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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DAISSY GUTIERREZ, an individual and on
behalf of all others similarly situated

Plaintiff,

v.

BOBOSLW, INC., a California Corporation
doing business as BOBO'S LYNWOOD; and
DOES 1 through 100, inclusive

Defendants.

CASE NO.: **25STCV33319**

REPRESENTATIVE ACTION

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

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

1 Plaintiff DAISSY GUTIERREZ (“Plaintiff”) or “Employee”), as an Aggrieved Employee,
2 and on behalf of all other Aggrieved Employees under the Labor Code Private Attorneys’ General
3 Act of 2004, alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against BOBOSLW, Inc.,
7 doing business as BoBo’s Lynwood, a California corporation, and any of its respective subsidiaries
8 or affiliated companies within the State of California (“Defendants”), as a proxy of the Labor and
9 Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and
10 all Aggrieved Employees that worked for Defendants during the PAGA Period. Specifically, in
11 connection with the alleged claims for failure to comply with Labor Code sections 200, 201, 202,
12 203, 204, 210, 221, 223, 226, 226.3, 226.7, 510, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
13 1198, 1198.5, 1197, 1197.1, 2800, 2802, 2699, and among others, Business and Professions Code
14 section and 17200, as well as applicable Wage Orders, Plaintiff seeks to represent all current and
15 former employees that worked for Defendants during the PAGA Period. On all other claims
16 mentioned herein, Plaintiff seeks to represent only non-exempt current and former employees that
17 worked for Defendants during the PAGA Period. Collectively, these employees are herein referred
18 to as “Aggrieved Employees.” The “PAGA Period” refers to three years preceding the date notice
19 was submitted to the LWDA, continuing past the date of notice to the LWDA into perpetuity.

20 **PARTIES**

21 2. Plaintiff DAISSY GUTIERREZ is a resident of the State of California. At all
22 relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 employed Plaintiff as a non-exempt employee in Lynwood, California. Plaintiff worked as a cashier
24 for Defendants from approximately November of 2019 through approximately October of 2024,
25 with duties that included, but were not limited to, sales, working with customers, packing and
26 sending out food deliveries and cleaning up the restaurant.

27 3. Plaintiff is informed and believes and based thereon alleges that defendant
28 BOBOSLW, Inc. is, and at all times relevant hereto was, a corporation organized and existing under

1 and by virtue of the laws of the State of California and doing business in the County of Los Angeles.
2 At all relevant times herein, Defendants employed Plaintiff and Aggrieved Employees within the
3 State of California

4 4. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
6 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
7 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
8 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
9 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
10 the defendants designated hereinafter as DOES when such identities become known.

11 **JURISDICTION**

12 5. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
13 of Civil Procedure section 410.10.

14 6. Venue is proper in Los Angeles County, California pursuant to Code of Civil
15 Procedure sections 392, *et seq.* because, among other things, Los Angeles County is where the
16 causes of action complained of herein arose; the county in which the employment relationship
17 began; the county in which performance of the employment contract, or part of it, between Plaintiff
18 and Defendants was due to be performed; the county in which the employment contract, or part of
19 it, between Plaintiff and Defendants was actually performed; and the county in which Defendants,
20 or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff
21 and Aggrieved Employees in Los Angeles County, and Defendants employ Aggrieved Employees
22 in Los Angeles County.

23 **PAGA REPRESENTATIVE ALLEGATIONS**

24 7. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by
25 Defendants during the PAGA Period and suffered the Labor Code violations set forth herein, even
26 if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to
27 recover civil penalties under PAGA, as amended, plus reasonable attorneys’ fees and costs, for
28 Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil

1 Penalty Period.

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

6 9. During the PAGA Period, Defendants violated, *inter alia*, Labor Code sections 200,
7 201, 202, 203, 204, 210, 221, 223, 226, 226.3, 226.7, 510, 551, 552, 558, 1174, 1174.5, 1182.12,
8 1194, 1194.2, 1198, 1198.5, 1197, 1197.1, 2800, 2802, 2699, and among others, Business and
9 Professions Code section and 17200, as well as applicable Wage Orders.

10 10. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
11 such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within
12 the PAGA Period, to bring a civil action to recover civil penalties pursuant to the procedures
13 specified in Labor Code section 2699.3.

14 11. Pursuant to Labor Code section 2699.3, on or around December 18, 2024, Plaintiff
15 provided written notice of Defendants' violation of various provisions of the Labor Code to the
16 LWDA online and by certified mail, with return receipt requested, to Defendants, ("PAGA
17 Notice").

18 12. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
19 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
20 calendar days of the December 18, 2024 PAGA Notice.

21 13. To the extent Defendants, or either of them, previously used the notice and cure
22 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
23 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
24 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
25 conference process pursuant to section 2699.3(f).

26 14. In the event that Defendants, or either of them, is/are determined to have satisfied
27 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
28 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to

1 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

2 15. In the event that Defendants, or either of them, is/are determined to have, prior to
3 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
4 and/or his/her counsel, adequately taken all reasonable steps to be in compliance with all provisions
5 identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to section
6 2699(g)(1)-(3).

7 16. In the event that Defendants, or either of them is/are deemed to have adequately taken
8 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
9 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
10 Code section 2699(h)(1)-(3).

11 17. Plaintiff is informed and believes that within five (5) years of any of violations
12 described herein, the LWDA or a court issued a finding or determination to the Defendants, or either
13 of them, that the policies or practices which gave rise to such violations were unlawful, and thus
14 liability falls on Defendants, or any of them, for civil penalties pursuant to Labor Code section
15 2699(f)(2)(B)(i). Plaintiff is informed and believes that the LWDA or a court found Defendants, or
16 any of them, to have unlawfully committed some or all of the related Labor Code violations, and
17 thus, increased penalties are warranted, as applicable, under Labor Code sections 2699(f)(2)(B)(i-
18 ii), 2699(g)(3) and 2699(h)(3). As the conduct giving rise to the violations detailed herein was and
19 is malicious, fraudulent, and/or oppressive, Defendants, or any of them, lack eligibility for reduced
20 penalties under either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior
21 to or after the serving of this PAGA Notice.

22 18.

23 **FACTUAL ALLEGATIONS**

24 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
25 each of them, had and have a policy or practice of requiring Plaintiff and other Aggrieved Employees
26 to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight
27 workdays in a workweek (in violation of Labor Code sections 551 and 552) without paying them
28 proper overtime wages every day, as a result of, without limitation, failing to accurately track and/or

1 pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the
2 clock, including, without limitation, by requiring employees to work off the clock and failing to
3 include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal
4 allowances, and/or other forms of remuneration into the regular rate of pay for the pay periods where
5 overtime was worked and the additional compensation was earned for the purpose of calculating the
6 overtime rate of pay. Consequently, Plaintiff is informed and believes, and based thereon alleges,
7 that Defendants violated Labor Code sections 223, 551, 552, 1194, 1198 and applicable Wage
8 Orders based on its practice of providing total compensation that is less than the required legal
9 overtime compensation for the overtime worked, entitling Plaintiff and other Aggrieved Employees
10 to damages, including, without limitation, at least one hour of unpaid overtime wages each day
11 worked by each Aggrieved Employee during the PAGA Period. Plaintiff is further informed and
12 believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations was
13 malicious, fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to
14 Labor Code sections 210 (for failure to timely pay these wages), 558, 1198 and 2699, or injunctive
15 relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties
16 pursuant to Labor Code section 2699(f)(2)(B)(ii).

17 20. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
18 each of them, had and have a practice or policy of failing to compensate Plaintiff and other
19 Aggrieved Employees with minimum wages for all hours worked or otherwise under Defendants'
20 control every day as a result of, without limitation, failing to accurately track and/or pay for all
21 minutes actually worked; engaging, suffering, or permitting employees to work off the clock,
22 including, without limitation, by requiring employees to work off-the-clock.. As such, Plaintiff is
23 informed and believes, and based thereon alleges, that Defendants violated, without limitation,
24 Labor Code sections 1197, 1182.12, and applicable Wage Orders based on its continued failure to
25 pay minimum wages for all hours worked, that Plaintiff and other Aggrieved Employees personally
26 suffered these violations, and Plaintiff and other Aggrieved Employees are entitled to actual and
27 liquidated damages under, without limitation, Labor Code sections 1475, 1194, 1194.2, and 1198 to
28 compensate them for at least one unpaid hour of work per day for each Aggrieved Employee in the

1 PAGA Period. Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
2 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
3 would also be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely
4 pay these wages), 558, 1197.1, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
5 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section
6 2699(f)(2)(B)(ii).

7 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
8 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
9 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per
10 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
11 compensation in lieu thereof by, among other thing, interrupting meal periods; not providing timely
12 meal periods; failing to provide first and second meal periods; providing short meal
13 periods. Plaintiff and other Aggrieved Employees personally suffered these violations.
14 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants violated
15 Labor Code sections 512 and 1198 each day for each Aggrieved Employee during the PAGA Period,
16 and thus each Aggrieved Employee was owed one hour of premium pay at their regular rate of pay
17 for each day worked during the PAGA Period under Labor Code section 226.7. However, Plaintiff
18 is informed and believes that those premium payments under Labor Code section 226.7 were not
19 made for these non-compliant meal periods, either at all or at the proper regular rate of pay.
20 Defendants would thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure
21 to timely pay these wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant
22 meal periods and for failing to provide premium pay under Labor Code section 226.7, or injunctive
23 relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based
24 thereon alleges, that Defendants' conduct that gave rise to such violations was malicious, fraudulent,
25 or oppressive. Defendants would further be liable for civil penalties pursuant to Labor Code section
26 2699(f)(2)(B)(ii).

27 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants
28 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to

1 work over four-hour periods (or major fractions thereof) without authorizing and permitting Plaintiff
2 and other Aggrieved Employees to take uninterrupted, timely, and complete ten-minute rest periods
3 in which the employees are completely relieved of all of their duties, including, without limitation,
4 by failing to provide rest periods all together; failing to provide rest periods that were at least ten
5 minutes in length, including rest periods that were shorter than ten minutes, or rest periods that may
6 have encompassed a total of ten minutes but were in practice less than ten uninterrupted minutes;
7 and not providing rest periods in a timely fashion. Plaintiff and other Aggrieved Employees
8 personally suffered these violations. Consequently, Plaintiff is informed and believes, and based
9 thereon alleges, that Defendants violated the applicable Wage Order(s) each day for each Aggrieved
10 Employee during the PAGA Period, and thus each Aggrieved Employee was owed one hour of
11 premium pay at their regular rate of pay for each day worked during the PAGA Period under Labor
12 Code section 226.7. However, Plaintiff is informed and believes that those premium payments
13 under Labor Code section 226.7 were not made for these non-compliant rest periods, either at all or
14 at the proper regular rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants
15 would thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely
16 pay these wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant rest
17 periods and for failing to provide premium pay under Labor Code section 226.7, or injunctive relief
18 under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
19 alleges, that Defendants' conduct above that gave rise to such violations was malicious, fraudulent,
20 or oppressive. Defendants would further be liable for civil penalties pursuant to Labor Code section
21 2699(f)(2)(B)(ii).

22 23. As a result of, among other things, Defendants' herein-described policy or practice
23 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
24 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
25 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
26 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
27 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that
28 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the

1 inclusive dates of the period for which the employee is paid; the name of the employee and only the
2 last four digits of their social security number or an employee identification number other than a
3 social security number; all deductions; all applicable hourly rates in effect during the pay period and
4 the corresponding number of hours worked at each hourly rate by the employee; and other such
5 information as required by Labor Code section 226, subdivision (a). Specifically, Defendants
6 intentionally failed to furnish employees with itemized wage statements that accurately reflect the
7 hours worked by Plaintiff and other Aggrieved Employees and the rates of pay at which they were
8 or should have been paid (including due to failure to pay at the proper regular rate), thus resulting
9 in a failure to reflect gross and net wages earned and paid at each rate, as well. Consequently,
10 Employee is informed and believes, and based thereon alleges, that Defendants violated Labor Code
11 sections 226, and 1198 each day for each Aggrieved Employee during the PAGA Period, and thus
12 Plaintiff and each Aggrieved Employee personally suffered these violations and was owed penalties
13 under Labor Code section 226 for each pay period worked during the PAGA Period. Plaintiff is
14 informed and believes that those penalties under Labor Code section 226 were not paid for these
15 violations of Labor Code section 226. Defendants would thus be liable for civil penalties pursuant
16 to Labor Code sections 226.3, 558, 1198, and 2699, or injunctive relief under sections 2699(e)(1)
17 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
18 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
19 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

20 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants also
21 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
22 compensation to Plaintiff and other terminated or resigned Aggrieved Employees, including but not
23 limited to, including but not limited to, all overtime wages owed, all minimum wages owed, and all
24 premium pay owed, among other things. Consequently, Plaintiff is informed and believes, and
25 based thereon alleges, that Defendants violated Labor Code sections 201, 202 203, and 1198 each
26 pay period for each Aggrieved Employee during the PAGA Period, and thus Plaintiff and each
27 Aggrieved Employee personally suffered these violations and was owed penalties under Labor Code
28 section 203 for each pay period worked during the PAGA Period. However, Plaintiff is informed

1 and believes that those penalties under Labor Code section 203 were not made for these violations
2 of Labor Code sections 201, 202, and 203. Plaintiff is further informed and believes, and based
3 thereon alleges, that Defendants' conduct above that gave rise to such violations was malicious,
4 fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to Labor
5 Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(j).
6 Defendants would further be liable for civil penalties pursuant to Labor Code section
7 2699(f)(2)(B)(ii).

8 25. Plaintiff is informed and believes, and based thereon alleges that Defendants also
9 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
10 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for separately
11 laundering mandatory uniforms, in direct consequence of the discharge of their duties, or of their
12 obedience to the directions of Defendants, as required by Labor Code sections 1198, 2800, 2802,
13 and other statutory and common law offenses. As a result, Plaintiff and other Aggrieved Employees
14 have personally suffered these violations and Defendants are liable to reimburse Plaintiff and other
15 Aggrieved Employees for these costs incurred in furtherance of work duties. Plaintiff further
16 informed and believes, and based thereon alleges, that Defendants' conduct above that gave rise to
17 such violations was malicious, fraudulent, or oppressive. Defendants would be liable for civil
18 penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under sections
19 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties pursuant to Labor
20 Code section 2699(f)(2)(B)(ii).

21 26. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
22 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with
23 Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days,
24 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
25 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
26 any calendar month, shall be paid for between the 1st and 10th day of the following month." Plaintiff
27 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
28 and other Aggrieved Employees every day and every workweek in accordance with Labor Code

1 sections 204 and 1198. As such, Plaintiff is informed and believes and based thereon alleges that
2 Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees have
3 personally suffered these violations. Plaintiff is further informed and believes, and based thereon
4 alleges, that Defendants' conduct above gave rise to such violations was malicious, fraudulent, or
5 oppressive. Defendants would be liable for civil penalties pursuant to Labor Code sections 210, 558,
6 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would
7 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

8 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
9 or had collected, taken, or received gratuities (or a part thereof) that is paid, given to, or left for
10 Plaintiff and/or Aggrieved Employees by a patron, or deducted amounts from wages due to Plaintiff
11 and/or Aggrieved Employees on account of a gratuity, or required Plaintiff and/or Aggrieved
12 Employees to credit the amount (or a part thereof) of a gratuity against and as part of the wages due
13 to the Plaintiff and/or Aggrieved Employees from the Defendants. In addition, Plaintiff is informed
14 and believes, and based thereon alleges, that Defendants permit and/or permitted patrons to pay
15 gratuities by credit card but failed to pay Plaintiff and/or Aggrieved Employees the full amount of
16 the gratuity that the patron indicated on the credit card slip, without any deductions, for any credit
17 card payment processing fees that may be charged to the employer by the credit card company by
18 not later than the regular payday following the date the patron authorized the credit card. In addition,
19 Defendants failed to keep accurate records of all gratuities received by Defendants and made those
20 open to inspection at all reasonable hours. Plaintiff is informed and believes that this has resulted
21 in a violation of Labor Code sections 351, 353, 1198. As a result, pursuant to Labor Code sections
22 351 and 353, Plaintiff and other Aggrieved Employees have personally suffered violations thereto
23 and Defendants would be liable for civil penalties pursuant to Labor Code sections 351, 353, 1198
24 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed
25 and believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations
26 was malicious, fraudulent, or oppressive. Defendants would further be liable for civil penalties
27 pursuant to Labor Code section 2699(f)(2)(B)(ii).

1 28. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
2 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
3 statements and similar payroll documents under Labor Code section 226, documents signed to
4 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
5 section 1198.5, time records under Labor Code section 1174, making it difficult for Employee and
6 other aggrieved employees to calculate their unpaid wages and/or premium payments. Plaintiff and
7 the Aggrieved Employees personally suffered these violations, which in turn entitle Plaintiff and
8 other Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5.
9 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5,
10 and 2699. Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
11 conduct above that gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
12 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

13 29. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
14 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
15 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
16 Employees pursuant to PAGA.

17 **FIRST AND ONLY CAUSE OF ACTION**

18 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

19 30. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
20 preceding paragraphs as though fully set forth hereat.

21 **Civil Penalties Under Labor Code § 210**

22 31. At all relevant times herein, Labor Code section 204, requires and required that:
23 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
24 between the 16th and 26th day of the month during which the labor was performed, and labor
25 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
26 between the 1st and 10th day of the following month.”

27 32. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
28 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this

1 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
2 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
3 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
4 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
5 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

6 33. At all relevant times herein, Defendants have had a consistent policy or practice of
7 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
8 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
9 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
10 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
11 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
12 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
13 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
14 violation in connection with each payment that was made in violation of Labor Code section 204.

15 Civil Penalties Under Labor Code § 226.3

16 34. Defendants had and have a policy or practice of failing to comply with Labor Code
17 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
18 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
19 wages earned; the name and address of each employer with whom they have been placed to work;
20 all applicable hourly rates in effect during the pay period and the corresponding number of hours
21 worked at each hourly rate; the legal name of the employer; and other such information as required
22 by Labor Code section 226, subdivision (a).

23 35. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
24 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
25 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
26 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
27 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

28 36. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in

1 this section are in addition to any other penalty provided by law.”

2 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
3 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
4 statements as set forth in the preceding paragraphs.

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

10 Violation of Labor Code § 558

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

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

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

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

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

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

Violation of Labor Code § 1174.5

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

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

44. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

45. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any

1 member of the commission or employees of the division to inspect records pursuant to subdivision
2 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

3 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
4 willfully failed to keep adequate or accurate time records including wage statements and similar
5 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
6 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
7 under Labor Code section 1174.

8 47. As a direct and proximate result of the herein-described Labor Code violations,
9 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
10 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five
11 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

12 Violation of Labor Code § 1197.1

13 48. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
14 person acting either individually or as an officer, agent, or employee of another person, who pays
15 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
16 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
17 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
18 Section 203 as follows:

19 (1) For any initial violation that is intentionally committed, one hundred dollars
20 (\$100) for each underpaid employee for each pay period for which the
21 employee is underpaid. This amount shall be in addition to an amount
22 sufficient to recover underpaid wages, liquidated damages pursuant to Section
23 1194.2, and any applicable penalties imposed pursuant to Section 203.

24 (2) For each subsequent violation for the same specific offense, two hundred fifty
25 dollars (\$250) for each underpaid employee for each pay period for which the
26 employee is underpaid regardless of whether the initial violation is
27 intentionally committed. This amount shall be in addition to an amount
28 sufficient to recover underpaid wages, liquidated damages pursuant to Section

1 1194.2, and any applicable penalties imposed pursuant to Section 203.

2 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
3 Section 203, recovered pursuant to this section shall be paid to the affected
4 employee.”

5 49. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
6 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
7 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all
8 hours worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
9 accurately track and/or pay for all hours actually worked; paying straight pay instead of overtime or
10 otherwise failing to pay overtime hours at the proper overtime rate of pay; engaging, suffering, or
11 permitting employees to work off the clock, entitling Plaintiff and other Aggrieved Employees to
12 actual and liquidated damages.

13 50. As a direct and proximate result of the herein-described Labor Code violations,
14 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
15 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
16 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
17 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
18 subsequent violation.

19 Civil Penalties Under Labor Code § 2699

20 51. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
21 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
22 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
23 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
24 action brought by an aggrieved employee on behalf of himself or herself and other current or former
25 employees pursuant to the procedures specified in Labor Code section 2699.3.

26 52. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
27 each of them, violated the Labor Code sections described in the preceding paragraphs.

28 53. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one

1 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
2 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
3 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

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

7 **PRAYER**

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

- 10 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
11 1174.5, 1197.1, and 2699;
12 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
13 210, 226.3, 558, 1174.5, 1197.1, and 2699;
14 C. For equitable, including, without limitation, injunctive relief;
15 C. Pre-judgment and post-judgment interest;
16 D. For costs of suit incurred herein; and
17 E. Such other and further relief as the Court deems just and proper.

18
19
20 Dated: November 14, 2025

BIBIYAN LAW GROUP, P.C.

21
22 BY: /s/ David D. Bibiyan

23 DAVID D. BIBIYAN

24 MOLLY DESARIO

BRYCE BOMMER

25 Attorneys for Plaintiff DAISSY GUTIERREZ,
26 as an Aggrieved Employee, and on behalf of
27 all other Aggrieved Employees under the
28 Labor Code Private Attorneys' General Act of
2004,