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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

ROBERT PALENCIA, on behalf of the State
of California and all Aggrieved Employees,

Plaintiff,

v.

COMPLETE COACH WORKS, a
California Corporation; and DOES 1-100,
inclusive,

Defendants.

Case No.: **CVRI 2501176**

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

1 Plaintiff, ROBERT PALENCIA, (“PLAINTIFF”), on behalf of the State of California and
2 all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 COMPLETE COACH WORKS, a California Corporation; and DOES 1-100, inclusive,
4 (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and
5 thereon alleges as follows:

6 **INTRODUCTION**

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

11 **JURISDICTION AND VENUE**

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

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

22 **THE PARTIES**

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

25 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
26 title(s) of automotive electrician helper and/or a similar title(s) and/or job position(s) from in or
27 around 2022 through in or around November 2024. DEFENDANTS assigned PLAINTIFF to work
28 primarily at DEFENDANTS’ facilities located in Riverside, California.

6. Defendant, COMPLETE COACH WORKS, is a California Corporation that, at all relevant times, was authorized to do business within the State of California and is doing business in the State of California.

7. DEFENDANTS own, operate, manage and/or staff its employees to work at the warehouse distribution centers, warehouses, manufacturing centers, facilities and/or other location(s) in California, including but not limited to warehouse distribution center(s), warehouse(s), manufacturing center(s), facilities and/or other location(s) in Riverside, California. DEFENDANTS specialize in the including but not limited to, manufacture of buses. DEFENDANTS, through its various locations, serve the including but not limited to, manufacturing and/or transportation industry.

8. The true names and capacities of the DOE Defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this Complaint to reflect the true names and capacities of the Doe Defendants when such identities become known.

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

JOINT LIABILITY

10. Under California law, the definition of the terms “to employ” are broadly construed

1 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
2 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
3 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
4 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
5 was to reach situations in which multiple entities control different aspects of the employment
6 relationship. Supervision of the work, in the specific sense of exercising control over how services
7 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
8 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
9 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
10 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
11 California, applying a less stringent standard to what constitutes sufficient control by a business
12 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
13 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
14 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
15 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
16 employment,” *Id.* at 875 [emphasis added].

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

24 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
25 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
26 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
27 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
28 policies and practices regardless of the location(s) where they worked. Among other things,

1 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
2 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
3 over the day-to-day operations and employment matters, including the power to hire and fire, set
4 schedules, issue employee policies, and determine rates of compensation across its locations in
5 California; (3) DEFENDANTS utilize the same policies and procedures for all California
6 employees, including issuing the same employee handbooks and other form agreements; (4)
7 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
8 employment matters; and, (6) DEFENDANTS share employees.

9 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
10 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
11 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
12 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
13 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
14 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
15 Employees.

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

1 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

2 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
3 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
4 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
5 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
6 PLAINTIFF seeks relief in this Complaint.

7 16. By reason of their status as joint employers of PLAINTIFF and Aggrieved
8 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
9 Code and applicable Wage Orders as to all Aggrieved Employees.

10 **PAGA ALLEGATIONS**

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

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

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

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

28 19. PLAINTIFF, on December 13, 2024, through counsel, gave written notice by online

1 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
2 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
3 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
4 certified mail.

5 20. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
6 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
7 Employees.

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

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

16 **FACTUAL ALLEGATIONS**

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

21 24. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
22 title(s) of automotive electrician helper and/or a similar title(s) and/or job position(s) from in or
23 around 2022 through in or around November 2024.

24 25. PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) days
25 per week, at times working more than eight (8) hours in a workday and/or more than forty hours in
26 a workweek.

27 26. DEFENDANTS assigned PLAINTIFF to work primarily at DEFENDANTS’
28 facilities located in Riverside, California. DEFENDANTS also assigned PLAINTIFF to work at

1 other job sites located in California.

2 27. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
3 DEFENDANTS as hours worked.

4 28. PLAINTIFF and other Aggrieved Employees also earned non-discretionary
5 compensation, including without limitation, non-discretionary bonus/incentive pay and/or other
6 non-discretionary compensation.

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

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

19 31. For example, as explained above, DEFENDANTS required PLAINTIFF to monitor
20 a work communication device at all times during PLAINTIFF's shifts, including but not limited to,
21 during unpaid, purportedly off-duty meal periods. As such, PLAINTIFF was rarely, if ever, relieved
22 of all duties and DEFENDANTS' control during unpaid meal periods, resulting in DEFENDANTS'
23 failure to compensate PLAINTIFF for all hours worked and the underpayment of wages owed to
24 PLAINTIFF.

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

28 33. For example, DEFENDANTS required, suffered and/or permitted Aggrieved

1 Employees to complete off-the-clock work tasks prior to clocking in for the start of their shifts, after
2 clocking out for the end of their shifts and/or during unpaid meal periods, resulting in
3 DEFENDANTS' failure to compensate Aggrieved Employees for all hours worked and the
4 underpayment of wages owed to Aggrieved Employees.

5 34. For example, at times, PLAINTIFF was required to respond to calls/text messages
6 from PLAINTIFF's supervisor after hours to discuss work-related matters off-the-clock, resulting
7 in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment
8 of wages owed to PLAINTIFF.

9 35. Based on information and belief, at times, other Aggrieved Employees were also
10 required to complete off-the-clock work outside of scheduled shifts due to including but not limited
11 to, work-related phone calls and/or messages they received to their phones/mobile devices and were
12 required to respond to, including but not limited to, communications from supervisors regarding
13 scheduling and/or other work tasks, resulting in the underpayment of wages owed to those
14 Aggrieved Employees.

15 36. Based on information and belief, Aggrieved Employees were not compensated for
16 all time spent booting, logging into, initiating and/or reinitiating DEFENDANTS'
17 computer/electronic timekeeping systems/apps, resulting in pre-shift off-the-clock work and/or off-
18 the-clock work during unpaid meal periods and the underpayment of minimum wages and overtime
19 wages owed to Aggrieved Employees.

20 37. Based on information and belief, at times, Aggrieved Employees were required to
21 spend time either reinitiating and/or otherwise troubleshooting DEFENDANTS'
22 electronic/employee time-keeping systems/apps prior to being able to clock in and/or were unable
23 to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-
24 the-clock work and the underpayment of wages owed to Aggrieved Employees. Based on
25 information and belief, Aggrieved Employees experienced the same issues when clocking out for
26 shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was not
27 recorded and not compensated and resulted in unpaid minimum wages owed to Aggrieved
28 Employees.

1 38. Based on information and belief, at times, PLAINTIFF and other Aggrieved
2 Employees were pressured to complete work tasks off-the-clock, such as but not limited to,
3 gathering/returning work-related equipment/safety gear, make any necessary adjustments to
4 tools/equipment/their assigned vehicles, perform maintenance/cleaning tasks, donning/doffing work
5 clothing/uniforms/protective equipment, make/respond to work-related communications and/or
6 complete other work tasks off-the-clock, however, DEFENDANTS failed to compensate
7 PLAINTIFF and other Aggrieved Employees for all time spent completing these/other work-related
8 tasks, resulting in DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved
9 Employees for all hours worked and the underpayment of wages owed to PLAINTIFF and other
10 Aggrieved Employees.

11 39. As explained herein, based on information and belief, at times, Aggrieved Employees
12 were required to stand in line behind other employees to access DEFENDANTS' time-keeping
13 system and/or were required to spend time reinitiating DEFENDANTS' time-keeping system before
14 they could clock in for the start of their shifts and/or after completing a purported meal period.

15 40. Based on information and belief, DEFENDANTS failed to pay Aggrieved
16 Employees the applicable minimum wage for the county and/or city within which the Aggrieved
17 Employee worked in California.

18 41. For example, based on information and belief, DEFENDANTS failed to pay
19 Aggrieved Employees who worked in the city and/or county of San Francisco, at the applicable
20 hourly wage rate(s) in effect for the city and/or county of San Francisco, and as such failed to pay
21 all owed minimum wages, in violation of, including but not limited to, the San Francisco Minimum
22 Compensation Ordinance and Labor Code Section 1197. See, e.g., San Francisco Labor and
23 Employment Code, Division II, Article 111, Section 111.3(a)(1)(A)(ii) Minimum Compensation
24 Components (increasing the minimum wage rate, effective July 1, 2023, to \$20.22 per hour and to
25 \$20.96, effective July 1, 2024).

26 42. *Failure to compensate at the San Francisco minimum/hourly gross compensation*
27 *rate:* The San Francisco Minimum Compensation Ordinance codified at San Francisco Labor and
28 Employment Code, Division II, Article 111,

1 Section 111.3 Minimum Compensation Components requires covered employers to compensate
2 non-exempt employees at a rate no less than the Minimum Compensation Ordinance hourly wage
3 in effect.

4 43. As explained herein, based on information and belief, DEFENDANTS failed to pay
5 Aggrieved Employees who worked in the city and/or county of San Francisco, at the applicable
6 hourly wage rate(s) in effect for the city and/or county of San Francisco, and as such failed to pay
7 all owed minimum wages, in violation of, including but not limited to, the San Francisco Minimum
8 Compensation Ordinance and Labor Code Section 1197. See San Francisco Labor and Employment
9 Code, Division II, Article 111, Section 111.3(a)(1)(A)(ii) Minimum Compensation Components
10 (increasing the minimum wage rate, effective July 1, 2023, to \$20.22 per hour and to \$20.96,
11 effective July 1, 2024).

12 44. Moreover, the San Francisco Minimum Compensation Ordinance mandates that
13 covered employers provide its non-exempt employees with compensated paid time off at an hourly
14 rate that on an annualized basis is equivalent to twelve (12) days per year. San Francisco Labor
15 and Employment Code, Division II, Article 111, Section 111.3(a)(1)(E)(2).

16 45. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
17 other Aggrieved Employees who worked in the city and/or county of San Francisco with
18 compensated paid time off at an hourly rate that on an annualized basis is equivalent to twelve (12)
19 days per year, and as such failed to pay all owed minimum wages, in violation of, including but not
20 limited to, the San Francisco Minimum Compensation Ordinance and Labor Code Section 1197.

21 46. Lastly, The San Francisco Minimum Compensation Ordinance requires covered
22 employers to provide its non-exempt employees with uncompensated time off equivalent to ten (10)
23 days per year. San Francisco Labor and Employment Code, Division II, Article 111, Section
24 111.3(a)(1)(E)(3).

25 47. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
26 other Aggrieved Employees who worked in the city and/or county of San Francisco with
27 uncompensated time off equivalent to ten (10) days per year, and as such failed to pay all owed
28 minimum wages, in violation of, including but not limited to, the San Francisco Minimum

1 Compensation Ordinance and Labor Code Section 1197.

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

6 49. 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 50. 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 51. 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 52. Based on information and belief, DEFENDANTS calculated the owed overtime
22 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
23 based on the minimum wage established for the cities and/or counties within which Aggrieved
24 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
25 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
26 above the California minimum wage rate.

27 53. Based on information and belief, DEFENDANTS failed to incorporate all non-
28 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive

1 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
2 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
3 wages owed to PLAINTIFF and other Aggrieved Employees.

4 54. For example, based on information and belief, Aggrieved Employees earned non-
5 discretionary piece-rate compensation, shift differential pay, non-discretionary bonuses/incentive
6 pay and/or other non-discretionary compensation during pay periods in which they worked
7 overtime, yet DEFENDANTS failed to incorporate all non-discretionary compensation into the
8 regular rate(s) used to calculate the owed overtime rate(s), resulting in the miscalculation and
9 underpayment of overtime wages owed to Aggrieved Employees.

10 55. For example, DEFENDANTS implemented an incentive pay structure in which
11 Aggrieved Employees accrued additional hours of pay based on number of hours of work and
12 compliance with DEFENDANTS' policies and practices. DEFENDANTS had the authority to
13 reduce or "dock" the number of accrued paid hours for failing to comply with DEFENDANTS'
14 policies. For example, if an Aggrieved Employee was late for work, DEFENDANTS would "dock"
15 time from accrued paid time off. This pay structure created/creates the functional equivalent of non-
16 discretionary incentive pay in which Aggrieved Employees are incentivized to comply with
17 DEFENDANTS' policies and practices, however, DEFENDANTS failed to incorporate this earned
18 non-discretionary pay into the regular rate(s) of pay for purposes of calculating the owed overtime
19 rate(s), owed meal period premiums and owed rest period premiums, resulting in the miscalculation
20 and underpayment of owed overtime wages, owed meal period premiums and owed rest period
21 premiums.

22 56. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
23 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
24 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
25 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
26 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
27 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
28 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary

1 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
2 completely.

3 57. For example, at times, PLAINTIFF was forced to take shortened, interrupted and/or
4 late meal periods (i.e. after working five (5) or more hours) due to including but not limited to, the
5 need to complete assigned job duties.

6 58. Based on information and belief, DEFENDANTS would unlawfully edit the clock in
7 and out times for PLAINTIFF's and other Aggrieved Employees' meal periods in order to display a
8 timely at least thirty minute off-duty meal period during most if not all shifts worked
9 notwithstanding that DEFENDANTS had actual and/or constructive knowledge that Aggrieved
10 Employees were forced to take noncompliant meal periods and/or work through their meal periods.

11 59. Based on information and belief, per DEFENDANTS' uniform policy and practice,
12 Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally
13 compliant thirty (30) minute second meal break.

14 60. Based on information and belief, PLAINTIFF did not sign a valid meal period waiver
15 during PLAINTIFF's employment.

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

21 62. Based on information and belief, DEFENDANTS implemented policies and/or
22 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
23 during unpaid meal periods.

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

28 64. Based on information and belief, despite DEFENDANTS' failure to provide lawful

1 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
2 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
3 deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite
4 having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved Employees did
5 not receive lawful meal periods.

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

9 66. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
10 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
11 information and belief, DEFENDANTS did not have a written meal period policy, nor did
12 DEFENDANTS have any sort of compliant policy in practice.

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

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

23 69. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
24 additional hour of wages at their respective regular rates of compensation for each workday a lawful
25 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
26 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
27 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
28 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or

1 compensation for purposes of calculating the owed meal period premium.

2 70. For example, as described herein, DEFENDANTS implemented an incentive pay
3 structure in which Aggrieved Employees earned non-discretionary compensation in pay periods
4 during which they missed meal periods and/or received non-compliant meal periods, however, to
5 the extent meal period premiums were paid at all, DEFENDANTS failed to incorporate this
6 incentive pay into the regular rate(s) of pay used to calculate any owed meal period premiums
7 resulting in the miscalculation and underpayment of meal period premium payments.

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

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

16 73. Based on information and belief, DEFENDANTS did not have a have a compliant
17 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
18 practice.

19 74. Based on information and belief, Aggrieved Employees were at times unable to take
20 compliant rest periods due to lack of coverage/their need to complete assigned job duties and/or
21 were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest
22 periods restricted to DEFENDANTS' premises/their assigned work locations/workstations.

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

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

28 77. Based on information and belief, at times, Aggrieved Employees' rest periods were

1 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
2 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring
3 them to skip rest periods completely or otherwise take non-compliant rest periods.

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

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

9 80. Based on information and belief, DEFENDANTS implemented policies and/or
10 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
11 DEFENDANTS' control during rest periods.

12 81. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
13 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
14 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
15 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
16 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
17 shift differential pay, and/or other non-discretionary compensation into the regular rate of
18 compensation for purposes of calculating the owed rest period premium.

19 82. For example, as described herein, DEFENDANTS implemented an incentive pay
20 structure in which Aggrieved Employees earned non-discretionary compensation in pay periods
21 during which they missed rest periods and/or received non-compliant rest periods, however, to the
22 extent rest period premiums were paid at all, DEFENDANTS failed to incorporate this incentive
23 pay into the regular rate(s) of pay used to calculate any owed rest period premiums resulting in the
24 miscalculation and underpayment of rest period premium payments owed to Aggrieved Employees.

25 83. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
26 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
27 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
28 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements

1 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
2 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
3 applicable hourly rates in effect during the pay period and the corresponding number of hours
4 worked at each hourly rate by the employee.

5 84. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
6 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
7 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
8 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
9 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
10 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
11 other off-the-clock work policies and practices) which results in a violation of Labor Code section
12 226(a).

13 85. Separately, and independent of the above allegations, based on information and
14 belief, at times, DEFENDANTS issued wage statements to Aggrieved Employees that failed to list
15 the total hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

16 86. As described herein, based on information and belief, DEFENDANTS also failed to
17 incorporate all forms of non-discretionary compensation earned during the pay period into the
18 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
19 of overtime worked by PLAINTIFF and other Aggrieved Employees.

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

24 88. Based on information and belief, DEFENDANTS issued wage statements to
25 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
26 226(a)(4).

27 89. For example, as explained herein, DEFENDANTS regularly failed to reimburse
28 PLAINTIFF for business expenses, incurred by PLAINTIFF each pay period, thereby deducting

1 business costs from PLAINTIFF's earned wages each pay period, in violation of including but not
2 limited to, Labor Code Section 221, and further failing to itemize these deductions for business
3 costs, on PLAINTIFF's wage statements, in violation of Labor Code Section 226(a)(4).

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

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

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

16 93. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
17 Employees that were not accurate and did not include all of the statutorily required information. As
18 such, DEFENDANTS violated Labor Code section 226.

19 94. **Failure to Produce Employment Records.** Based on information and belief,
20 DEFENDANTS have a uniform policy and practice of failing to timely produce or make available
21 a current or former employee's time, pay, and/or personnel records when requested pursuant to
22 Labor Code sections 226 and/or the applicable Wage Order.

23 95. For example, PLAINTIFF, through counsel, sent a written request for payroll and
24 personnel records to DEFENDANTS on or around including but not limited to the following date(s):
25 December 13, 2024. Yet, DEFENDANTS failed to timely produce complete records within the time
26 periods delineated by California labor law. For example, to date, DEFENDANTS have not
27 produced any records.

28 96. Based on information and belief, DEFENDANTS failed and continue to fail to timely

1 produce complete time, pay, and personnel records when requested by other Aggrieved Employees.

2 97. **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 98. 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 99. For example, DEFENDANTS failed to furnish PLAINTIFF with a final paycheck
15 containing all owed paid time off, including but not limited to at least four (4) days of paid time off
16 wages owed but never paid to PLAINTIFF.

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

26 101. These violations subject DEFENDANTS to civil penalties under Labor Code section
27 203, 210, and/or 256.

28 102. **Unreimbursed Business Expenses.** Based on information and belief,

1 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
2 direct consequence of the performance of their job duties without providing reimbursement, in
3 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved
4 Employees were improperly required to provide and maintain work tools that are supposed to be the
5 responsibility of the employer.

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

13 104. For example, based on information and belief, Aggrieved Employees were required
14 to receive and respond to work-related calls and/or messages from including but not limited to
15 supervisors and/or other employees regarding scheduling and/or other work tasks and/or were
16 required to download and use work-related applications on their personal cell phones/mobile devices
17 but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses.

18 105. For example, at times, including but not limited to, when DEFENDANTS assigned
19 PLAINTIFF to work in the field, DEFENDANTS required PLAINTIFF to respond to work-related
20 calls and/or messages on his personal cell phone/mobile device without reimbursing PLAINTIFF at
21 all and/or in full for these business expenses. DEFENDANTS also required PLAINTIFF to
22 communicate with DEFENDANTS via PLAINTIFF's personal cell phone/mobile device when
23 working in the field to relay to DEFENDANTS PLAINTIFF's total hours worked.

24 106. PLAINTIFF was also required to respond to calls/text messages from PLAINTIFF's
25 supervisor after hours on PLAINTIFF's personal phone/device(s) without being provided any
26 reimbursement for these business expenses.

27 107. Based on information and belief, DEFENDANTS also did not provide other
28 Aggrieved Employees with any and/or full reimbursement for the business expenses Aggrieved

1 Employees incurred in connection with being required to use their personal cell phone/personal
2 devices to carry out their assigned job duties, including without limitation, increased data plan
3 charges.

4 108. As explained above, based on information and belief, DEFENDANTS did not
5 reimburse Aggrieved Employees for the cost of using their personal phone/mobile device for work-
6 related purposes and/or the cost of purchasing and/or maintaining work uniforms/work
7 clothing/work shoes, personal protective/safety gear/ hand tools/work equipment.

8 109. Based on information and belief, DEFENDANTS regularly failed to reimburse and
9 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
10 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
11 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
12 assigned by DEFENDANTS.

13 110. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
14 for all reasonable expenses associated with carrying out their duties required that Aggrieved
15 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
16 2802.

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

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

26 113. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
27 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
28 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or

1 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
2 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
3 limited to, any owed shift differentials) to Aggrieved Employees upon separation of employment,
4 in violation of California law, including but not limited to, Labor Code section 227.3.

5 114. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
6 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
7 to said employee.” Based on information and belief, DEFENDANTS made unlawful deductions
8 from Aggrieved Employees paychecks during the relevant period including, without limitation,
9 deducting wages for purported overpayments from previous pay periods and/or business costs from
10 Aggrieved Employees’ earned wages.

11 115. For example, as explained herein, DEFENDANTS regularly failed to reimburse
12 Aggrieved Employees for business expenses incurred by Aggrieved Employees each pay period,
13 thereby deducting business costs from Aggrieved Employees’ earned wages each pay period, in
14 violation of including but not limited to, Labor Code Section 221, and further failing to itemize these
15 deductions for business costs, on PLAINTIFF’s wage statements, in violation of Labor Code section
16 226(a)(4).

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

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

1 118. DEFENDANTS have failed and continue to fail to keep accurate and complete
2 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
3 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
4 employer control during unpaid meal periods, failure to record the true start and end times of meal
5 periods, shift start times and shift end times, and other off-the-clock work policies and practices
6 described herein.

7 119. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
8 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
9 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
10 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
11 accrued sick leave hours on the correct number of hours worked (as a result of the
12 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
13 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
14 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
15 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
16 compensation into the sick leave pay rate calculation.

17 120. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
18 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
19 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
20 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
21 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
22 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
23 used sick leave and the balance of paid sick leave.

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

27 122. Upon information and belief, DEFENDANTS failed and continue to fail to comply
28 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with

1 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
2 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
3 wages.

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

8 124. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

9 Unlawful Agreements.

10
11 125. Labor Code section 432.5 provides that "no employer...shall require any employee
12 or applicant for employment to agree, in writing, to any term or condition which is known by such
13 employer...to be prohibited by law." Based on information and belief, DEFENDANTS required
14 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
15 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
16 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
17 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
18 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
19 employment in violation of Labor Code section 432.5.

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

28 127. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a

1 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
2 432.5.

3 128. **Violation of Labor Code Section 432.6.** Based on information and belief,
4 DEFENDANTS require/required Aggrieved Employees to waive their right to first and/or second
5 meal periods as a condition of working for DEFENDANTS in violation of California law. As such,
6 DEFENDANTS violated including but not limited to, Labor Code section 432.6 by virtue of
7 including but not limited to, requiring Aggrieved Employees to sign invalid meal period waivers as
8 a condition of employment and/or for threatening, retaliating and/or discriminating against and/or
9 terminating Aggrieved Employees because of their refusal to waive their meal period rights.

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

21 130. Labor Code Section 2101 provides:

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

27 132. Labor Code Section 2102 provides:

28 133. An employee shall not be required to meet a quota that prevents compliance with

1 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
2 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
3 An employer shall not take adverse employment action against an employee for failure to meet a
4 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
5 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
6 disclosed to the employee pursuant to Section 2101.

7 134. Labor Code Section 2104 provides in pertinent part:

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

13 136. (2) If a former employee requests a written description of the quotas to which they
14 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
15 employer shall provide 90 days of the former employee's quotas and personal work speed data for
16 the 90 days prior to the date of the employee's separation from the employer.

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

20 138. Based on information and belief, during the relevant period, DEFENDANTS
21 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
22 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
23 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
24 relevant period.

25 139. Based on information and belief, DEFENDANTS had/have a policy and practice of
26 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
27 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
28 defined period of time and any potential adverse employment action that may result from failure to

1 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
2 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
3 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
4 compliance of California's occupational health and safety laws.

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

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

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

18 143. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
19 engaged in these same herein described unlawful practices, which led to violations of the California
20 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
21 unlawful practices to all of its employees that it applied to PLAINTIFF.

22 **FIRST CAUSE OF ACTION**
23 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
24 **2698, *ET SEQ.***
25 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
26 **Defendants)**

27 144. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

28 **Failure to Keep Accurate Records**

145. California Labor Code § 1174 requires employers to keep "accurate and complete"
payroll records showing, among other things, the hours worked daily by all non-exempt employees.

1 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
2 times during which all owed meal periods were provided each day.

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

8 147. DEFENDANTS' failure to keep "accurate and complete" payroll records for
9 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
10 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
11 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
12 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
13 period during which the referenced statutes and Wage Order provisions were violated.¹

14 **Meal Period Violations**

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

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

23 150. Employers covered by any and all applicable IWC Wage Orders have an obligation
24 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
25 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
26 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)

27 _____
28 ¹ Labor Code § 2699(f)

1 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
2 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
3 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
4 provided”).

5 151. Employers must pay employees an additional hour of wages at the employees’
6 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
7 meal period, first meal period provided after five (5) hours, second meal period provided after 10
8 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
9 provide an employee a meal period in accordance with the applicable provision of this Order, the
10 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
11 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

12 152. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
13 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
14 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
15 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
16 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
17 periods completely.

18 153. Based on information and belief, DEFENDANTS had and continue to have a policy
19 of rounding the start and end times of employees’ meal periods and/or automatically deducting
20 thirty/sixty minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF
21 and Aggrieved Employees did not receive compliant meal periods.

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

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

28 156. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
30

1 periods in violation of California law and/or failed to pay the proper meal period premium for failure
2 to incorporate all non-discretionary remuneration including but not limited to, commissions,
3 multiple base rates of pay, bonuses, shift differential pay and/or other non-discretionary
4 compensation into the regular rate or compensation for purposes of calculating the owed meal period
5 premium.

6 157. These unlawful meal period policies and practices result in violations of Labor Code
7 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
8 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
9 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
10 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

11 **Rest Period Violations**

12 158. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
13 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
14 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
15 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
16 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
17 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
18 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
19 1029). The rest period requirement obligates employers to permit and authorize employees to take
20 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
21 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
22 257. If the employer fails to provide any required rest period, the employer must pay the employee
23 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
24 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
25 applicable IWC Wage Order, §12(B).

26 159. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
27 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
28 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest

1 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
2 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
3 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
4 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
5 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
6 “onus is on the employer to clearly communicate the authorization and permission [to take rest
7 periods] to its employees.”).

8 160. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
9 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
10 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
11 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
12 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
13 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

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

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

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

27 164. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
28 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties

1 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

2 **Minimum and Overtime Wage Violations**

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

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

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

23 168. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
24 Aggrieved Employees for all hours worked.

25 169. Based on information and belief, DEFENDANTS had actual or constructive
26 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
27 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
28 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the

1 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
2 Employees.

3 170. Based on information and belief, DEFENDANTS calculated the owed overtime
4 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
5 based on the minimum wage established for the cities and/or counties within which Aggrieved
6 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
7 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
8 above the California minimum wage rate.

9 171. Based on information and belief, DEFENDANTS failed and continue to fail to pay
10 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
11 in a week.

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

16 173. Based on information and belief, DEFENDANTS further violated California's
17 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
18 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
19 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
20 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
21 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
22 other Aggrieved Employees.

23 174. Based on information and belief, at times, Aggrieved Employees that were subject
24 to an AWS, were sent home early and/or worked less hours than those that were scheduled under
25 the AWS. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5 times
26 the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid Aggrieved
27 Employees their base rate for all hours worked on the shortened shift(s) in violation of the alternative
28 workweek schedule, and in violation of California Labor Code section 510, the applicable Wage

1 Order, and Labor Code section 1198. As such, Aggrieved Employees that were subject to an AWS
2 were also deprived of all owed overtime wages when required to work shortened shifts.

3 175. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
4 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
5 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
6 Wage Orders, section 20.

7 **Statutory Wage Violations**

8 176. California Labor Code section 223 makes it unlawful for an employer to secretly pay
9 wages lower than required by statute while purporting to pay legal wages. As described above,
10 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
11 earned minimum and overtime compensation for all hours worked which resulted in the payment of
12 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
13 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
14 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
15 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
16 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
17 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
18 Labor Code § 2699(f)-(g).

19 **Refusal to Make Payment**

20 177. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
21 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
22 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
23 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
24 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
25 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
26 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
27
28

1 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

2 **Standard Conditions of Labor Violations**

3 178. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
4 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
5 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
6 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS’
7 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
8 minimum/overtime wages and other violations described herein result in separate violations of
9 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
10 1197.1 and 2699.

11 **Business Expense Violations**

12 179. California law requires employers to indemnify their employees for all necessary
13 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
14 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
15 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
16 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
17 incurred by the employee enforcing the rights granted by this section.”

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

26 _____
27 ² 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).

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

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

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

11 184. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
12 Employees have suffered injury in that they were not completely reimbursed as mandated by
13 California law.

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

18 186. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
19 Employees have suffered injury in that they were not completely reimbursed as mandated by
20 California law.

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

25 **Wage Statement Violations**

26 188. California law requires every employer semi-monthly or at the time of each payment
27 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
28 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of

1 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
2 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
3 is paid; (7) the name of the employee and only the last four digits of his or her social security number
4 or an employee identification number other than a social security number; (8) the name and address
5 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
6 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

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

15 190. Moreover, due to violations detailed above, including but not limited to,
16 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
17 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
18 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
19 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
20 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
21 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
22 compensation earned during the pay period into the regular rate of pay for purposes of calculating
23 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
24 overtime worked by PLAINTIFF and other Aggrieved Employees.

25 191. As explained above, wage statements issued by DEFENDANTS failed to list the
26 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
27 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
28 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices

described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

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

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

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

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

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

199. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved Employees have suffered injury. The absence of accurate information on their wage statements has prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and mathematical computations to determine the amount of wages owed, and will cause difficulty and

1 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
2 submission of inaccurate information about wages and amounts deducted from wages to state and
3 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
4 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
5 and pay records than if DEFENDANT had complied with its legal obligations.

6 200. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
7 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
8 during which the statute provisions were violated. ³

9 **Violation of Labor Code Section 208**

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

14 202. 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 **Failure to Pay Vested Vacation/Paid Time Off**

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

26 204. Based on information and belief, DEFENDANTS had and continue to have a
27 uniform policy and practice of failing to allow Aggrieved Employees to use their earned

28 ³ Labor Code § 226.3 (establishing that the civil penalty is 40 per employee per violation”).

1 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
2 at the properly accrued rates (including but not limited to any owed shift differential pay) to
3 Aggrieved Employees upon separation of employment, in violation of California law, including but
4 not limited to, Labor Code section 227.3.

5 **Untimely Payment of Final Wages**

6 205. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
7 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
8 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
9 employee not having a written contract for a definite period quits his or her employment, his or her
10 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
11 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
12 to his or her wages at the time of quitting.”

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

19 207. Based on information and belief, upon separation of employment, Aggrieved
20 Employees’ final paychecks were not timely provided, were not timely provided with all owed
21 vacation pay/ and/or paid time off and/or did not include all wages owed, in violation of Labor Code
22 section 201-202. Based on information and belief, Aggrieved Employees’ final paychecks did not
23 include all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
24 overtime wages, premium wages, vacation pay and/or all paid time off wages at the properly accrued
25 rates (including but not limited to any owed shift differential pay).

26 208. Based on information and belief, at times, Aggrieved Employees experienced breaks
27 in employment caused by DEFENDANTS whereby Aggrieved Employees would not be called in
28 for work for longer than a single pay period due to including but not limited to DEFENDANTS’

1 lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
2 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in
3 violation of including but not limited to Labor Code section 201-202.

4 209. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
5 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
6 256.

7 **Unlawful Deductions**

8 210. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from
9 an employee any part of wages theretofore paid by said employer to said employee.” Based on
10 information and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees
11 paychecks during the relevant period, including without limitation, deducting business costs from
12 Aggrieved Employees’ earned wages/paychecks. Such a practice is in violation of including but not
13 limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under
14 Labor Code Section 2699.

15 211. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
16 each pay period during which the statute provisions were violated. See Lab. Code §225.5
17 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
18 provided in this article, every person who unlawfully withholds wages due any employee in
19 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
20 to pay each employee”).

21 **Sick Leave Violations**

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

1 213. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
2 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
3 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
4 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
5 Aggrieved Employees’ intelligent exercise of their paid sick leave.

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

10 215. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
11 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
12 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
13 were entitled to the maximum number of hours accruable.

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

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

20 218. On information and belief, PLAINTIFF alleges that all of these practices were
21 experienced and continue to be experienced by other Aggrieved Employees.

22 219. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
23 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
24 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

25 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

26 *Unlawful Agreements.*

27 220. Labor Code section 432.5 provides that “no employer...shall require any employee
28 or applicant for employment to agree, in writing, to any term or condition which is known by such

1 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
2 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
3 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
4 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
5 meal period waivers, unlawful commissions agreements, unlawful forum selection clauses and/or
6 choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition
7 of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

16 222. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
17 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
18 432.5.

19 Unlawful Inquires into Criminal History

20 223. Labor Code section 432.7 prohibits an employer from asking applicants about past
21 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
22 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
23 convictions on its employment application, in violation of California law.

24 224. Upon information and belief, DEFENDANTS, in violation of California law,
25 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
26 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
27 employment and/or otherwise impermissibly inquired into criminal history on its employment
28 application in violation of California law.

1 225. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
2 Code section 432.7. By asking about convictions at the application phase or prior to extending an
3 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
4 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
5 disclose arrests and/or convictions as a condition of employment.

6 **Violation of Labor Code Section 432.6**

7 226. Based on information and belief, DEFENDANTS required Aggrieved Employees to
8 sign meal period waivers that were universally signed as a condition of employment, including but
9 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
10 under Labor Code section 432.6.

11 227. Labor Code Section 432.6(a) provides: “[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...”

14 228. Labor Code Section 432.6(b) provides in pertinent part:

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

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

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

25 231. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
26 more employees at a single warehouse distribution center, or one thousand (1,000) or more
27 employees at one or more warehouse distribution centers in California are required to provide
28 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,

1 quantified number of tasks to be performed or materials to be handled) within a defined period of
2 time and any potential adverse employment action that may result from failure to meet the quota.
3 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
4 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
5 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
6 with compliance with California's occupational health and safety laws.

7 232. Labor Code Section 2101 provides:

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

13 234. Labor Code Section 2102 provides:

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

21 236. Labor Code Section 2104 provides in pertinent part:

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

27 238. (2) If a former employee requests a written description of the quotas to which they
28 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the

1 employer shall provide 90 days of the former employee's quotas and personal work speed data for
2 the 90 days prior to the date of the employee's separation from the employer.

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

6 240. Based on information and belief, during the relevant period, DEFENDANTS
7 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
8 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
9 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
10 relevant period.

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

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

24 243. Based on information and belief, DEFENDANTS failed and continue to fail to timely
25 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
26 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
27 them to violate any occupational health and safety laws, a written description of each quota to which
28 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own

1 personal work speed data.

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

4 245. Under the provisions of PAGA and the above mentioned Labor Code sections,
5 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223, 225.5, 226,
6 226.7, 227.3, 245-248.6, 256, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
7 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2100-2112, 2802, 2810.5 and all applicable Wage
8 Orders as well as all interpretations of these laws by California Courts and administrative bodies, as
9 well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
10 penalties:

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

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

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

19 **PRAYER FOR RELIEF**

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

- 22 1. For civil penalties under Labor Code Section 2699;
- 23 2. For an order temporarily, preliminarily and permanently enjoining and
24 restraining DEFENDANTS from engaging in similar unlawful conduct as set
25 forth herein;
- 26 3. For reasonable attorney's fees and costs of suit; and

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4. For such other and further relief that the Court deems just and proper.

Dated: February 28, 2025

CROSNER LEGAL, PC

By: 

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