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Superior Court of California
County of Fresno
By: T. Espinoza, Deputy

7 Attorneys for Plaintiff ALBERTO G. MARTINEZ JR
8 on behalf of the State of California and all Aggrieved Employees

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF FRESNO**

11 ALBERTO G. MARTINEZ JR, on behalf of
the State of California and all Aggrieved
12 Employees,

13 Plaintiff,

14 v.

15
16 MOONLIGHT COLD STORAGE, INC., a
California Corporation; MOONLIGHT
17 PACKING CORPORATION, a California
Corporation; MOONLIGHT PACKING
18 COMPANY, LLC, a California Limited
Liability Company; MOONLIGHT SALES
19 CORPORATION, a California Corporation;
and DOES 1-100, inclusive,

20 Defendants.
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Case No.: 25CECG01074

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, ALBERTO G. MARTINEZ JR, (“PLAINTIFF”), on behalf of the State of
2 California and all Aggrieved Employees (as defined below), hereby files this Complaint against
3 Defendants MOONLIGHT COLD STORAGE, INC., a California Corporation; MOONLIGHT
4 PACKING CORPORATION, a California Corporation; MOONLIGHT PACKING COMPANY,
5 LLC, a California Limited Liability Company; MOONLIGHT SALES CORPORATION, a
6 California Corporation; and DOES 1-100, inclusive, (collectively referred to herein as
7 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

8 **INTRODUCTION**

9 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
10 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
11 Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties for
12 DEFENDANTS’ violations of the California Labor Code as alleged below.

13 **JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
15 California statutes, including but not limited to the PAGA, and decisional law and regulations.

16 3. Venue is proper in this judicial district and the County of Fresno pursuant to
17 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
18 this judicial district, DEFENDANTS maintain its principal place of business in this judicial district,
19 DEFENDANTS assigned PLAINTIFF to work in this judicial district, and conduct alleged by
20 PLAINTIFF herein occurred in this judicial district. *See also Crestwood Behavioral Health, Inc. v.*
21 *Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is proper in any county where
22 the defendants committed Labor Code violations against some of its employees). Venue is also
23 proper pursuant to section 393 of the California Code of Civil Procedure because the cause, or some
24 part of the cause, arose in the County of Fresno.

25 **THE PARTIES**

26 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
27 California and a citizen of the State of California.

28 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job

1 title(s) of forklift operator and/or a similar title(s) and/or job position(s) from in or around 2021
2 through in or around July 2024. DEFENDANTS assigned PLAINTIFF to work at one of
3 DEFENDANTS' plants/facilities located in Reedley, California.

4 6. Defendant, MOONLIGHT COLD STORAGE, INC., is a California Corporation
5 that, at all relevant times, was authorized to do business within the State of California and is doing
6 business in the State of California.

7 7. Defendant, MOONLIGHT PACKING CORPORATION, is a California Corporation
8 that, at all relevant times, was authorized to do business within the State of California and is doing
9 business in the State of California.

10 8. Defendant, MOONLIGHT PACKING COMPANY, LLC, is a California Limited
11 Liability Company that, at all relevant times, was authorized to do business within the State of
12 California and is doing business in the State of California.

13 9. Defendant, MOONLIGHT SALES CORPORATION, is a California Corporation
14 that, at all relevant times, was authorized to do business within the State of California and is doing
15 business in the State of California.

16 10. DEFENDANTS own, operate, manage and/or staff its employees to work at the
17 plants, warehouse distribution centers, facilities and/or other locations, including but not limited to,
18 in Reedley, Sanger, Kerman, and other cities throughout California. DEFENDANTS operate its
19 business under various "Moonlight" brand names, including, but not limited to, the following
20 name(s): "Moonlight Companies;" "Moonlight Cold Storage;" "Moonlight Packing Company;"
21 "Moonlight Packing Corporation;" and/or "Moonlight Sales Corporation" DEFENDANTS, through
22 its various locations, serve including but not limited to, the produce, packing, storage and/or
23 distribution industries.¹

24 11. The true names and capacities of the DOE Defendants sued herein as DOES 1
25 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
26 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
27 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this

28 ¹ See <https://www.moonlightcompanies.com/>. Last visited on March 3, 2025.

1 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
2 become known.

3 12. PLAINTIFF is further informed and believes that, at all relevant times, each
4 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
5 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
6 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
7 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
8 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
9 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
10 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
11 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
12 controlled, aided and abetted the conduct of all other Defendants.

13 **JOINT LIABILITY**

14 13. Under California law, the definition of the terms “to employ” are broadly construed
15 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
16 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
17 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
18 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
19 was to reach situations in which multiple entities control different aspects of the employment
20 relationship. Supervision of the work, in the specific sense of exercising control over how services
21 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
22 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
23 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
24 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
25 California, applying a less stringent standard to what constitutes sufficient control by a business
26 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
27 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
28 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the

1 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
2 employment,” *Id.* at 875 [emphasis added].

3 14. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
4 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
5 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
6 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
7 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)
8 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
9 PLAINTIFF and Aggrieved Employees to work for them.

10 15. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
11 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
12 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
13 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
14 policies and practices regardless of the location(s) where they worked. Among other things,
15 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
16 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
17 over the day-to-day operations and employment matters, including the power to hire and fire, set
18 schedules, issue employee policies, and determine rates of compensation across its locations in
19 California; (3) DEFENDANTS utilize the same policies and procedures for all California
20 employees, including issuing the same employee handbooks and other form agreements; (4)
21 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
22 employment matters; and, (6) DEFENDANTS share employees.

23 16. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
24 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
25 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
26 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees’
27 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
28 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved

1 Employees.

2 17. For example, wage statements issued by DEFENDANTS to PLAINTIFF identify
3 "Moonlight Cold Storage, Inc." as the name of the legal entity that is PLAINTIFF's employer.
4 However, various documents contained in DEFENDANTS' personnel file for PLAINTIFF,
5 including but not limited to, employment policy documents, employee training documents, notice
6 to employee as to change in relationship of employment and/or other employment-related
7 documents identify including but not limited to the following as the name of PLAINTIFF's
8 employer: "Moonlight Packing," "Moonlight Packing Company LLC" and/or "Moonlight
9 Companies."

10 18. Additionally, DEFENDANTS, and each of them, maintain the same agent for service
11 of process and/or principal place of business and based on information and belief, utilize some of
12 the same attorneys and/or human resources personnel to oversee employment-related matters.

13 19. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
14 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
15 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
16 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
17 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
18 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
19 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
20 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
21 and Aggrieved Employees' employment with or without cause. Upon information and belief,
22 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
23 writing the details of their compensation, and the manner in which they were to take meal and rest
24 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
25 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
26 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

27 20. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
28 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS

1 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
2 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
3 PLAINTIFF seeks relief in this Complaint.

4 21. By reason of their status as joint employers of PLAINTIFF and Aggrieved
5 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
6 Code and applicable Wage Orders as to all Aggrieved Employees.

7 **PAGA ALLEGATIONS**

8 22. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
9 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
10 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include the
11 following:

12 All current and former non-exempt employees that worked either directly or via a
13 staffing agency for any one or more DEFENDANTS at any location in California at
14 any time from one year plus 65 days from the filing of the initial Complaint through
15 the present ("PAGA Period").

16 23. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
17 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
18 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,
19 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the
20 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has
21 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
22 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
23 violations.

24 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

25 24. PLAINTIFF, on January 23, 2025, through counsel, gave written notice by online
26 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that
27 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
28 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via

1 certified mail.

2 25. The PAGA Notice outlined PLAINTIFF's claims for violations of the California
3 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
4 Employees.

5 26. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
6 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
7 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
8 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
9 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

10 27. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
11 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
12 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

13 **FACTUAL ALLEGATIONS**

14 28. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees
15 worked for DEFENDANTS in the State of California. At all times referenced herein,
16 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
17 permitted them to work.

18 29. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
19 title(s) of forklift operator and/or a similar title(s) and/or job position(s) from in or around 2021
20 through in or around July 2024.

21 30. PLAINTIFF regularly worked at least approximately twelve (12) hours per day, at
22 least five (5) to six (6) days per week.

23 31. DEFENDANTS assigned PLAINTIFF to work at one of DEFENDANTS' plants,
24 warehouse distribution centers and/or facilities located in Reedley, California.

25 32. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
26 DEFENDANTS as hours worked.

27 33. Based on information and belief, PLAINTIFF and other Aggrieved Employees also
28 earned non-discretionary compensation, such as, but not limited to, non-discretionary bonus/

1 incentive pay, shift differential pay and/or other non-discretionary compensation.

2 34. **Unpaid Minimum and Overtime Wages.** Based on information and belief,
3 DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked,
4 resulting in the underpayment of minimum and overtime wages. DEFENDANTS failed to
5 compensate PLAINTIFF and Aggrieved Employees for all hours worked by virtue of,
6 DEFENDANTS' failure to relieve employees of all duties/employer control during unpaid meal
7 periods or otherwise unlawful practices for missed or improper meal periods, as explained below.

8 35. Based on information and belief, DEFENDANTS implemented a policy and/or
9 practice of rounding meal period start and end times and/or automatically deducting at least thirty
10 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
11 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
12 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
13 PLAINTIFF and Aggrieved Employees of all wages owed.

14 36. Based on information and belief, Aggrieved Employees were not paid for all hours
15 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
16 worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

17 37. For example, at times, DEFENDANTS required PLAINTIFF to complete work tasks
18 off-the-clock, including without limitation, responding to work-related calls and/or messages prior
19 to clocking in for the start of PLAINTIFF's shift, after clocking out for the end of PLAINTIFF's
20 shift, during unpaid meal periods and/or otherwise outside of scheduled shift start times, resulting
21 in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment
22 of wages owed to PLAINTIFF.

23 38. Based on information and belief, other Aggrieved Employees were also required to
24 complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-
25 related phone calls and/or messages they received to their phones and/or mobile devices and were
26 required to respond to, including but not limited to, communications from supervisors regarding
27 scheduling and/or other work tasks, resulting in the underpayment of wages owed to Aggrieved
28 Employees.

1 39. Based on information and belief, DEFENDANTS required Aggrieved Employees to
2 be at their assigned workstations at the start of a scheduled shift, thereby forcing Aggrieved
3 Employees to gather work-related equipment/safety gear, make any necessary adjustments to
4 tools/equipment, perform maintenance/cleaning tasks, don work clothing/uniforms/protective
5 equipment, and/or complete other work tasks prior to their scheduled shift and/or prior to clocking
6 in/signing in, thereby resulting in pre-shift off-the-clock work.

7 40. Based on information and belief, at times, Aggrieved Employees were required to
8 stand in line behind other employees to access DEFENDANTS' time-keeping system and/or were
9 required to spend time reinitiating DEFENDANTS' time-keeping system/app before they could
10 clock in for the start of their shifts and/or after completing a purported meal period.

11 41. Based on information and belief, Aggrieved Employees were required to complete
12 other off-the-clock work tasks after clocking out for the end of their shifts and/or during
13 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum
14 and overtime wages owed to Aggrieved Employees. For example, based on information and belief,
15 at times, DEFENDANTS required Aggrieved Employees to clock out for the end of their shifts but
16 to continue working due to the need to return/maintain tools, clean and/or organize their work
17 stations/areas, provide shift status updates and/or debriefings and/or participate in work meetings,
18 respond to work-related communications and/or perform other work tasks off-the-clock, resulting
19 in the underpayment of minimum wages and overtime wages owed to Aggrieved Employees.

20 42. Based on information and belief, DEFENDANTS did not compensate Aggrieved
21 Employees for all time spent donning and doffing personal protective equipment, safety equipment
22 and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses, hats/bump caps/safety helmets
23 and/or face masks) during meal periods, before the start of a scheduled shift, and after completing a
24 scheduled shift, resulting in DEFENDANTS' failure to pay Aggrieved Employees for all work time
25 and the underpayment of minimum wages and overtime wages owed to Aggrieved Employees.

26 43. Based on information and belief, at times, Aggrieved Employees were required to
27 undergo security screenings and/or other mandated screenings before and/or after a scheduled shift
28 and/or before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock

1 work.

2 44. Based on information and belief, at times, DEFENDANTS implemented a time-
3 rounding system that as applied systematically deprived Aggrieved Employees of compensable time
4 because the time-rounding system implemented by DEFENDANTS would almost always, if not
5 always, result in understating actual compensable work time.

6 45. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
7 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
8 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
9 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
10 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
11 forty (40) hours in a week.

12 46. Based on information and belief, DEFENDANTS had actual and/or constructive
13 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
14 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
15 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
16 of California's minimum and overtime wage laws.

17 47. Based on information and belief, DEFENDANTS failed and continue to fail to pay
18 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
19 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
20 a work week, in violation of California's overtime laws.

21 48. Based on information and belief, DEFENDANTS failed to incorporate all non-
22 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
23 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
24 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
25 wages owed to PLAINTIFF and other Aggrieved Employees.

26 49. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
27 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
28 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty

1 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
2 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
3 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
4 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
5 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
6 completely.

7 50. For example, based on information and belief, at times, Aggrieved Employees were
8 forced to skip their owed meal periods completely, take late meal periods in order to complete
9 assigned job duties, were interrupted during purported meal periods, had meal periods cut short,
10 were restricted to DEFENDANTS' premises/their assigned work stations and/or were otherwise
11 required to remain on-duty during unpaid meal periods due to the need to continue assigned job
12 duties.

13 51. For example, at times, PLAINTIFF was forced to complete work tasks during meal
14 periods, take shortened and/or late meal periods (i.e. on or after the fifth hour of work) due to
15 including but not limited to, the need to load trucks and/or complete other assigned job duties.

16 52. For example, DEFENDANTS' time records for PLAINTIFF show PLAINTIFF
17 worked shifts lasting longer than five (5) hours without clocking out for any meal period on
18 including but not limited to, the following dates: February 22, 2024.

19 53. Per DEFENDANTS' unlawful meal period policies and practices, PLAINTIFF was
20 allowed a maximum of one meal period per shift even when working shifts lasting longer than ten
21 (10) and/or twelve (12) hours, in violation of California meal period law.

22 54. For example, DEFENDANTS' time records for PLAINTIFF show PLAINTIFF
23 worked shifts lasting longer than five (5) hours without clocking out for any meal period on
24 including but not limited to the following dates: February 22, 2024.

25 55. For example, PLAINTIFF worked shifts lasting longer than ten (10) hours without
26 receiving any version of a second meal period on including but not limited to the following dates:
27 shift beginning on April 24, 2024 and ending on April 25, 2024; shift beginning on May 20, 2024
28 and ending on May 21, 2024; shift beginning on June 10, 2024 and ending on June 11, 2024; and

1 shift beginning on July 2, 2024 and ending on July 3, 2024.

2 56. DEFENDANTS' pay records for PLAINTIFF that are inclusive of those workdays
3 do not show the payment of any meal period premiums for these missed meal periods, in violation
4 of California meal period law.

5 57. Based on information and belief, other Aggrieved Employees were consistently
6 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
7 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
8 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
9 the need to meet DEFENDANTS' goals and expectations.

10 58. Based on information and belief, DEFENDANTS implemented policies and/or
11 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
12 during unpaid meal periods.

13 59. Based on information and belief, DEFENDANTS required Aggrieved Employees to
14 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
15 into account when scheduling meal periods for Aggrieved Employees. Based on information and
16 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

17 60. Based on information and belief, despite DEFENDANTS' failure to provide lawful
18 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
19 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
20 deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite
21 having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved Employees did
22 not receive lawful meal periods.

23 61. Moreover, based on information and belief, Aggrieved Employees who worked shifts
24 of more than ten (10) and/or twelve (12) hours did not receive a second legally compliant thirty (30)
25 minute second meal period.

26 62. For example, as explained herein, PLAINTIFF did not receive a second meal period
27 on shifts lasting longer than ten (10) and/or twelve (12) hours.

28 63. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and

1 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
2 information and belief, DEFENDANTS did not have a written meal period policy, nor did
3 DEFENDANTS have any sort of compliant policy in practice.

4 64. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
5 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
6 Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
7 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
8 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
9 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

10 65. Based on information and belief, DEFENDANTS had actual and/or constructive
11 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
12 were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
13 violation of California's meal period laws.

14 66. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
15 additional hour of wages at their respective regular rates of compensation for each workday a lawful
16 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
17 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
18 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
19 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
20 compensation for purposes of calculating the owed meal period premium.

21 67. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
22 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
23 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
24 middle of the work period, as required by law.

25 68. PLAINTIFF and other Aggrieved Employees were not adequately informed,
26 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
27 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
28 the taking of duty-free rest periods.

1 69. Based on information and belief, DEFENDANTS did not have a have a compliant
2 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
3 practice.

4 70. For example, based on information and belief, Aggrieved Employees were at times
5 unable to take compliant rest periods due to their need to complete assigned job duties and/or were
6 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods
7 restricted to DEFENDANTS' premises/their assigned work locations/workstations.

8 71. For example, at times, PLAINTIFF did not receive three (3) off-duty, ten-minute rest
9 periods when working shifts lasting longer than ten hours, in violation of California rest period law.

10 72. Based on information and belief, DEFENDANTS failed to authorize net ten-minute,
11 off-duty, rest periods that were insofar as practicable in the middle of the work period as required
12 under California rest period law.

13 73. Based on information and belief, DEFENDANTS did not have a lawful policy,
14 instruction, or practice as to the taking, timing, or duty-free nature of rest periods.

15 74. For example, based on information and belief, DEFENDANTS failed to authorize
16 and permit rest periods that were a "net" ten minutes in a suitable rest area, and instead, to the extent
17 rest periods were provided, DEFENDANTS limited PLAINTIFF and other Aggrieved Employees
18 to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes
19 of leaving their work stations , in violation of California rest period law.

20 75. Based on information and belief, at times, Aggrieved Employees' rest periods were
21 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
22 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring
23 them to skip rest periods completely or otherwise take non-compliant rest periods.

24 76. Moreover, based on information and belief, at times, DEFENDANTS failed to
25 provide any form of a third rest period on shifts lasting longer than ten hours.

26 77. Based on information and belief, Aggrieved Employees were pressured to complete
27 their work duties according to a designated schedule such that rest periods were only taken once
28 tasks were completed, and/or as time permitted.

1 78. Based on information and belief, DEFENDANTS implemented policies and/or
2 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
3 DEFENDANTS' control during rest periods.

4 79. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
5 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
6 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
7 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
8 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
9 shift differential pay, and/or other non-discretionary compensation into the regular rate of
10 compensation for purposes of calculating the owed rest period premium.

11 80. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
12 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
13 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
14 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
15 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
16 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
17 applicable hourly rates in effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee.

19 81. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
20 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
21 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
22 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
23 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
24 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
25 other off-the-clock work policies and practices) which results in a violation of Labor Code section
26 226(a).

27 82. As described herein, based on information and belief, DEFENDANTS also failed to
28 incorporate all forms of non-discretionary compensation earned during the pay period into the

1 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
2 of overtime worked by PLAINTIFF and other Aggrieved Employees.

3 83. Based on information and belief, wage statements issued by DEFENDANTS failed
4 to list all applicable hourly rates in effect during the pay period and the corresponding number of
5 hours worked at each hourly rate by the employee, in violation of including but not limited to, Labor
6 Code section 226(a)(9).

7 84. Based on information and belief, DEFENDANTS issued wage statements to
8 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
9 226(a)(4).

10 85. For example, as explained herein, DEFENDANTS regularly failed to reimburse
11 PLAINTIFF for business expenses, incurred by PLAINTIFF each pay period, thereby deducting
12 business costs from PLAINTIFF's earned wages each pay period, in violation of including but not
13 limited to, Labor Code Section 221, and further failing to itemize these deductions for business
14 costs, on PLAINTIFF's wage statements, in violation of Labor Code Section 226(a)(4).

15 86. Based on information and belief, wage statements issued by DEFENDANTS failed
16 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

17 87. For example, based on information and belief, at times, DEFENDANTS issued wage
18 statements to Aggrieved Employees containing payment for hours worked during previous pay
19 periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate
20 pay period for that pay, further failing to list the total hours worked for the pay period, including but
21 not limited to, the total hours worked for the pay period the pay corresponds with, in violation of
22 including but not limited to, Labor Code section 226(a)(2) and/or 226(a)(6).

23 88. Separately, and independent from the above allegations, based on information and
24 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
25 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
26 entity that is the employer.

27 89. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
28 Employees that were not accurate and did not include all of the statutorily required information. As

1 such, DEFENDANTS violated Labor Code section 226.

2 90. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
3 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
4 were due and owing upon termination or resignation. Based on information and belief,
5 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
6 requirements of Labor Code sections 201-202.

7 91. Upon separation of employment, Aggrieved Employees final paychecks were not
8 timely provided, were not timely provided with all owed vacation pay and/or paid time off and/or
9 did not include all wages owed as they were devoid of, including but not limited to, all owed
10 minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid
11 time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid
12 time off paid at the final rate including non-discretionary compensation, including but not limited
13 to, all owed shift differentials).

14 92. Based on further information and belief, DEFENDANTS failed to timely provide all
15 owed wages immediately upon discharge of employment. Based on information and belief, at times,
16 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
17 Aggrieved Employees would not be called in for work for longer than a single pay period due to
18 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
19 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
20 the end of such periods of employment, in violation of including but not limited to Labor Code
21 section 201-202. As such, DEFENDANTS violated Labor Code sections 201 and/or 202, subjecting
22 DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256.

23 93. These violations subject DEFENDANTS to civil penalties under Labor Code section
24 203, 210, and/or 256.

25 94. **Unreimbursed Business Expenses.** Based on information and belief,
26 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
27 direct consequence of the performance of their job duties without providing reimbursement, in
28 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved

1 Employees were improperly required to provide and maintain work tools that are supposed to be the
2 responsibility of the employer.

3 95. Based on information and belief, DEFENDANTS shifted the costs of doing business
4 onto PLAINTIFF and other Aggrieved Employees requiring them to pay for business expenses,
5 including but not limited to, including but not limited to, uniforms/work clothing/work
6 shoes/personal protective/safety gear/hand tools/equipment, the use of Aggrieved Employees'
7 personal vehicles and/or personal cell phones/mobile devices, internet and/or data usage for work-
8 related purposes, including but not limited to, to receive and respond to work-related messages
9 and/or phone calls.

10 96. For example, based on information and belief, Aggrieved Employees were required
11 to receive and respond to work-related calls and/or messages from supervisors and/or other
12 employees regarding scheduling and/or other work tasks but were not reimbursed by
13 DEFENDANTS at all and/or in full for these business expenses.

14 97. For example, DEFENDANTS required PLAINTIFF to use PLAINTIFF's personal
15 cell phone / personal device(s) for work, including without limitation, for responding to work-related
16 calls and/or messages from DEFENDANTS/employees of DEFENDANTS, yet, DEFENDANTS
17 did not provide PLAINTIFF with any and/or full reimbursement for the business expenses
18 PLAINTIFF incurred in connection with being required to use PLAINTIFF's personal cell phone /
19 personal device(s) to carry out PLAINTIFF's assigned job duties, including, but not limited to,
20 increased data plan charges.

21 98. Based on information and belief, Aggrieved Employees were not reimbursed for the
22 cost of purchasing and/or maintaining their own hand tools and/or equipment required to perform
23 their assigned job duties and/or for the costs of purchasing and/or maintaining work
24 uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

25 99. As explained above, based on information and belief, Aggrieved Employees were
26 not reimbursed for the cost of using their personal vehicle(s), personal phone(s)/personal device(s)
27 for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/work
28 clothing/work shoes, personal protective/safety gear.

1 100. Based on information and belief, DEFENDANTS regularly failed to reimburse and
2 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
3 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
4 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
5 assigned by DEFENDANTS.

6 101. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
7 for all reasonable expenses associated with carrying out their duties required that Aggrieved
8 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
9 2802.

10 102. **Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
11 employee who is discharged shall be paid at the place of discharge, and every employee who quits
12 shall be paid at the office or agency of the employer in the county where the employee has been
13 performing labor. All payments shall be made in the manner provided by law.

14 103. Based on information and belief, DEFENDANTS have a policy and practice of
15 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
16 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
17 office or agency of DEFENDANTS in the county where the work was performed, in violation of
18 Labor Code Section 208.

19 104. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
20 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
21 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
22 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
23 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
24 limited to, any owed shift differentials) to Aggrieved Employees upon separation of employment,
25 in violation of California law, including but not limited to, Labor Code section 227.3.

26 105. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
27 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
28 to said employee." Based on information and belief, DEFENDANTS made unlawful deductions

1 from Aggrieved Employees paychecks during the relevant period including, without limitation,
2 deducting wages for purported overpayments from previous pay periods and/or business costs from
3 Aggrieved Employees' earned wages.

4 106. For example, as explained herein, DEFENDANTS regularly failed to reimburse
5 Aggrieved Employees for business expenses incurred by Aggrieved Employees each pay period,
6 thereby deducting business costs from Aggrieved Employees' earned wages each pay period, in
7 violation of including but not limited to, Labor Code Section 221, and further failing to itemize these
8 deductions for business costs, on PLAINTIFF's wage statements, in violation of Labor Code section
9 226(a)(4).

10 107. Based on information and belief, DEFENDANTS also made unlawful deductions
11 from Aggrieved Employees earned wages for purported overpayments from previous pay periods.
12 Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which
13 subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

14 108. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
15 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
16 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
17 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
18 required by law, including but not limited to the following records: total daily hours worked,
19 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
20 began and ended each work period, time records of meal periods, and accurate itemized wage
21 statements.

22 109. DEFENDANTS have failed and continue to fail to keep accurate and complete
23 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
24 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
25 employer control during unpaid meal periods, failure to record the true start and end times of meal
26 periods, shift start times and shift end times, and other off-the-clock work policies and practices
27 described herein.

28 110. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed

1 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
2 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
3 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
4 accrued sick leave hours on the correct number of hours worked (as a result of the
5 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
6 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
7 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
8 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
9 compensation into the sick leave pay rate calculation.

10 111. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
11 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
12 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
13 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
14 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
15 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
16 used sick leave and the balance of paid sick leave.

17 112. Based on information and belief, throughout the relevant time period,
18 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
19 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave.

20 113. Upon information and belief, DEFENDANTS failed and continue to fail to comply
21 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
22 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
23 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
24 wages.

25 114. As such, DEFENDANTS have violated California's paid sick leave laws and
26 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
27 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
28 unlawful practices and policies violate Labor Code sections 245-248.5.

1 **115. Unlawful Agreements-Unlawful Criminal History Inquiries.**

2 Unlawful Agreements.

3
4 116. Labor Code section 432.5 provides that “no employer...shall require any employee
5 or applicant for employment to agree, in writing, to any term or condition which is known by such
6 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
7 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
8 limited to, unlawful releases and/or waivers, including but not limited to, unlawful meal period
9 waivers as a condition of obtaining and/or continuing employment in violation of Labor Code
10 section 432.5.

11 117. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
12 employment, continued employment, or the receipt of any employment-related benefit, require any
13 applicant for employment or any employee to waive any right...”Based on information and belief,
14 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
15 signed as a condition of employment, including but not limited to, during the onboarding process.
16 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
17 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
18 invalid waivers are otherwise unlawful under Labor Code section 432.6.

19 118. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
20 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
21 432.5.

22 **119. Violation of Labor Code Section 432.6.** Based on information and belief,
23 DEFENDANTS require/required Aggrieved Employees to waive their right to first and/or second
24 meal periods as a condition of working for DEFENDANTS in violation of California law. As such,
25 DEFENDANTS violated including but not limited to, Labor Code section 432.6 by virtue of
26 including but not limited to, requiring Aggrieved Employees to sign invalid meal period waivers as
27 a condition of employment and/or for threatening, retaliating and/or discriminating against and/or
28 terminating Aggrieved Employees because of their refusal to waive their meal period rights.

1 **120. Violation of Labor Code Sections 2100-2112.** Pursuant to Labor Code Sections
2 2100–2112, employers with one hundred (100) or more employees at a single warehouse
3 distribution center, or one thousand (1,000) or more employees at one or more warehouse
4 distribution centers in California are required to provide nonexempt employees, upon hire, with a
5 written description of each quota they are subject to (e.g., quantified number of tasks to be performed
6 or materials to be handled) within a defined period of time and any potential adverse employment
7 action that may result from failure to meet the quota. Labor Code Section 2102 (see below) prohibits
8 adverse employment actions against employees who fail to meet their quota if the quota was not
9 properly disclosed to the employee and prohibits quotas that prevent an employee from taking his
10 or her meal or rest breaks, use of restrooms, or that interfere with compliance with California’s
11 occupational health and safety laws.

12 121. Labor Code Section 2101 provides:

13 122. Each employer shall provide to each employee, upon hire, or within 30 days of the
14 effective date of this part, a written description of each quota to which the employee is subject,
15 including the quantified number of tasks to be performed or materials to be produced or handled,
16 within the defined time period, and any potential adverse employment action that could result from
17 failure to meet the quota.

18 123. Labor Code Section 2102 provides:

19 124. An employee shall not be required to meet a quota that prevents compliance with
20 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
21 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
22 An employer shall not take adverse employment action against an employee for failure to meet a
23 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
24 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
25 disclosed to the employee pursuant to Section 2101.

26 125. Labor Code Section 2104 provides in pertinent part:

27 126. (a)(1) If a current or former employee believes that meeting a quota caused a
28 violation of their right to a meal or rest period or required them to violate any occupational health

1 and safety laws in the Labor Code or division standards, they have the right to request, and the
2 employer shall provide, a written description of each quota to which the employee is subject and a
3 copy of the most recent 90 days of the employee's own personal work speed data.

4 127. (2) If a former employee requests a written description of the quotas to which they
5 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
6 employer shall provide 90 days of the former employee's quotas and personal work speed data for
7 the 90 days prior to the date of the employee's separation from the employer.

8 128. (b) An employer that receives a written or oral request for information pursuant to
9 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
10 days from the date of the request.

11 129. Based on information and belief, during the relevant period, DEFENDANTS
12 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
13 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
14 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
15 relevant period.

16 130. Based on information and belief, DEFENDANTS had/have a policy and practice of
17 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
18 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
19 defined period of time and any potential adverse employment action that may result from failure to
20 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
21 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
22 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
23 compliance of California's occupational health and safety laws.

24 131. Based on further information and belief, DEFENDANTS have/had a policy and
25 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
26 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
27 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
28 Labor Code section 2102.

1 132. Based on information and belief, DEFENDANTS failed and continue to fail to timely
2 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
3 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
4 them to violate any occupational health and safety laws, a written description of each quota to which
5 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
6 personal work speed data.

7 133. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
8 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

9 134. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
10 engaged in these same herein described unlawful practices, which led to violations of the California
11 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
12 unlawful practices to all of its employees that it applied to PLAINTIFF.

13 **FIRST CAUSE OF ACTION**
14 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
15 **2698, *ET SEQ.***
16 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
17 **Defendants)**

18 135. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

19 **Failure to Keep Accurate Records**

20 136. California Labor Code § 1174 requires employers to keep "accurate and complete"
21 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
22 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
23 times during which all owed meal periods were provided each day.

24 137. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
25 and complete records as required by law, including but not limited to the following records: total
26 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
27 Aggrieved Employees began and ended each work period, time records of meal periods, and
28 accurate itemized wage statements.

 138. DEFENDANTS' failure to keep "accurate and complete" payroll records for
PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all

1 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
2 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
3 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
4 period during which the referenced statutes and Wage Order provisions were violated.²

5 **Meal Period Violations**

6 139. California law requires employers to provide employees a duty-free, uninterrupted
7 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
8 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
9 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
10 *Court* (2012) 53 Cal.4th 1004.

11 140. Employers must also provide employees with a second duty-free, uninterrupted thirty
12 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
13 be provided before the end of the 10th hour of work. *Ibid.*

14 141. Employers covered by any and all applicable IWC Wage Orders have an obligation
15 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
16 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
17 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
18 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
19 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
20 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
21 provided”).

22 142. Employers must pay employees an additional hour of wages at the employees’
23 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
24 meal period, first meal period provided after five (5) hours, second meal period provided after 10
25 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
26 provide an employee a meal period in accordance with the applicable provision of this Order, the
27

28 ² Labor Code § 2699(f)

1 employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation
2 for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

3 143. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
4 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
5 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
6 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
7 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
8 periods completely.

9 144. Based on information and belief, DEFENDANTS had and continue to have a policy
10 of rounding the start and end times of employees' meal periods and/or automatically deducting
11 thirty/sixty minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF
12 and Aggrieved Employees did not receive compliant meal periods.

13 145. Moreover, based on information and belief, Aggrieved Employees did not receive a
14 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

15 146. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
16 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
17 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
18 violation of California's meal period laws.

19 147. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
20 periods in violation of California law and/or failed to pay the proper meal period premium for failure
21 to incorporate all non-discretionary remuneration including but not limited to, commissions,
22 multiple base rates of pay, bonuses, shift differential pay and/or other non-discretionary
23 compensation into the regular rate or compensation for purposes of calculating the owed meal period
24 premium.

25 148. These unlawful meal period policies and practices result in violations of Labor Code
26 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
27 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
28 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §

1 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

2 **Rest Period Violations**

3 149. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
4 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
5 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
6 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
7 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
8 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
9 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
10 1029). The rest period requirement obligates employers to permit and authorize employees to take
11 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
12 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
13 257. If the employer fails to provide any required rest period, the employer must pay the employee
14 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
15 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
16 applicable IWC Wage Order, §12(B).

17 150. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
18 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
19 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
20 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
21 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
22 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
23 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
24 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
25 “onus is on the employer to clearly communicate the authorization and permission [to take rest
26 periods] to its employees.”).

27 151. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
28 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained

1 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
2 to DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,
3 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
4 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

5 152. Based on information and belief, DEFENDANTS implemented policies and/or
6 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
7 employer control during rest periods. Based on further information and belief, Aggrieved
8 Employees were pressured to complete their work duties according to a designated schedule such
9 that rest periods were only taken once tasks were completed, and/or as time permitted.

10 153. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
11 first, second, or third rest periods as required by California law.

12 154. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
13 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
14 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
15 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
16 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
17 the regular rate of compensation for purposes of determining the owed rest period premium.

18 155. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
19 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
20 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

21 **Minimum and Overtime Wage Violations**

22 156. California law provides that employees in California must be paid for all hours
23 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
24 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
25 The minimum wage standard applies to each hour employees worked for which they were not paid.
26 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
27 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
28 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

1 157. California law also provides that employees in California must be paid overtime,
2 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
3 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
4 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
5 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
6 consecutive day of work in a work week. *Ibid.*

7 158. As explained above, DEFENDANTS violated California's minimum and overtime
8 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
9 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
10 start and end times and meal period start and end times), payment according to scheduled hours
11 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
12 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
13 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

14 159. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
15 Aggrieved Employees for all hours worked.

16 160. Based on information and belief, DEFENDANTS had actual or constructive
17 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
18 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
19 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
20 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
21 Employees.

22 161. Based on information and belief, DEFENDANTS calculated the owed overtime
23 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
24 based on the minimum wage established for the cities and/or counties within which Aggrieved
25 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
26 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
27 above the California minimum wage rate.

28 162. Based on information and belief, DEFENDANTS failed and continue to fail to pay

1 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
2 in a week.

3 163. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
4 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
5 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
6 violation of California's overtime laws.

7 164. Based on information and belief, DEFENDANTS further violated California's
8 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
9 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
10 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
11 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
12 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
13 other Aggrieved Employees.

14 165. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
15 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
16 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
17 Wage Orders, section 20.

18 **Statutory Wage Violations**

19 166. California Labor Code section 223 makes it unlawful for an employer to secretly pay
20 wages lower than required by statute while purporting to pay legal wages. As described above,
21 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
22 earned minimum and overtime compensation for all hours worked which resulted in the payment of
23 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
24 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
25 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
26 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
27 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
28 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to

1 Labor Code § 2699(f)-(g).

2 **Refusal to Make Payment**

3 167. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
4 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
5 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
6 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
7 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
8 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
9 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
10 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

11 **Standard Conditions of Labor Violations**

12 168. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
13 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
14 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
15 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
16 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
17 minimum/overtime wages and other violations described herein result in separate violations of
18 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
19 1197.1 and 2699.

20 **Business Expense Violations**

21 169. California law requires employers to indemnify their employees for all necessary
22 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
23 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
24 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
25 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
26

27 ³ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 incurred by the employee enforcing the rights granted by this section.”

2 170. Among other things, under California law, when employees must use their personal
3 cellphones for work-related purposes, the employer must reimburse them for a reasonable
4 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
5 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
6 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
7 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
8 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
9 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

10 171. Further, “any contract or agreement, express or implied, made by any employee to
11 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
12 any employee or his personal representative of any right or remedy to which he is entitled to under
13 the laws of this State.” *See* Cal. Lab. Code section 2804.

14 172. As described above, PLAINTIFF and the Aggrieved Employees were improperly
15 required to pay for business expenses that are legally the responsibility of the employer.

16 173. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
17 full reimbursement for all reasonable expenses associated with carrying out their duties required
18 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
19 expenses in violation of Labor Code section 2802.

20 174. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
21 Employees have suffered injury in that they were not completely reimbursed as mandated by
22 California law.

23 175. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
24 full reimbursement for all reasonable expenses associated with carrying out their duties required
25 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
26 expenses in violation of Labor Code section 2802.

27 176. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
28 Employees have suffered injury in that they were not completely reimbursed as mandated by

1 California law.

2 177. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
3 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
4 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
5 Code § 2802 and the applicable Wage Order.

6 **Wage Statement Violations**

7 178. California law requires every employer semi-monthly or at the time of each payment
8 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
9 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
10 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
11 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
12 is paid; (7) the name of the employee and only the last four digits of his or her social security number
13 or an employee identification number other than a social security number; (8) the name and address
14 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
15 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

16 179. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
17 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
18 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
19 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
20 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
21 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
22 effect during the pay period and the corresponding number of hours worked at each hourly rate by
23 the employee, in violation of Labor Code section 226(a)(9).

24 180. Moreover, due to violations detailed above, including but not limited to,
25 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
26 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
27 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
28 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed

1 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
2 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
3 compensation earned during the pay period into the regular rate of pay for purposes of calculating
4 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
5 overtime worked by PLAINTIFF and other Aggrieved Employees.

6 181. As explained above, wage statements issued by DEFENDANTS failed to list the
7 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
8 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
9 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
10 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
11 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
12 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

13 182. Based on information and belief, wage statements issued by DEFENDANTS failed
14 to list all applicable hourly rates in effect during the pay period and the corresponding number of
15 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
16 Code section 226(a)(9).

17 183. Separately, and independent from the above allegations, based on information and
18 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
19 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
20 entity that is the employer.

21 184. Based on information and belief, wage statements issued by DEFENDANTS failed
22 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

23 185. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
24 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
25 Employees over whether they received all wages owed to them.

26 186. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
27 they could not easily determine whether they received all wages owed to them and whether they
28 were paid for all hours worked.

1 187. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
2 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
3 injury as they could not contact their employer regarding any question(s) they had about wages paid.

4 188. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
5 Aggrieved Employees with accurate, itemized wage statements.

6 189. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
7 Employees have suffered injury. The absence of accurate information on their wage statements has
8 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
9 mathematical computations to determine the amount of wages owed, and will cause difficulty and
10 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
11 submission of inaccurate information about wages and amounts deducted from wages to state and
12 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
13 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
14 and pay records than if DEFENDANT had complied with its legal obligations.

15 190. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
16 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
17 during which the statute provisions were violated. ⁴

18 **Violation of Labor Code Section 208**

19 191. Labor Code Section 208 provides: Every employee who is discharged shall be paid
20 at the place of discharge, and every employee who quits shall be paid at the office or agency of the
21 employer in the county where the employee has been performing labor. All payments shall be made
22 in the manner provided by law.

23 192. Based on information and belief, DEFENDANTS have a policy and practice of
24 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
25 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
26 office or agency of DEFENDANTS in the county where the work was performed, in violation of
27 Labor Code Section 208.

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 **Failure to Pay Vested Vacation/Paid Time Off**

2 193. California Labor Code section 227.3 provides that when an employer policy provides
3 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
4 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
5 employee's final rate in accordance with such contract of employment or employer policy respecting
6 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
7 off upon termination.

8 194. Based on information and belief, DEFENDANTS had and continue to have a
9 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
10 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
11 at the properly accrued rates (including but not limited to any owed shift differential pay) to
12 Aggrieved Employees upon separation of employment, in violation of California law, including but
13 not limited to, Labor Code section 227.3.

14 **Untimely Payment of Final Wages**

15 195. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
16 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
17 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
18 employee not having a written contract for a definite period quits his or her employment, his or her
19 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
20 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
21 to his or her wages at the time of quitting."

22 196. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
23 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
24 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
25 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
26 section 256. See, *Iskanian v. CLS Transportation Riverside, LLC*, 59 Cal.4th 348 (2014); see also,
27 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

28 197. Based on information and belief, upon separation of employment, Aggrieved

1 Employees' final paychecks were not timely provided, were not timely provided with all owed
2 vacation pay/ and/or paid time off and/or did not include all wages owed, in violation of Labor Code
3 section 201-202. Based on information and belief, Aggrieved Employees' final paychecks did not
4 include all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
5 overtime wages, premium wages, vacation pay and/or all paid time off wages at the properly accrued
6 rates (including but not limited to any owed shift differential pay).

7 198. Based on information and belief, at times, Aggrieved Employees experienced breaks
8 in employment caused by DEFENDANTS whereby Aggrieved Employees would not be called in
9 for work for longer than a single pay period due to including but not limited to DEFENDANTS'
10 lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
11 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in
12 violation of including but not limited to Labor Code section 201-202.

13 199. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
14 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
15 256.

16 **Unlawful Deductions**

17 200. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
18 an employee any part of wages theretofore paid by said employer to said employee." Based on
19 information and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees
20 paychecks during the relevant period, including without limitation, deducting business costs from
21 Aggrieved Employees' earned wages/paychecks. Such a practice is in violation of including but not
22 limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under
23 Labor Code Section 2699.

24 201. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
25 each pay period during which the statute provisions were violated. See Lab. Code §225.5
26 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
27 provided in this article, every person who unlawfully withholds wages due any employee in
28 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure

1 to pay each employee”).

2 **Sick Leave Violations**

3 202. DEFENDANTS violated California’s paid sick leave laws including, Labor Code
4 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
5 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
6 DEFENDANTS’ failure to account for actual hours worked (as explained above), and/or failure to
7 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
8 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
9 compensation into the sick leave pay rate calculation.

10 203. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
11 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
12 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
13 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
14 Aggrieved Employees’ intelligent exercise of their paid sick leave.

15 204. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
16 their paid sick leave at least prior to their respective separations, for as on several occasions
17 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
18 compensation.

19 205. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
20 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
21 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
22 were entitled to the maximum number of hours accruable.

23 206. Upon information and belief, DEFENDANTS failed and continue to fail to comply
24 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
25 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
26 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
27 wages.

28 207. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

1 208. On information and belief, PLAINTIFF alleges that all of these practices were
2 experienced and continue to be experienced by other Aggrieved Employees.

3 209. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
4 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
5 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

6 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

7 *Unlawful Agreements.*

8 210. Labor Code section 432.5 provides that "no employer...shall require any employee
9 or applicant for employment to agree, in writing, to any term or condition which is known by such
10 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required
11 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
12 limited to, unlawful releases and/or waivers, including but not limited to, unlawful meal period
13 waivers, unlawful forum selection clauses and/or choice of law provisions/agreements as a
14 condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

15 211. Labor Code section 432.6(a), provides that "a person shall not, as a condition of
16 employment, continued employment, or the receipt of any employment-related benefit, require any
17 applicant for employment or any employee to waive any right..."Based on information and belief,
18 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
19 signed as a condition of employment, including but not limited to, during the onboarding process.
20 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
21 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
22 invalid waivers are otherwise unlawful under Labor Code section 432.6.

23 212. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
24 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
25 432.5.

26 **Violation of Labor Code Section 432.6**

27 213. Based on information and belief, DEFENDANTS required Aggrieved Employees to
28 sign meal period waivers that were universally signed as a condition of employment, including but

1 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
2 under Labor Code section 432.6.

3 214. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
4 employment, continued employment, or the receipt of any employment-related benefit, require any
5 applicant for employment or any employee to waive any right...”

6 215. Labor Code Section 432.6(b) provides in pertinent part:

7 216. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
8 applicant for employment or any employee because of the refusal to the waiver of any right...”

9 217. Based on information and belief, DEFENDANTS require/required Aggrieved
10 Employees to waive their right to first and/or second meal periods as a condition of working for
11 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not
12 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
13 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
14 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
15 refusal to waive their meal period rights.

16 **Violation of Labor Code Sections 2100-2112**

17 218. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
18 more employees at a single warehouse distribution center, or one thousand (1,000) or more
19 employees at one or more warehouse distribution centers in California are required to provide
20 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
21 quantified number of tasks to be performed or materials to be handled) within a defined period of
22 time and any potential adverse employment action that may result from failure to meet the quota.
23 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
24 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
25 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
26 with compliance with California’s occupational health and safety laws.

27 219. Labor Code Section 2101 provides:

28 220. Each employer shall provide to each employee, upon hire, or within 30 days of the

1 effective date of this part, a written description of each quota to which the employee is subject,
2 including the quantified number of tasks to be performed or materials to be produced or handled,
3 within the defined time period, and any potential adverse employment action that could result from
4 failure to meet the quota.

5 221. Labor Code Section 2102 provides:

6 222. An employee shall not be required to meet a quota that prevents compliance with
7 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
8 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
9 An employer shall not take adverse employment action against an employee for failure to meet a
10 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
11 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
12 disclosed to the employee pursuant to Section 2101.

13 223. Labor Code Section 2104 provides in pertinent part:

14 224. (a)(1) If a current or former employee believes that meeting a quota caused a
15 violation of their right to a meal or rest period or required them to violate any occupational health
16 and safety laws in the Labor Code or division standards, they have the right to request, and the
17 employer shall provide, a written description of each quota to which the employee is subject and a
18 copy of the most recent 90 days of the employee's own personal work speed data.

19 225. (2) If a former employee requests a written description of the quotas to which they
20 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
21 employer shall provide 90 days of the former employee's quotas and personal work speed data for
22 the 90 days prior to the date of the employee's separation from the employer.

23 226. (b) An employer that receives a written or oral request for information pursuant to
24 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
25 days from the date of the request.

26 227. Based on information and belief, during the relevant period, DEFENDANTS
27 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
28 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California

1 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
2 relevant period.

3 228. Based on information and belief, DEFENDANTS had/have a policy and practice of
4 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
5 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
6 defined period of time and any potential adverse employment action that may result from failure to
7 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
8 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
9 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
10 compliance of California's occupational health and safety laws.

11 229. Based on further information and belief, DEFENDANTS have/had a policy and
12 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
13 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
14 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
15 Labor Code section 2102.

16 230. Based on information and belief, DEFENDANTS failed and continue to fail to timely
17 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
18 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
19 them to violate any occupational health and safety laws, a written description of each quota to which
20 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
21 personal work speed data.

22 231. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
23 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

24 232. Under the provisions of PAGA and the above mentioned Labor Code sections,
25 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
26 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1,
27 1198, 1199, 2699, 2699.3, 2100-2112, 2802, 2810.5 and all applicable Wage Orders as well as all
28 interpretations of these laws by California Courts and administrative bodies, as well as any other

1 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

2 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
3 relevant California Labor Code provisions listed herein only if permitted by the PAGA statute,
4 pursuant to Labor Code section 2699(a); and

5 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
6 violations without a civil penalty recoverable under the PAGA, all in the default amounts provided
7 by Labor Code section 2699(f).

8 233. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
9 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

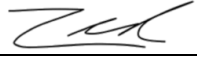
10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of the State
12 of California, and all Aggrieved Employees:

- 13 1. For civil penalties under Labor Code Section 2699;
14 2. For an order temporarily, preliminarily and permanently enjoining and
15 restraining DEFENDANTS from engaging in similar unlawful conduct as set
16 forth herein;
17 3. For reasonable attorney's fees and costs of suit; and
18 4. For such other and further relief that the Court deems just and proper.

19 Dated: March 5, 2025

CROSNER LEGAL, PC

20
21 By: 

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