to California Labor Code section 226(e);

34. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

35. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

36. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay owed at the time of termination of the employment of Plaintiff and other terminated class members;

37. For all actual, consequential and incidental losses and damages, according to proof;

38. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

39. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

40. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

41. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Seventh Cause of Action

42. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay during their employment;

43. For all actual, consequential and incidental losses and damages, according to proof;

44. For statutory penalties according to proof pursuant to California Labor Code section 210;

45. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

46. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

47. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A) by failing to provide Plaintiff and class members with reporting time pay;

49. For all actual, consequential and incidental losses and damages, according to proof;

50. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law; and

51. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
2 related expenses and costs incurred by Plaintiff and class members;

3 53. For unpaid business-related expenses and such general and special damages as
4 may be appropriate;

5 54. For pre-judgment interest on any unpaid business-related expenses from the
6 date such amounts were due, or as otherwise provided by law;

7 55. For all actual, consequential, and incidental losses and damages, according to
8 proof;

9 56. For attorneys' fees and costs pursuant to California Labor Code section
10 2802(c), or as otherwise provided by law; and

11 57. For such other and further relief as the Court may deem equitable and
12 appropriate.

13 **As to the Tenth Cause of Action**

14 58. That the Court declare, adjudge and decree that Defendants violated the
15 following California Labor Code provisions as to Plaintiff and other aggrieved employees:
16 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by
17 failing to authorize and permit all rest periods); 510 and 1198 (by failing to pay all overtime
18 compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum
19 wages for all hours worked); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
20 statements and maintain accurate payroll records); 204 (by failing to timely pay all earned
21 wages during employment); 201 and 202 (by failing to timely pay all earned wages upon
22 termination); 212 and 213 (by failing to make earned wages accessible without discount, and
23 with authorization); 221 and 224 (by collecting and/or receiving wages already paid); 223 (by
24 secretly paying wages lower than required by statute); 1198 and the applicable IWC Wage
25 Order (by failing to provide reporting time pay); and 2802 (by failing to reimburse business
26 expenses);

27 59. For civil penalties, pursuant to California Labor Code sections 210, 225.5,
28 226.3, 256, 558, 1174.5, 2699(a), (f), and (k), for violations of California Labor Code sections

201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

60. For injunctive relief pursuant to California Labor Code sections 1194.5 and/or 2699(k) to bring Defendants into compliance with the requirements of the applicable IWC Wage Order and California Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

61. For attorneys' fees and costs pursuant to California Labor Code section 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

62. For pre-judgment and post-judgment interest as provided by law; and

63. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

64. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all meal periods; failing to authorize and permit Plaintiff and class members to take all rest periods; failing to provide Plaintiff and class members all overtime wages due to them; failing to provide Plaintiff and class members all minimum wages due to them; failing to provide Plaintiff and class members accurate and complete wage statements; failing to maintain accurate payroll records for Plaintiff and class members; failing to timely pay Plaintiff and class members all earned wages during employment; failing to provide access to wages upon demand, without discount, and with authorization; unlawfully deducting a portion of wages previously paid; secretly paying a lower wage; failing to pay Plaintiff and class members reporting time pay; and failing to reimburse Plaintiff and class members for business-related expenses, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

65. For restitution of unpaid wages to Plaintiff and all class members and

1 prejudgment interest from the day such amounts were due and payable;

2 66. For the appointment of a receiver to receive, manage, and distribute any and all
3 funds disgorged from Defendants and determined to have been wrongfully acquired by
4 Defendants as a result of violations of California Business & Professions Code sections
5 17200, *et seq.*;

6 67. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
7 California Code of Civil Procedure section 1021.5; and

8 68. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 **As to the Twelfth Cause of Action**

11 69. That the Court declare, adjudge and decree that Defendants' conduct of denying
12 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
13 an unfair business practice in violation of California Business and Professions Code sections
14 17200, *et seq.*;

15 70. For restitution of the statutory benefits under section 226.7 unfairly withheld
16 from Plaintiff and class members and prejudgment interest from the day such amounts were
17 due and payable;

18 71. For the appointment of a receiver to receive, manage, and distribute any and all
19 funds disgorged from Defendants and determined to have been wrongfully acquired by
20 Defendants as a result of violations of California Business & Professions Code sections
21 17200, *et seq.*;

22 72. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
23 California Code of Civil Procedure section 1021.5;

24 73. For pre-judgment and post-judgment interest as provided by law; and

25 //

26 //

27 //

28 //

1 74. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: January 13, 2025

Respectfully submitted,

Capstone Law APC

6
7 By: Roxanna Tabatabaeepour

Roxanna Tabatabaeepour

Ryan Tish

Alexander Wallin

Attorneys for Plaintiff Kaliph Chenevert

EXHIBIT “1”



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November 6, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Kaliph Chenevert v. L & W Supply Corporation, et al.*

Dear PAGA Administrator:

This office represents Kaliph Chenevert in connection with his claims under the California Labor Code. Mr. Chenevert was an employee of L & W SUPPLY CORPORATION and/or AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. For the purpose of this letter, Mr. Chenevert collectively refers to these entities as "L&W."

The employers may be contacted directly at the addresses below:

L & W SUPPLY CORPORATION
300 RIVERSIDE PLAZA STE 200
CHICAGO, IL 60606

L & W SUPPLY CORPORATION
PO BOX 838
BELOIT, WI 53512

AMERICAN BUILDERS & CONTRACTORS
SUPPLY CO., INC.
ONE ABC PARKWAY
BELOIT, WI 53511

Mr. Chenevert intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Chenevert seeks relief on behalf of himself, the State of California, and other persons who are or were employed by L&W as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

L&W employed Mr. Chenevert as an hourly paid, non-exempt employee from approximately March 2023 to February 2024. Mr. Chenevert worked for L&W as a Branch Helper/Stocker and Driver Assistant at its Palm Springs, California location. During his employment, Mr. Chenevert typically worked eight (8) or more hours per day and five (5) or more days per week. By the end of his

employment, Mr. Chenevert was compensated approximately \$20.00 per hour. His job duties included, without limitation, assisting drivers with loading, spotting, and equipment maintenance, stocking and inventory tasks, and organizing and staging materials at jobsites.

L&W committed each of the following Labor Code violations against Mr. Chenevert, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):¹

L&W’s Company-Wide and Uniform Payroll and HR Practices

L & W SUPPLY CORPORATION and AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. are Delaware corporations. Together, they are one of the nation’s largest distributors of wallboard, insulation, steel framing, acoustical ceilings and other interior building materials for the needs of commercial and residential contractors. Upon information and belief, L&W maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Chicago, Illinois, or, Beloit, Wisconsin, for all non-exempt, hourly paid employees working for L&W in California, including Mr. Chenevert and other aggrieved employees. At all relevant times, L&W issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Chenevert and other aggrieved employees, regardless of their location or position.

Upon information and belief, L&W maintains a centralized Payroll department at its corporate headquarters in Chicago, Illinois, or, Beloit, Wisconsin, which processes payroll for all non-exempt, hourly paid employees working for L&W in California, including Mr. Chenevert and other aggrieved employees. Further, L&W issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Chenevert and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, L&W utilized the same methods and formulas when calculating wages due to Mr. Chenevert and other aggrieved employees in California.

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and

¹ These facts, theories, and claims are based on Mr. Chenevert’s experience and counsel’s review of those records currently available relating to Mr. Chenevert’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Chenevert reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (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.

First, L&W had, and continues to have, a company-wide policy and/or practice of understaffing its facilities and jobsites while assigning heavy workloads, including pressure to keep up with time-sensitive deliveries, which has resulted in a lack of meal period coverage and prevented Mr. Chenevert and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, L&W had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Mr. Chenevert and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Chenevert and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Chenevert was sometimes required to work straight through his meal periods in order to keep up with the demands of the workload and complete time-sensitive deliveries to multiple construction sites in a day. As another example, about 2-3 times per week, Mr. Chenevert's supervisors required him to return early from his meal periods to keep up with L&W's workload. Additionally, Mr. Chenevert sometimes took his meal periods late, after the fifth hour of work, due to the lack of coverage and L&W's failure to schedule meal periods.

Second, on information and belief, because L&W frowned upon employees accruing meal period premiums, L&W's management pressured Mr. Chenevert and other aggrieved employees to clock out for meal periods, even when they did not receive a compliant meal period. For example, Mr. Chenevert was required to clock out for his meal periods to record that he had received compliant meal periods on shifts when he had not, in fact, received these timely, uninterrupted meal periods.

Third, L&W did not provide Mr. Chenevert and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. During his employment, Mr. Chenevert worked shifts in excess of ten (10) or more hours per day but was never provided a second 30-minute meal period. Mr. Chenevert and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, L&W had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. L&W took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Further, L&W's "Voluntary Waiver of First meal Periods" and "Voluntary Waiver of Second Meal Periods" forms require employees to provide written notice should they wish to revoke the waivers. L&W's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke waivers by providing written notice, discouraged and impeded Mr. Chenevert and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That L&W required Mr. Chenevert and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because L&W's obligation to provide Mr. Chenevert and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times mentioned, L&W knew or should have known that as a result of its company-wide policies and/or practices, Mr. Chenevert and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. L&W further knew or should have known that it did not pay Mr. Chenevert and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Moreover, L&W engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Chenevert and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, L&W failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, L&W regularly failed to authorize and permit Mr. Chenevert and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, L&W’s company-wide practices, including understaffing and assigning heavy workloads, prevented Mr. Chenevert and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, L&W failed to schedule rest periods, which, coupled with L&W’s failure to provide adequate rest period coverage, further led to Mr. Chenevert and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, L&W maintained a company-wide on-premises rest period policy, which effectively required that Mr. Chenevert and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Chenevert and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, L&W effectively maintained control over Mr. Chenevert and other aggrieved employees during rest periods.

As a result of L&W’s practices and policies, Mr. Chenevert and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout his employment, Mr. Chenevert had to regularly forgo at least one (1) of his rest periods each day, because of the pressure to keep up with time-sensitive deliveries, lack of rest period coverage, and L&W’s failure to schedule rest periods for employees. When Mr. Chenevert was able to take rest periods, they would often be interrupted by supervisors requiring him to work to complete inventory counts, unload materials, or attend to customers.

L&W also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Chenevert and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, L&W failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable IWC Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC

Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

L&W willfully failed to pay all overtime wages owed to Mr. Chenevert and other aggrieved employees. During the relevant time period, Mr. Chenevert and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, as stated, L&W had, and continues to have, company-wide policies and/or practices of understaffing its facilities and jobsites while assigning heavy workloads, including pressure to keep up with time-sensitive deliveries. L&W's policies and/or practices resulted in a failure to provide Mr. Chenevert and other aggrieved employees with adequate meal period coverage, and thus, Mr. Chenevert and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. As also stated, L&W had a practice of failing to schedule meal periods which, in conjunction with the assignment of heavy workloads, further caused Mr. Chenevert and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, as stated, Mr. Chenevert worked through all or part of his meal periods due to lack of coverage and heavy workload. L&W did not compensate Mr. Chenevert and other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

Second, as stated, on information and belief, because L&W frowned upon employees accruing meal period premiums, L&W's management pressured employees to clock out for meal periods, regardless of whether they had received a compliant meal period or not. Thus, L&W did not record all hours worked during meal periods, and Mr. Chenevert and other aggrieved employees performed work during meal periods for which they were not paid.

L&W knew or should have known that as a result of these company-wide practices and/or policies, Mr. Chenevert and other aggrieved employees were performing assigned duties off-the-clock during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Chenevert and other aggrieved employees regularly worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Chenevert and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

L&W's failure to pay Mr. Chenevert and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No.7-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. Tit. 8, § 11070(2)(H) (defining “Hours Worked”).

As set forth above, due to L&W’s policies and/or practices of understaffing its facilities and jobsites while assigning heavy workloads, which included pressuring employees to meet time-sensitive repair deadlines, and failing to schedule meal periods, Mr. Chenevert and other aggrieved employees were prevented from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.

Also, as stated above, on information and belief, because L&W frowned upon employees accruing meal period premiums, L&W’s managers pressured employees to clock out for meal periods to reflect compliant meal periods, even when they did not receive a compliant meal period. Thus, L&W systematically failed to pay Mr. Chenevert and other aggrieved for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

L&W did not pay at least minimum wages for all hours worked by Mr. Chenevert and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, L&W did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, L&W regularly failed to pay at least minimum wages to Mr. Chenevert and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. L&W has not provided Mr. Chenevert and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, L&W has knowingly and intentionally provided Mr. Chenevert and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, L&W issued uniform wage statements to Mr. Chenevert and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, L&W violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

Because L&W did not record the time Mr. Chenevert and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), L&W did not list the correct amount of gross wages and net wages earned by Mr. Chenevert and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, L&W failed to accurately list the total number of hours worked by Mr. Chenevert and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, and separate from these violations, L&W issued uniform wage statements to Mr. Chenevert and other aggrieved employees that failed to correctly list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. Mr. Chenevert's and other aggrieved employees' wage statements incorrectly list the employer's address as "One ABC Parkway Beloit, WI 53511" but, according to the California Secretary of State's website, the correct address is "300 RIVERSIDE PLAZA STE 200 CHICAGO, IL 60606". *See example paystub below.*

L&W Supply Corporation One ABC Parkway Beloit, WI 53511 (608) 368-2577

[REDACTED]				
Company	Associate ID	Pay Period Begin	Pay Period End	

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

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 "[k]eep, 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). During the relevant time period, and in violation of Labor Code section

1174(d), L&W willfully failed to maintain accurate payroll records for Mr. Chenevert and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, L&W engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Chenevert and other aggrieved employees, in violation of section 1198. Also, in light of L&W’s failure to provide Mr. Chenevert and other aggrieved employees with second 30-minute meal periods to which they were entitled, L&W kept no records of meal start and end times for second meal periods.

Because L&W failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Chenevert and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Chenevert and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, L&W failed to pay Mr. Chenevert and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, L&W willfully failed to pay Mr. Chenevert and other aggrieved employees who are no longer employed by L&W all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving L&W's employ.

Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 212 and 213 – Unlawful Direct Deposit and Discount of Wages

California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement ("DLSE") decision deeming payroll debit card program permissible relied heavily on:

... [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that "[t]he success of the described procedure, in practice, will of course require that ... it is presented as an *alternative* method for wage payment for which [the employees'] participation is optional." The DLSE also stated, "[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing" (internal citations omitted).

In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

- (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”
- (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”
- (3) the employees receive “an itemized wage statement,” and
- (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

Further, the DLSE notes that the Labor Code manifests:

... [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee’s (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one’s earned and paid wages under a payroll card program which is designed to discharge the employer’s wage payment obligations could impermissibly interfere with an employee’s receipt of paid wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited. (emphases in original)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers “effectively act as *agents* of the client employers in discharging the employer’s wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements.” *DLSE opinion letter* 2008.07.07-2.

During the relevant time period, L&W had an agreement with a payroll service provider, Wisely, for the issuance of payroll cards to employees, including Mr. Chenevert and other aggrieved employees, to discharge its wage payment obligations to its employees. On information and belief, L&W had a practice of and/or policy of automatically issuing payroll debit cards to departing employees without giving them the option to elect their form of payment for their final wages. For example, Mr. Chenevert received his final wages on a payroll debit card without a choice of an alternate method of payment, such as a written check. Instead, L&W automatically enrolled Mr. Chenevert in its payroll debit card program for the purpose of issuing Mr. Chenevert’s final wages to him without prior, voluntary approval from Mr. Chenevert.

Moreover, under L&W’s payroll debit card program, Mr. Chenevert and other aggrieved employees did not have easy access to the entirety of their wages without incurring a fee. Mr. Chenevert and other aggrieved employees were unable to withdraw their entire wages in at least one transaction without incurring a fee, which resulted in a discount in their pay. For example, Mr. Chenevert was subjected to transaction fees when withdrawing his wages from an out-of-network ATM. Thus,

L&W's payroll debit card program was, and continues to be, unlawful as it did not give Mr. Chenevert and other aggrieved employees access to their entire wages without discount and without delay.

California courts recognize a policy favoring the full and prompt payment of wages to employees. L&W's payroll card program is inconsistent with this policy because L&W's program is involuntary and presents a number of obstacles and hurdles that, together, make it difficult for Mr. Chenevert and other aggrieved employees to access their entire wages without discount and without delay, in violation of California Labor Code sections 212 and 213. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with Labor Code sections 212 and 213, pursuant to Labor Code section 225.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

During the relevant time period, upon information and belief, L&W unlawfully deducted a portion of wages previously paid to Mr. Chenevert and other aggrieved employees in violation of California Labor Code section 221. On information and belief, L&W systematically, and on a company-wide basis, provided Mr. Chenevert and other aggrieved employees with payroll debit cards as payment of their wages and/or final wages. Under L&W's payroll debit card program, Mr. Chenevert and other aggrieved employees were assessed various fees in connection with their use of the payroll debit cards. For example, as described above, Mr. Chenevert and other aggrieved employees were required to pay out-of-network ATM withdrawal fees and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Mr. Chenevert and other aggrieved employees resulted in a discount of their wages.

L&W's practice, which resulted in a discount of wages to employees, is tantamount to taking deductions from Mr. Chenevert's and other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with Labor Code sections 221 and 224, pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, L&W willfully and systematically issued payroll debit cards to Mr. Chenevert and other aggrieved employees that discounted their wages by charging various fees in connection with the use of the payroll debit cards. L&W's payroll debit card program resulted in the payment of less than statutorily required wages to Mr. Chenevert and other aggrieved employees.

Thus, L&W paid Mr. Chenevert and other aggrieved employees lower wages than those they were entitled to while purporting that Mr. Chenevert and other aggrieved employees were properly paid.

L&W's failure to pay Mr. Chenevert and other aggrieved employees the correct designated wage, while purporting to pay legal wages, is a violation of California Labor Code section 223. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with Labor Code section 223, pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (k).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11070(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, L&W violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A), because L&W failed to pay Mr. Chenevert and other aggrieved employees reporting time pay when they reported to work for their usual or scheduled shift but were put to work for less than half of their usual or scheduled day’s work.

L&W had a company-wide practice of sending Mr. Chenevert and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Chenevert and other aggrieved employees for half of their scheduled shift. For example, when scheduled to work a shift of eight (8) hours, L&W’s managers sent Mr. Chenevert home one (1) hour after the start of his shift. Although Mr. Chenevert and other aggrieved employees reported to work based on the schedule that was provided to them, L&W would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, L&W did not pay Mr. Chenevert and other aggrieved employees for at least half of their scheduled day’s work or the minimum reporting time pay.

Accordingly, Mr. Chenevert and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A). Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 2699(a), (f), and (k).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” IWC Wage Order No. 7-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

During the relevant time period, Mr. Chenevert and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but L&W failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Chenevert was required to use his personal cellular phone to communicate with his supervisors to discuss the progress of assignments and to take and send pictures of work completed, and for calculating measurements. Although L&W required Mr. Chenevert and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, L&W failed to reimburse them for these costs.

Also, during the relevant time period, L&W required Mr. Chenevert and other aggrieved employees to wear uniforms bearing the L&W company logo, including high visibility shirts and pants. Due to the nature of construction work, Mr. Chenevert's uniforms would become sweaty, soiled, and/or stained by dirt and drywall materials, such that they were unable to mix these clothes in with other laundry. As a result, he had to wash his uniform items separately from his regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms. Thus, L&W failed to maintain uniforms they required Mr. Chenevert and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

L&W could have provided Mr. Chenevert and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices as well as access to laundering services. Or, L&W could have reimbursed employees for the costs of their mobile device usage and laundering expenses or provided a uniform maintenance allowance. Instead, L&W passed these operating costs onto Mr. Chenevert and other aggrieved employees. At all relevant times, Mr. Chenevert did not earn at least two (2) times the minimum wage.

Thus, L&W had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Chenevert and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring L&W into compliance with the applicable IWC Wage Order and Labor Code section 2802, pursuant to Labor Code section 2699(a), (f), and (k).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny 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 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” L&W, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Chenevert’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Chenevert seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Chenevert, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against L&W for violations of California Labor Code sections 201, 202, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Chenevert seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Chenevert’s reasonable attempt to settle his dispute with L&W prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform L&W of Mr. Chenevert’s aforementioned grievances and the proposed remedies as detailed below, while affording L&W a reasonable opportunity to satisfy Mr. Chenevert’s demands.

Demand is hereby made that L&W shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. L&W shall pay Mr. Chenevert and all other aggrieved employees employed by L&W at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. L&W shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods, and paid all reporting time pay.
3. L&W shall conduct a survey or interview all current and former aggrieved employees in California who worked for L&W in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device

expenses, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. L&W shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. L&W also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. L&W shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for L&W's benefit, including, but not limited to, costs of mobile device usage, uniform maintenance, or other expenditures, as required by Labor Code section 2802.
6. L&W shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. L&W shall pay each aggrieved employee unpaid wages and compensation for violations arising from its unlawful use of payroll debt cards, including unlawful direct deposit and discount of wages (Labor Code sections 212 and 213), unlawful deductions (Labor Code sections 221 and 224), and secret payment of lower wages (Labor Code section 223).
8. L&W shall provide all aggrieved employees employed by L&W at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
9. L&W shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
10. L&W shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
11. L&W shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 225.5, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 7-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Alexander Lima
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Alexander Lima', with a stylized flourish extending to the right.

Alexander Lima

Copy: L & W SUPPLY CORPORATION (via U.S. Certified Mail); AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA 90067



7022 2410 0000 2265 0731

L & W SUPPLY CORPORATION
300 RIVERSIDE PLAZA STE 200
CHICAGO, IL 60606

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

L & W SUPPLY CORPORATION
300 RIVERSIDE PLAZA STE 200
CHICAGO, IL 60606



9590 9402 7690 2122 7175 18

2. Article Number (Transfer from previous label)

7022 2410 0000 2265 0731

PS Form 3811, July 2020 PSN 7530-02-000-9053

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A. Signature

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☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
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| ☐ Delivery Restricted Delivery | |
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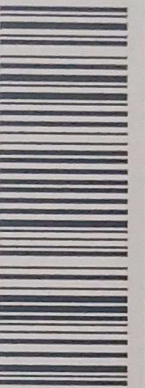
L & W SUPPLY CORPORATION
300 RIVERSIDE PLAZA STE 200
CHICAGO, IL 60606

PS Form 3800, April 2015 PSN 7530-02-000-9017

See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

7022 2410 0000 2265 0748



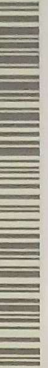
L & W SUPPLY CORPORATION
PO BOX 838
BELOIT, WI 53512

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

L & W SUPPLY CORPORATION
PO BOX 838
BELOIT, WI 53512

9590 9402 8803 4005 5746 44



2. Article Number (Transfer from service label)

7022 2410 0000 2265 0748

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

3. Received by (Printed Name)

C. Date of Delivery

2. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☐ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery Restricted Delivery | |
| ☐ Restricted Delivery | |

Domestic Return Receipt

7022 2410 0000 2265 0748

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$

CHENGUER
V. LBW
Postmark

L & W SUPPLY CORPORATION
PO BOX 838
BELOIT, WI 53512

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

7022 2410 0000 2265 0755



AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.
ONE ABC PARKWAY
BELOIT, WI 53511

7022 2410 0000 2265 0755

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

For delivery information, visit our website at www.usps.com.

Certified Mail Fee
Extra Services & Fees (check box, and fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
Postmark
V. L3w

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.
ONE ABC PARKWAY
BELOIT, WI 53511

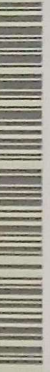
PS Form 3811, July 2020 PSN 7530-02-000-9053 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.
ONE ABC PARKWAY
BELOIT, WI 53511

9590 9402 7690 2122 7175 25



2. Article Number (Transfer from services label)

7022 2410 0000 2265 0755

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below:

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Registered Mail
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery
- ☐ Priority Mail Express
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

(over \$500)

Insured Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

L & W SUPPLY CORPORATION
300 RIVERSIDE PLAZA STE 200
CHICAGO, IL 60606



9590 9402 7690 2122 7175 18

2. Article Number (Transfer from sender label)

7022 2410 0000 2265 0731

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Conrad*

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

Rogers

C. Date of Delivery

11/19/19

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

(over \$500)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.
ONE ABC PARKWAY
BELOIT, WI 53511



9590 9402 7690 2122 7175 25

2. Article Number (Transfer from service label)

7022 2410 0000 2265 0755

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

☒ Agent☐ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

E. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

(over \$500) Restricted Delivery

Domestic Return Receipt