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

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SAN DIEGO**

10 WAYNE RUSSELL, as an aggrieved
11 employee, and on behalf of all other aggrieved
12 employees under the Labor Code Private
Attorneys' General Act of 2004,

13
14 Plaintiff,

15
16 v.

17 KELLANOVA, a Delaware corporation; and
18 DOES 1 through 100, inclusive,

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20 Defendants.
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ELECTRONICALLY FILED

Superior Court of California,

County of San Diego

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Clerk of the Superior Court

By A. Irving ,Deputy Clerk

CASE NO.: 25CU023744C

REPRESENTATIVE ACTION

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

DEMAND FOR JURY TRIAL

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

26 COMES NOW plaintiff WAYNE RUSSELL ("Mr. Russell" or "Plaintiff"), as an aggrieved
27 employee, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys'
28 General Act of 2004, and alleges as follows:

1 **JURISDICTION AND VENUE**

2 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
3 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against KELLANOVA, a
4 Delaware corporation (“KELLANOVA”), and any of its respective subsidiaries or affiliated
5 companies within the State of California, (KELLANOVA, collectively with its respective
6 subsidiaries or affiliated companies within the State of California, and DOES 1 through 100, as
7 further defined below, are collectively hereinafter referred to as “Defendants”), as a proxy of the
8 Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of
9 Plaintiff and all other current and former non-exempt employees of Defendants working within the
10 Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to
11 comply with the Labor Code. Specifically, in connected with the alleged claims for failure to comply
12 with Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.3, 226.7, 432, 432.5, 510,
13 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2699, 2800 and
14 2802, Plaintiff seeks to represent all California employees of Defendants working within one (1)
15 year preceding Plaintiff’s provision of notice to the LWDA of the herein described Labor Code
16 violations and continuing past the date of Plaintiff’s PAGA Notice letter indefinitely based on
17 Defendants’ continuing violations (“Civil Penalty Period”). On all other claims mentioned herein,
18 Plaintiff seeks to represent only non-exempt employees of Defendants working within the Civil
19 Penalty Period. These employees shall collectively be referred to herein as “Aggrieved Employees.”

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

22 3. Venue is proper in San Diego County, California pursuant to Code of Civil Procedure
23 sections 392, *et seq.* because, among other things, San Diego County is where the causes of action
24 complained of herein arose; the county in which the employment relationship began and existed
25 between Plaintiff and Defendants; the county in which performance of the employment contract, or
26 part of it, between Plaintiff and Defendants was due to be performed; the county in which the
27 employment contract, or part of it, between Plaintiff and Defendants was actually performed; and
28 the county in which Defendants, or some of them, reside or do business. Moreover, the unlawful

1 acts alleged herein have a direct effect on Plaintiff and Aggrieved Employees, or some of them, who
2 reside in San Diego County, and because Defendants employ numerous Aggrieved Employees in
3 San Diego County.

4 4. Plaintiff is informed and believes and based thereon alleges that, pursuant to
5 California Code of Civil Procedure section 395.5, Venue is proper in this judicial district and the
6 County of San Diego because Defendants transact business within this judicial district and conduct
7 alleged by Plaintiff herein occurred in this judicial district. (*See also Crestwood Behavioral Health,*
8 *Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 [venue in a PAGA action is proper in any county
9 where the defendants committed Labor Code violations against some of its employees].)

10 5. Based on information and belief, Plaintiff is an “aggrieved employee” under PAGA,
11 as Plaintiff was employed by Defendants during the applicable statutory period and suffered the
12 Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the
13 term “civil penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the
14 Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.*
15 (“PAGA”), as amended, plus reasonable attorneys’ fees and costs, for Plaintiff and all other
16 aggrieved current and former employees of Defendants during the Civil Penalty Period.

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

21 7. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections
22 201, 202, 203, 204, 210, 221, 223, 226, 226.2, 226.3, 226.7, 233, 234, 245, *et seq.*, 246, 432, 432.5,
23 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2699, 2800
24 and 2802, among others.

25 8. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
26 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
27 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
28 specified in Labor Code section 2699.3.

1 9. On or around February 19, 2025, Plaintiff provided written notice pursuant to Labor
2 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
3 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
4 as well as by certified mail, with return receipt requested to Defendants, and each of them.

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

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

14 12. Insofar as any of the Defendant(s) is/are determined to have, prior to Plaintiff's
15 PAGA Notice or a request for records under Labor Code sections 226, 432, or 1198.5, from Plaintiff
16 and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all
17 provisions identified in Plaintiff's PAGA Notice, said Defendant(s) is/are still liable for civil
18 penalties pursuant to Labor Code section 2699(g)(1)-(3).

19 13. Insofar as any of the Defendant(s) is/are deemed to have adequately taken all
20 reasonable steps to be in compliance with all provisions identified in Plaintiff's PAGA Notice within
21 sixty (60) days of receiving Plaintiff's PAGA Notice, said Defendant(s) is/are still liable for civil
22 penalties pursuant to Labor Code section 2699(h)(1)-(3).

23 14. Insofar as the LWDA or a court has issued a finding or determination as to the
24 Defendants, or any of them, that its/their policy(ies) or practice(s) giving rise to such violations
25 was/were unlawful, said Defendant(s) is/are further liable for civil penalties pursuant to Labor Code
26 section 2699(f)(2)(B)(i). Furthermore, insofar as Defendants, or any of them, was/were found to
27 have unlawfully committed some or all of the above-referenced Labor Code violations, said
28 Defendant(s) is/are subject to increased penalties, as applicable, under Labor Code sections

1 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3), and is/are *not* eligible for reduced penalties under
2 either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the
3 serving of Plaintiff's PAGA Notice.

4 15. Moreover, regardless of the foregoing, because Defendants' conduct giving rise to
5 the violations described herein was and is malicious, fraudulent, and/or oppressive, the Defendants
6 are thus subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and, per Labor
7 Code sections 2699(g)(3) and 2699(h)(3), are *not* eligible for reduced penalties under either Labor
8 Code section 2699(g) or 2699(h), for remedying violations either prior to or after the Defendants'
9 receipt of Plaintiff's PAGA Notice.

10 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
11 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
12 calendar days of the February 19, 2025 postmarked date of the herein-described notice sent by
13 Plaintiff to the LWDA and Defendants.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

15 17. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of
17 California in violation of California state wage and hour laws as a result of, without limitation,
18 Plaintiff and other Aggrieved Employees working over eight (8) hours per day, twelve (12) hours
19 per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying
20 them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay
21 for all minutes and hours actually worked at the proper overtime rate of pay; engaging, suffering, or
22 permitting employees to work off the clock, including, without limitation, by requiring Plaintiff and
23 other Aggrieved Employees: to come early to work without being able to clock in for all that time;
24 failing to include all forms of remuneration into the regular rate of pay for the pay periods where
25 overtime was worked and the additional compensation was earned for the purpose of calculating
26 the overtime rate of pay; editing, altering and/or manipulation of time entries to show less hours
27 than actually worked; and for paying overtime hours and minutes worked at the improper rate(s)
28 of pay, all to the detriment of Plaintiff and other Aggrieved Employees.

1 18. At all relevant times mentioned herein, Defendants had and have a practice or policy
2 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
3 worked or otherwise under Defendants' control as a result of, without limitation, failing to
4 accurately track and/or pay for all minutes and hours actually worked at their regular rate of pay that
5 is above the minimum wage; engaging, suffering, or permitting employees to work off the clock;
6 requiring Plaintiff and other Aggrieved Employees: to come early to work without being able to
7 clock in for all that time; editing and/or manipulation of time entries to show less hours than actually
8 worked; failing to pay split shift premiums; and failing to pay reporting time pay all to the detriment
9 of Plaintiff and other Aggrieved Employees.

10 19. At all relevant times mentioned herein, Defendants had and have a policy or practice
11 of failing to provide Plaintiff and other Aggrieved Employees a full, timely thirty (30) minute
12 uninterrupted meal period for days on which they worked more than five (5) hours in a work day
13 and a second thirty (30) minute uninterrupted meal period for days on which they worked in excess
14 of ten (10) hours in a work day, including, without limitation: by not providing timely meal periods;
15 providing short meal periods, including without, limitation meal periods that were recorded for less
16 than thirty minutes, and meal periods that may appear on the record to be thirty minutes or longer
17 but in practice were shorter than thirty minutes due to walking time; time spent having to wait in
18 line to clock back in; having to retrieve and store personal belongings during the meal period; failing
19 to provide meal periods altogether; otherwise requiring on-duty/on-call meal periods, which in turn
20 prevented employees from leaving the premises for meal periods; auto-deducting meal periods that
21 could not be auto-deducted by law or during which employees worked; and failing to provide
22 compensation for such unprovided meal periods as required by California wage and hour laws.

23 20. At all relevant times mentioned herein, Defendants had and have a policy or practice
24 of failing to authorize and permit Plaintiff and other Aggrieved Employees to take rest periods of at
25 least ten (10) minutes per four (4) hours worked or major fraction thereof in which they are
26 completely relieved of all of their duties, including, without limitation: by failing to provide rest
27 periods all together; failing to provide a suitable rest facility; failing to provide rest periods that were
28 at least ten minutes in length, including rest periods that were shorter than ten minutes, or rest

1 periods that may have encompassed a total of ten minutes but were in practice less than ten
2 uninterrupted minutes due to, without limitation, due to walking time; having to retrieve and store
3 personal belongings during the rest period; interrupting them; not providing them in a timely
4 fashion; not permitting employees to leave the premises; and otherwise requiring on-duty/on-call
5 rest periods, and failed to provide compensation for such unprovided rest periods as required by
6 California wage and hour laws.

7 21. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to provide Plaintiff and other Aggrieved Employees the full amount of their wages owed
9 to them upon termination and/or resignation as required by Labor Code sections 201 and 202,
10 including for, without limitation, failing to pay overtime wages, minimum wages, and premium
11 wages.

12 22. At all relevant times mentioned herein, Defendants had and have a policy or practice
13 of failing to provide Plaintiff and other Aggrieved Employees the full amount of their wages for
14 labor performed in a timely fashion as required under Labor Code section 204.

15 23. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of failing to provide Plaintiff and other Aggrieved Employees with itemized wage statements that
17 accurately reflect gross wages earned; total hours worked; net wages earned; all applicable hourly
18 rates in effect during the pay period and the corresponding number of hours worked at each hourly
19 rate; and other such information as required by Labor Code section 226, subdivision (a). As a result
20 thereof, Defendants have, on occasion, further failed to furnish employees with an accurate
21 calculation of gross and gross wages earned, as well as gross and net wages paid.

22 24. At all relevant times mentioned herein, Defendants had and have a policy or practice
23 of failing to indemnify Plaintiff and other Aggrieved Employees for the costs incurred for the
24 purchase and maintenance of cellular phones and cellular phone plans in direct consequence of the
25 discharge of their duties, or of their obedience to the directions of Defendants, as required by Labor
26 Code section 2802, and other statutory and common law offenses.

27 25. At all relevant times mentioned herein, Defendants had and have a policy or practice
28 of failing to comply with Labor Code section 226, subdivision (a) by failing to keep adequate or

1 accurate time records including wage statements and similar payroll documents under Labor Code
2 section 226, intentionally failing to furnish Plaintiff and other Aggrieved Employees with
3 documents signed to obtain or hold employment under Labor Code section 432, personnel records
4 under Labor Code section 1198.5, and time records under Labor Code section 1174, making it
5 difficult for Plaintiff and other Aggrieved Employees to calculate their unpaid wages and/or
6 premium payments, to the detriment of Plaintiff and other Aggrieved Employees.

7 26. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
9 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
10 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
11 Code sections 201, 202, and 203.

12 27. At all relevant times mentioned herein, Defendants have had a policy or practice of
13 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
14 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
15 any calendar month shall be paid for between the 16th and 26th day of the month during which the
16 labor was performed, and labor performed between the 16th and the last day, inclusive of any
17 calendar month, shall be paid for between the 1st and 10th day of the following month" and for
18 payroll periods such as those that are weekly, biweekly, or semimonthly, wages must be paid within
19 seven (7) calendar days following the close of the payroll period in which wages were earned.

20 28. At all relevant times herein mentioned, Defendants had and have a policy of failing
21 to provide all temporary workers of Defendants with owed wages weekly by not later than the
22 regular payday of the following week.

23 29. Defendants had and have a policy or practice of requiring Plaintiff and Aggrieved
24 Employees to agree, in writing, to terms and conditions known by Defendants to be prohibited by
25 law, including, without limitation, purported confidentiality agreements, and other written
26 documents presented for signature and/or assent to Plaintiff and Aggrieved Employees by
27 Defendants. Defendants also required Plaintiff and Aggrieved Employees to inform prospective
28 employers of Defendants' restrictions of Plaintiff and Aggrieved Employees' freedom to work. As

1 such, Plaintiff is informed and believes, and based thereon alleges, that Defendants violated, without
2 limitation, Labor Code section 432.5, 1198 and 2699.

3 30. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
4 Code sections 210, 226.3, 558, 558.1, 1174.5, 1197.1, and 2699 for the herein-described acts, which
5 violate the California Labor Code as described above, including on behalf of Plaintiff and other
6 Aggrieved Employees pursuant to PAGA.

7 **PARTIES**

8 **A. Plaintiff**

9 31. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
10 is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-
11 exempt employee, with duties that included, but were not limited to, operating machinery, machine
12 setup, and calibration production monitoring. Plaintiff is informed and believes, and based thereon
13 alleges, that Plaintiff worked for Defendant from approximately January of 2018 through the
14 present.

15 **B. Defendants**

16 32. Plaintiff is informed and believes and based thereon alleges that defendant
17 KELLANOVA, and at all times relevant hereto was, a corporation organized, authorized, and
18 licensed to do business in the State of Delaware. Plaintiff is further informed and believes, and
19 based thereon alleges, that defendant KELLANOVA is authorized to, and does in fact, operate and
20 do business in the County of San Diego, State of California. At all relevant times herein, defendant
21 KELLANOVA employed Plaintiff and similarly aggrieved employees within the County of San Diego
22 in the State of California.

23 33. Plaintiff is informed and believes and based thereon alleges that defendants
24 KELLANOVA and DOES 1-100, are, and at all times relevant hereto were, "person(s)" as defined
25 in Labor Code section 17 and Cal. Bus. & Prof. Code § 17201.

26 34. The true names and capacities, whether individual, corporate, associate, or otherwise,
27 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
28 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.

1 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
2 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
3 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
4 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
5 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
6 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
7 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
8 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
9 include KELLANOVA, and any of its parent, subsidiary, or affiliated companies within the State of
10 California, as well as DOES 1 through 100 identified herein.

11 **JOINT LIABILITY ALLEGATIONS**

12 35. Plaintiff is informed and believes, and based thereon alleges, that at all times
13 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
14 representative, joint venture or co-conspirator of each of the other defendants, either actually or
15 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
16 employment, joint venture, and conspiracy.

17 36. All of the acts and conduct described herein of each and every corporate and limited
18 liability company defendant was duly authorized, ordered, and directed by the respective and
19 collective defendant corporate and limited liability company employers, and the officers, members
20 and management-level employees of said corporate and limited liability company employers. In
21 addition thereto, said corporate and limited liability company employers participated in the
22 aforementioned acts and conduct of their said employees, agents, and representatives, and each of
23 them; and upon completion of the aforesaid acts and conduct of said corporate and limited liability
24 company employees, agents, and representatives, the defendant corporation and limited liability
25 company respectively and collectively ratified, accepted the benefits of, condoned, lauded,
26 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
27 aforementioned corporate and limited liability company employees, agents and representatives.

28 37. Plaintiff is informed and believes, and based thereon allege, that there exists such a

1 unity of interest and ownership between Defendants, and each of them, that their individuality and
2 separateness have ceased to exist.

3 38. Plaintiff is informed and believes, and based thereon alleges that despite the
4 formation of the purported corporate and/or limited entity existence of KELLANOVA, and DOES
5 1 through 50, inclusive (the “Alter Ego Defendants”), they, and each of them, are one and the same
6 with DOES 51 through 100 (“Individual Defendants”), and each of them, due to, but not limited to,
7 the following reasons:

8 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
9 Defendants who personally committed the wrongful and illegal acts and violated the
10 laws as set forth in this Complaint, and who have hidden and currently hide behind
11 the Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish
12 some other wrongful or inequitable purpose;

13 B. The Individual Defendants derive actual and significant monetary benefits by and
14 through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego
15 Defendants as the funding source for the Individual Defendants’ own personal
16 expenditures;

17 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
18 and the Alter Ego Defendants, while really one and the same, were segregated to
19 appear as though separate and distinct for purposes of perpetrating a fraud,
20 circumventing a statute, or accomplishing some other wrongful or inequitable
21 purpose;

22 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
23 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
24 mentioned herein were, so mixed and intermingled that the same cannot reasonably
25 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
26 are, and at all relevant times mentioned herein were, used by the Individual
27 Defendants as mere shells and conduits for the conduct of certain of their, and each
28 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned

herein were, the alter egos of the Individual Defendants;

E. The recognition of the separate existence of the Individual Defendants and the Alter Ego Defendants would promote injustice insofar that it would permit defendants to insulate themselves from liability to Plaintiff and Aggrieved Employees for violations of the Civil Code, Labor Code, and other statutory violations. The corporate and/or limited liability existence of these defendants should thus be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff and Aggrieved Employees herein;

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

39. As a result of the aforementioned facts, among others, Plaintiff is informed and believes, and based thereon alleges, that the Individual Defendants, the Alter Ego Defendants, and each of them, are joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of the Alter Ego Defendants and the Individual Defendants. Plaintiff performed services for each and every defendant, and to the mutual benefit of all defendants, and all defendants shared control of Plaintiff, either directly or indirectly, and in the manner in which defendants' business was and is conducted.

FIRST CAUSE OF ACTION

(Violation of PAGA – Against All Defendants)

40. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

Civil Penalties Under Labor Code § 210

41. At all relevant times herein, Labor Code section 204, requires and required that:

“[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month” and for payroll periods such as those that are

1 weekly, biweekly, or semimonthly, wages must be paid within seven (7) calendar days following
2 the close of the payroll period in which wages were earned.

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

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

19 Civil Penalties Under Labor Code § 226.3

20 44. Defendants had and have a policy or practice of failing to comply with Labor Code
21 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
22 with itemized wage statements that accurately reflect: reflect gross wages earned; total hours
23 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
24 corresponding number of hours worked at each hourly rate; and other such information as required
25 by Labor Code section 226, subdivision (a).

26 45. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
27 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
28 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for

1 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
2 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

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

5 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
6 and have a policy or practice of failing to furnish non-exempt employees, including, without
7 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;
8 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and
9 the corresponding number of hours worked at each hourly rate; and other such information as
10 required by Labor Code section 226, subdivision (a) as alleged herein.

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

16 Violation of Labor Code § 558

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

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

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

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

50. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum wages, receive meal and rest periods or compensation in lieu thereof, be paid timely wages during their employment and after their employment separation, receive accurate, itemized wage statements, to be provided with the opportunity to inspect employment records, be provided with notice as required under Labor Code section 2810.5, and/or be provided with the proper accrual and use of paid sick leave.

51. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 1174.5

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

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

54. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[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 applicable

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

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

11 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
12 willfully failed keep adequate or accurate time records including wage statements and similar
13 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
14 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
15 under Labor Code section 1174.

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

20 Violation of Labor Code § 1197.1

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

27 A. For any initial violation that is intentionally committed, one hundred dollars (\$100)
28 for each underpaid employee for each pay period for which the employee is underpaid. This amount

1 shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant
2 to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

3 B. For each subsequent violation for the same specific offense, two hundred fifty dollars
4 (\$250) for each underpaid employee for each pay period for which the employee is underpaid
5 regardless of whether the initial violation is intentionally committed. This amount shall be in
6 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section
7 1194.2, and any applicable penalties imposed pursuant to Section 203.

8 C. Wages, liquidated damages, and any applicable penalties imposed pursuant to
9 Section 203, recovered pursuant to this section shall be paid to the affected employee.”

10 59. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
11 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
12 limitation, routinely failing to pay Plaintiff and other Aggrieved Employees’ to pay minimum wages
13 for all hours worked or otherwise under Defendants’ control due to, without limitation, failing to
14 accurately track and/or pay for all minutes and hours actually worked at their regular rate of pay that
15 is above the minimum wage; engaging, suffering, or permitting employees to work off the clock;
16 requiring Plaintiff and other Aggrieved Employees: to come early to work without being able to
17 clock in for all that time; editing and/or manipulation of time entries to show less hours than actually
18 worked; failing to pay split shift premiums; and failing to pay reporting time pay, entitling Plaintiff
19 and other Aggrieved Employees to actual and liquidated damages.

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

26 Civil Penalties Under Labor Code § 2699

27 61. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
28 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed

1 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
2 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
3 action brought by an aggrieved employee on behalf of himself or herself and other current or former
4 employees pursuant to the procedures specified in Labor Code section 2699.3.

5 62. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
6 each of them, violated the Labor Code sections described herein in each of the preceding paragraphs
7 alleged herein.

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

12 64. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
13 Code except those for which a civil penalty is specifically provided, the established civil penalty for
14 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
15 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
16 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
17 employee per pay period for each subsequent violation.

18 65. Moreover, Plaintiff and other Aggrieved Employees within the State of California
19 whom she seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
20 connection with their herein-described claims for civil penalties.

21 **REQUEST FOR JURY TRIAL**

22 A. Plaintiff hereby requests a trial by jury.

23 **PRAYER**

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

26 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
27 558.1, 1174.5, 1197.1, and 2699;

28 B. Injunctive relief under Labor Code sections 2699(e)(1) and 2699(k);

- 1 C. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
2 210, 226.3, 558, 558.1, 1174.5, 1197.1, and 2699;
3 C. Pre-judgment and post-judgment interest;
4 D. For costs of suit incurred herein; and
5 E. Such other and further relief as the Court deems just and proper.

6 Dated: April 28, 2025

J. GILL LAW GROUP, P.C.

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BY: /s/ Jasmin K. Gill

9

JASMIN K. GILL

SACHA POMARES

10

Attorneys for Plaintiff WAYNE RUSSELL, as
an aggrieved employee, and on behalf of all
other aggrieved employees under the Labor
Code Private Attorneys' General Act of 2004,

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