

1 **THE WHEELER LAW FIRM, APC**

2 Scott Ernest Wheeler (SBN 187998)

3 Justin A. Wheeler (SBN 342226)

4 250 West First Street, Suite 216

5 Claremont, California 91711

6 Telephone: (909) 621-4988

7 Facsimile: (909) 621-4622

8 Email: sew@scottwheelerlawoffice.com

9 jaw@scottwheelerlawoffice.com

10 *Attorneys for Plaintiff and the other Aggrieved*
11 *Employees*

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF NEVADA**

14 DAISEY TATE, as an Aggrieved Employee,
15 and on behalf of all other Aggrieved
16 Employees under the Labor Code Private
17 Attorneys General Act of 2004 ("PAGA"),

18 Plaintiff,

19 v.

20 MASTERCORP COMMERCIAL
21 SERVICES, LLC, a Tennessee corporation;
22 and DOES 1 through 50, inclusive,

23 Defendants.

CASE NO.:

**COMPLAINT FOR VIOLATION OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
("PAGA")**

[California Labor Code § 2698 *et seq.*]

1 Plaintiff Daisey Tate ("Plaintiff"), as an Aggrieved Employee, brings this representative
2 action under the Private Attorneys General Act of 2004 ("PAGA"), to collect civil penalties under
3 PAGA for the State of California only, for all other aggrieved employees against Defendant,
4 MasterCorp Commercial Services, LLC (hereinafter referred to as "MasterCorp" or "Defendant")
5 relating to systemic violations of California wage and hour laws.

6 Plaintiff makes the following allegations on information and belief, which are based on his
7 personal knowledge, as follows:

8 **JURISDICTION AND VENUE**

9 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
10 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against Defendant and any of
11 its respective subsidiaries or affiliated companies within the State of California, and DOES 1 through
12 10, as further defined below, as a proxy of the Labor and Workforce Development Agency of the
13 State of California ("LWDA"), on behalf of all other current and former non-exempt employees of
14 Defendant working within the Civil Penalty Period, as further defined herein, and, as it pertains to the
15 alleged claims for failure to comply with Labor Code sections 201, 202, 203, 226, 26.7, 510, 512,
16 558, 1174, 1174.5, 1194, 1197, 1198, 2802, 6401.7, 6401.9, 6721, California Code of Regulations,
17 Title 8, Sections 3395 and 3396, IWC Wage Order Nos. 5-2001, 16-2001, Sections 3, 4, 7, 11-12, 18,
18 and all other applicable IWC Wage Orders, on behalf the State of California, only, within the Civil
19 Penalty Period (collectively, "Aggrieved Employees").

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

22 3. Venue is proper in Nevada County, California pursuant to Code of Civil Procedure
23 Sections 392, *et seq.* because, among other things, the County of Nevada is where the causes of
24 action complained of herein arose; the county in which the employment relationship began; the
25 county in which performance of the employment contract, or part of it, between Plaintiff and
26 Defendant was due to be performed; and the county in which the employment contract, or part of it,
27 between Plaintiff and Defendant was actually performed. Moreover, the unlawful acts alleged herein
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1 have a direct effect on Plaintiff, as an Aggrieved Employees and Aggrieved Employees in the County
2 of Nevada, and because Defendant employs numerous Aggrieved Employees in the County of
3 Nevada and throughout the State of California.

4 4. Plaintiff is an “Aggrieved Employee” under PAGA, since Plaintiff was employed by
5 Defendant during the applicable statutory period and suffered one or more of the Labor Code
6 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
7 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
8 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) in
9 addition to reasonable attorneys’ fees and costs, for the State of California only, during the Civil
10 Penalty Period. Plaintiff does not seek to assert her own claim for civil penalties under PAGA as part
11 of this Action.

12 5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
13 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
14 *Superior Court* (2009) 46 Cal.4th 969. Based upon the foregoing, class certification requirements do
15 not apply to PAGA actions.

16 6. During the period beginning one (1) year preceding the provision of notice to the
17 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”), Defendant
18 violated, *inter alia*, Labor Code sections 201, 202, 203, 210, 225.5, 226, 226.3, 226.7, 510, 512, 558,
19 1174, 1174.5, 1194, 1197, 1198, 1199, 2699, 2802, 6401.7, 6401.9, 6428, 6429, 6721, California
20 Code of Regulations, Title 8, Section 3395, 3396, IWC Wage Order Nos., 5-2001, 16-2001, Sections
21 3, 4, 7, 11-12, 18, and all other applicable IWC Wage Orders.

22 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees on
23 behalf of all other aggrieved current and former employees within the statutory period, to bring a civil
24 action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3
25 without asserting a claim to bring Plaintiff’s own claim for civil penalties under PAGA. (*See, e.g.,*
26 *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533, and *Rodriguez v. Packers*
27 *Sanitation Services LTD., LLC* (2025) 2025 Cal. App. LEXIS 103). Specifically, Plaintiff does not
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seek to recover Plaintiff's individual 35% share of civil penalties for the particular Labor Code violations Plaintiff experienced as an Aggrieved Employee. Rather, this is a purely representative PAGA action wherein Plaintiff seeks to recover 35% of civil penalties for the Labor Code violations experienced by third-party aggrieved employees (Aggrieved Employees) and the State of California's 65% of the civil penalties for the Labor Code violations Plaintiff and the other Aggrieved Employees experienced. Plaintiff does not seek individual penalties as a result of this action.

8. The State of California, County of Nevada, has jurisdiction in this matter because the individual claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional threshold and the five million dollar (\$5,000,000.00) aggregate jurisdictional threshold for federal court diversity jurisdiction. Further, there is no federal question at issue as the issues herein are based solely on the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure and Rules of Court. Thus, the State of California of Superior Court, County of Nevada maintains the appropriate jurisdiction to hear this matter.

THE PARTIES

9. During the statute of limitations period, Plaintiff was employed by Defendant as a Housekeeper, providing cleaning and other janitorial services for Defendant's client located in Lake Tahoe, California.

10. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times relevant hereto was, a corporation organized and existing under the laws of the State of Tennessee and license to do business in the State of California.

11. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE defendants when ascertained.

1 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
2 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
3 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
4 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
5 employer and/or joint employer of Plaintiff and the other aggrieved employees.

6 13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
7 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy.
8 Managing agent, and/or principal of the co-Defendants, and in performing the acts mentioned below
9 was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant,
10 partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and
11 consent of the co-Defendants. Plaintiff also alleges that the acts of each Defendant are legally
12 attributable to the other Defendants.

13 14. Plaintiff is informed and believes, and based thereon alleges, that each of the
14 Defendant sued herein was, at all relevant times, the employer, owner, shareholder, principal, joint
15 venture, alter-ego, employee, proxy, managing agent, and/or principal of the remaining Defendants,
16 and was acting, at least in part, within the course and scope of such employment and agency, with the
17 express and implied permission, consent and knowledge, approval and/or ratification of the other
18 Defendants. The above co-Defendant, managing agents, and supervisors, aided, abetted, condoned,
19 permitted, approved, authorized, and/or ratified the unlawful acts described herein.

20 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

21 15. On December 6, 2024, Plaintiff gave written notice by certified mail pursuant to
22 California Labor Code § 2699.3, to the California Labor and Workforce Development Agency
23 (“LWDA”) and Defendant, of the specific provisions of the California Labor Code and IWC Wage
24 Order alleged to have been violated, including the facts and theories to support the alleged violations.
25 Plaintiff has not received any response from the LWDA. As Plaintiff has waited more than sixty-five
26 (65) days from the December 6, 2024 postmark date of her written notice before filing this action,
27 Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to
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1 commence a representative action under the California Private Attorneys General Act of 2004
2 (“PAGA”).

3 16. Pursuant to the PAGA, California Labor Code §§ 2698-2699.5, Plaintiff brings this
4 action on behalf of the State of California, and all other aggrieved employees (e.g., current and
5 former non-exempt employees of Defendant and performed work for Defendant in the State of
6 California at any time within the period beginning one (1) year prior to the December 6, 2024 notice
7 Plaintiff provided to the LWDA and Defendant, and ending at the time this action proceeds to final
8 judgment (“statute of limitations period”).

9 **FACTUAL ALLEGATIONS**

10 **Failure to Provide Required Meal Periods**

11 **[Cal. Lab. Code §§ 226.7, 512, 558; § 11 of the Applicable IWC Wage Order]**

12 17. During the statute of limitations period, as part of Defendant’s illegal policies and
13 practices to minimize labor costs and maximize corporate profits, Defendants have required,
14 permitted or otherwise suffered Aggrieved Employees to perform work during their meal periods, to
15 completely skip their meal periods, to take late and short meal periods, and Defendants have
16 otherwise failed to provide the required meal periods to Aggrieved Employees as required under
17 California Labor Code §§ 226.7, 512, 558 and § 11 of the applicable IWC Order.

18 18. Defendant has implemented several practices that have caused Aggrieved Employees
19 to systematically miss and otherwise take non-compliant meal periods. Defendant systematically
20 understaffs customer assignments such that its hourly, non-exempt employees are given so much
21 work to complete that they regularly miss or take non-compliant meal periods. As a direct
22 consequence of this understaffing, Aggrieved Employees have so much work to complete within their
23 scheduled shifts that they are forced to skip their meal periods altogether, to take them after working
24 longer than five (5) hours, to perform work during their meal periods, or return to work after taking
25 less than a thirty (30) minute meal period.

26 19. There are also frequently occasions when Aggrieved Employees need to perform other
27 duties immediately before the time during which they are legally entitled to take a meal period.

1 Pursuant to Defendant's policies, Aggrieved Employees cannot simply drop their job duties to take a
2 their meal periods. Consequently, Aggrieved Employees regularly miss meal periods, take late meal
3 periods, return early from meal periods, and even clock out for meal periods but continue working.

4 20. Defendant has also violated California Labor Code §§ 226.7, § 11 of the applicable
5 IWC Wage Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et.*
6 *seq.*, by failing to compensate Aggrieved Employees who were not authorized and permitted to take a
7 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper
8 regular rate of pay for each workday that such a meal period was not authorized or permitted.

9 **Failure to Provide Required Rest Breaks**

10 **[Cal. Lab. Code §§ 226.7, 512; § 12 of the Applicable IWC Wage Order]**

11 21. During the statute of limitations period, as part of Defendant's illegal policies and
12 practices to minimize labor costs and maximize corporate profits, Defendant has failed to authorize
13 and permit Aggrieved Employees to take rest breaks as required under California Labor Code §§
14 226.7 and 512, and § 12 of the applicable IWC Order.

15 22. The same common policies and practices that deprive Aggrieved Employees from
16 taking their meal periods, as alleged herein, similarly deprive them of their ability to take their first
17 and second and third rest breaks. As alleged herein, Defendant understaffs its workforce which
18 creates so much work for Aggrieved Employees that they are frequently unable to take rest breaks.

19 23. Defendant also violated California Labor Code § 226.7, § 12 of the applicable IWC
20 Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by
21 failing to pay Aggrieved Employees who were not provided with a rest break, in accordance with the
22 applicable wage order, one additional hour of compensation at the proper regular rate of pay for each
23 workday that a rest break was not provided.

24 **Failure to Provide Required Recovery Periods**

25 **[Cal. Lab. Code §§ 226.7; California Code of Regulations, Title 8, Section 3395]**

26 24. Defendant failed to provide recovery periods to Plaintiff and the aggrieved employees
27 as required under California Labor Code § 226.7 and California Code of Regulations, Title 8, Section
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1 3395. Defendant are required to provide recovery or “cooldown” periods to non-exempt employees in
2 order to prevent heat illness. Defendant in fact discouraged recovery periods and pressured aggrieved
3 employees to utilize meal and rest period time as recovery periods and use of bathroom facility time.
4 Further, Defendant is required to pay one (1) additional hour of compensation at the non-exempt
5 employee’s regular rate of pay for each workday in which the recovery period is not provided.

6 25. To the extent that Defendant provided for cooling down periods or for any reason
7 related to wellbeing, health and safety, or heat illness prevention, aggrieved employees were
8 discouraged from taking recovery periods. Defendant intentionally and knowingly failed to disclose
9 to Plaintiff and aggrieved employees of their right to recovery periods.

10 26. Furthermore, facilities where Plaintiff and the other aggrieved employees worked are
11 routinely subject to extreme heat/humidity and cold thereby increasing the need for recovery periods.
12 As an example, the temperature at Employers’ facilities during the summertime routinely exceeds 86
13 degrees, and below 32 degrees Fahrenheit. The humidity also reaches unsafe levels especially on
14 days when the temperature exceeds 90 degrees for employees who are exposed. Defendant failed to
15 take appropriate and necessary action to provide heat relief or cooling down areas and/or recovery
16 periods.

17 27. Moreover, Defendant has taken no remedial measures to abide by California’s heat-
18 illness and prevention measures including failing to provide recovery periods, to the extent Defendant
19 took any action, the steps taken by Defendant were superficial and inadequate. Plaintiff and the other
20 aggrieved employees worked in excessive heat and cold and were not provided with all of their
21 recovery periods. Despite these work conditions, Defendant failed to implement any policy or
22 practice of providing proper recovery periods to their non-exempt employees. Defendant similarly
23 failed to make any efforts to comply with heat illness prevention regulations by providing for
24 recovery periods or by supplying sufficient amounts of drinking water. There have been many days
25 when Employers did not provide aggrieved employees with any water, and aggrieved employees had
26 no knowledge they were entitled to take recovery periods and thus they never took them.

27 28. Defendant violated California Labor Code § 226.7 and California Code of
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1 Regulations, Title 8, Section 3395 by failing to pay aggrieved employees one (1) additional hour of
2 compensation at their regular rates of pay for each workday that a recovery period was not provided.

3 **Failure to Pay Overtime Wages**

4 **[California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order]**

5 29. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order,
6 Defendant is required to compensate Plaintiff and other aggrieved employees for all overtime, which
7 is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of
8 eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the
9 seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in
10 any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of
11 work in any workweek.

12 30. During the statute of limitations period, Defendant failed to compensate Plaintiff and
13 other aggrieved employees for all overtime hours worked as required under the foregoing provisions
14 of the California Labor Code and IWC Wage Order by, among other methods: failing to pay overtime
15 at one and one-half (1 ½) or double the regular rate of pay as provided by California Labor Code §§
16 510, 1194 and § 3 of the applicable IWC Order, requiring, permitting or suffering Plaintiff and other
17 aggrieved employees to work off-the-clock, and to work through meal and rest breaks, but not
18 compensating them for this time, illegal rounding, improperly calculating the regular rate of pay
19 based on bonuses, commissions, and other remuneration, and other methods to be discovered.

20 31. Defendant has knowingly and willfully refused to perform its obligations to
21 compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in
22 violation of California Labor Code §§ 510, 1194 and 1198, and § 3 of the applicable IWC Order.

23 **Failure to Pay Minimum Wages**

24 **[Cal. Lab. Code §§ 1194, 1197; § 4 of the IWC Wage Orders]**

25 32. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order,
26 payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
27 period is unlawful.

1 33. During the statute of limitations period, the hourly rates for Plaintiff and other
2 aggrieved employees were precisely at California minimum wage. Based on this common practice,
3 Defendant failed to pay Plaintiff and other aggrieved employees minimum wages for all hours
4 worked by requiring, permitting or suffering Plaintiff and other Aggrieved Employees to work off the
5 clock, such as requiring them to work through meal and rest breaks but not compensating them for
6 this time, and failing to include this time in all hours worked, and other methods to be discovered.

7 34. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4
8 of the applicable IWC Wage Order. As a proximate result of the aforementioned violations,
9 Aggrieved Employees and the State of California have been damaged and are entitled to penalties in
10 an amount according to proof at trial.

11 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

12 **[California Labor Code §§ 201, 202 and 203]**

13 35. Pursuant to California Labor Code §§ 201, 202 and 203, Defendant is required to pay
14 all earned and unpaid wages to an employee who is discharged. California Labor Code § 201
15 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at
16 the time of discharge are due and payable immediately.

17 36. Furthermore, pursuant to California Labor Code § 202, Defendant is required to pay
18 all accrued wages due to an employee no later than 72 hours after the employee quits his or her
19 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
20 which case the employee is entitled to his or her wages at the time of quitting.

21 37. California Labor Code § 203 provides that if an employer willfully fails to pay, in
22 accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who
23 quits, the employer is liable for waiting time penalties in the form of continued compensation to the
24 employee at the same rate for up to 30 workdays.

25 38. During the statute of limitations period, Defendant has willfully failed to pay accrued
26 wages and other compensation to Plaintiff and other aggrieved employees in accordance with
27 California Labor Code §§ 201 and 202. On information and belief, Defendant does not have a
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1 sufficient policy to provide Plaintiff and other aggrieved employees with their final paychecks within
2 the timeframes required under California law. Defendant also willfully failed and continues to fail to
3 pay accrued wages and other compensation to other Aggrieved Employees similarly situated as
4 Plaintiff in accordance with California Labor Code §§ 201, 202 and 203.

5 **Failure to Furnish Accurate Itemized Wage Statements**

6 **[Cal. Lab. Code §§ 226(a), and § 7 of the Applicable IWC Wage Order]**

7 39. During the statute of limitations period, Defendant routinely have failed to provide
8 Aggrieved Employees with timely and accurate itemized wage statements. Defendant's pay stubs
9 violate Labor Code § 226 on their face by, among other things, failing to set forth the amount of all
10 regular and overtime hours worked. Derivatively, Defendant was and is not providing Plaintiff and
11 other Aggrieved Employees with proper meal periods, recovery periods and rest breaks but
12 intentionally fails to include in their wage statements one (1) additional hour of compensation at their
13 regular rates of pay for each non-compliant meal period or rest break, and other California Labor
14 Code violations yet to be discovered. Moreover, Defendants knowingly and willfully failed to issue
15 wage statements which provide the name and address of the employee of Plaintiff and the other
16 Aggrieved Employees. For instance, Plaintiff and the Aggrieved Employees wage statements listed
17 "MasterCorp Inc." on their wage statements but "MasterCorp Inc." has been suspended by the
18 California Franchise Tax Board and not authorized to do business in the State of California.

19 40. In order to conceal its wage theft, Defendant knowingly, intentionally and willfully
20 failed to provide Aggrieved Employees with timely and accurate itemized wage statements in
21 accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

22 41. Plaintiff and the other Aggrieved Employees suffered injury as a result of Defendant's
23 failure to provide timely and accurate itemized wage statements prevented them from discovering the
24 scope and extent of Defendant's violations of California wage and hour laws, prevented them from
25 being able to determine the gross wages earned, the total hours worked, all deductions made, the net
26 wages earned, all applicable hourly rates in effect during each pay period and the corresponding
27 number of hours worked at each hourly rate, the accurate rate of pay, and other violations yet to be
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1 discovered.

2 **Failure to Maintain Required Records**

3 **[Cal. Lab. Code §§ 226(a), 1174(d); § 7 of the Applicable IWC Wage Order]**

4 42. During the statute of limitations period, as part of Defendant's illegal payroll policies
5 and practices to deprive Aggrieved Employees of all wages earned and due, Defendant knowingly
6 and intentionally failed to maintain records as required under California Labor Code §§ 226(a) and
7 1174(d) and § 7 of the applicable IWC Order, including but not limited to the following records:
8 total daily hours worked by each employee; applicable rates of pay; all deductions; meal and recovery
9 periods; time records showing when each employee begins and ends each work period; and accurate
10 itemized statements.

11 43. Defendant has knowledge that it was not providing Plaintiff and the other Aggrieved
12 Employees with proper meal, recovery and rest periods, but knowingly failed to include in the wage
13 statements one (1) extra hour of compensation for each missed meal, recovery and rest period.
14 Defendant also illegally and inaccurately recorded the time in which Aggrieved Employees worked.
15 Defendant has also failed to maintain accurate, itemized wage statements, and other violations of the
16 California Labor Code which have not been discovered.

17 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**

18 **[Cal. Lab. Code §§2800 and 2802]**

19 44. California Labor Code § 2802(a) requires an employer to indemnify an employee for
20 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge
21 of her his or her duties, or of his or her obedience to the directions of the employer.

22 45. During the Statute of Limitations period, and in violation of Labor Code § 2802,
23 Defendant knowingly and intentionally failed to indemnify Aggrieved Employees for all business
24 expenses and/or losses incurred in direct consequence of the discharge of their duties, including but
25 not limited to, reimbursements for cellular telephone usage and gas reimbursement for mileage
26 incurred for driving between work assignments, maintenance of uniforms and tools, and other
27 expenses not reimbursed.

1 **Failure to Implement a Workplace Violence Prevention Policy**

2 **[California Labor Code §§6401.7 and 6401.9]**

3 46. California Labor Code §§6401.7 and 6401.9 required Defendant to develop and
4 implement a workplace violence prevention plan in accordance with newly codified Labor Code
5 section 6401.9, which sets out the requirements for the plan. Starting July 1, 2024, Defendant was
6 required to establish, implement, and maintain a Workplace Violence Prevention Plan that includes:
7 1) implementation of a Workplace Violence Prevention Plan; 2) maintaining a violence incidence
8 log; 3) training program to discuss and prevent workplace violence; and 4) maintain records relating
9 to workplace violence which includes, records of workplace violence hazard identifications,
10 evaluations, and correction must be created and maintained for a minimum of five years; training
11 records must be created and maintained; incident logs; and records of workplace violence incident
12 investigations under must be maintained.

13 47. Defendant willfully failed to implement a Workplace Violence Prevention Policy
14 starting on or about July 1, 2024. Plaintiff and the other Aggrieved Employees are entitled to recover
15 penalties up to \$25,000 for serious violations, and up to \$158,727 for “willful” violations. See, Labor
16 Code §§6401.7, 6401.9, 6428, and 6429.

17 **Failure to Implement Heat & Temperature Illness Prevention Laws**

18 **[California Code of Regulations, Title 8, section 3395 Heat Illness Prevention,**

19 **Labor Code §§ 6308, 6317 and any other statutes]**

20 48. Defendant was required to and willfully failed to maintain adequate temperatures which
21 created excessive heat or humidity exposing Plaintiff and the other Aggrieved Employees to temperature
22 related hazards. Defendant failed to maintain a comfortable working environment by willfully and
23 knowingly not maintaining adequate temperatures in the workplace.

24 49. On June 20, 2024, the Occupational Safety and Health Standards Board approved
25 California Code of Regulations, Title 8, section 3396, “Heat Illness Prevention in Indoor Places of
26 Employment”. This standard applies to most workplaces where the indoor temperature reaches 82°F. It
27 established required safety measures for indoor workplaces to prevent worker exposure to risk of heat
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1 illness. This standard went into effect on July 23, 2024. Defendant willfully failed to comply with the
2 mandates of the new OSHA regulations and California law.

3 50. The applicable provisions of the IWC Wage Orders required temperature to be maintained
4 by Defendant at comfortable levels. Defendant has always had an affirmative duty to prevent and reduce
5 excessive heat or humidity created by the work environment, location, department or any other area of
6 work that creates excessive heat and where employees are exposed to heat illness thereby requiring safety
7 measures including, but not limited to, recovery periods. Defendant, however, has no written policy
8 regarding preventative measures as required by California law or as required by Labor Code § 226.7 and
9 the recently enacted OSHA standards requiring employer to take affirmative measures to prevent heat
10 illness for indoor employees pursuant to California Code of Regulations, Title 8, section 3395 Heat
11 Illness Prevention, Labor Code §§ 6308, 6317 and any other statutes conferring enforcement powers upon
12 the Division.

13 51. Pursuant to California Labor Code §6721, Defendant was mandated to implement an
14 indoor heat prevention standards as set forth in the recently amended Sections 3395 and 3396 of Title
15 8 of the California Code of Regulations, otherwise known as the Maria Isabel Vasquez Jimenez heat
16 illness standard. Defendant failed to implement Indoor Heat Prevention policies applicable to
17 Plaintiff and the other Aggrieved Employees when working as assigned by Defendant at its customer
18 locations throughout the State of California.

19 52. Section 3396 required Defendant to establish, implement, and maintain an effective
20 Heat Illness Prevention Plan for indoor places of employment. The plan must be in writing and
21 include procedures for water provision, access to cool-down areas, temperature measurement,
22 emergency response, and acclimatization. Defendant failed to establish, implement and maintain an
23 effective Heat Illness Prevention Plan for both indoor and outdoor places of employment for Plaintiff
24 and the other Aggrieved Employees.

25 53. Defendant's failure to comply with California Labor Code §6721 and the recently
26 amended Section 3395 of Title 8 of the California Code of Regulations will result in the imposition of
27 substantial civil penalties. In particular, California Labor Code §6428 provides that any employer
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1 which violates any occupational safety or health standard shall be assessed a civil penalty of up to
2 \$25,000 for each serious violation. Employer who operate without an injury prevention program can
3 be assessed heightened penalties of up to \$124,709. See, California Labor Code §6429. Thus, the
4 maximum amount of penalties should be imposed against Defendant based upon the failure to
5 implement a heat prevention program.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

8 **[Cal. Lab. Code § 2698 *et seq.*]**

9 **(On Behalf of Plaintiff and the Aggrieved Employees Against Defendant)**

10 54. Plaintiff incorporates herein by specific reference, as though fully set forth, the
11 allegations in paragraphs 1 through 53 above.

12 55. Plaintiff is an “Aggrieved Employees” and has standing within the meaning of
13 California Labor Code § 2699(c), and proper representative to bring a civil action on behalf of herself
14 and other current and former non-exempt employees of Defendant pursuant to the procedures
15 specified in Labor Code § 2699.3, because Plaintiff was employed by Defendant and one or more of
16 the alleged California Labor Code violations was committed against Plaintiff during the statute of
17 limitations period.

18 56. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
19 penalties from Defendant in a representative action on behalf of all Aggrieved Employees, aside from
20 Plaintiff pursuant to *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal. App. 5th 533 and
21 *Rodriguez v. Packers Sanitation Services LTD., LLC* (2025) 2025 Cal. App. LEXIS 103), for the
22 violations set forth above, including but not limited to, violations of California Labor Code §§201-
23 203, 226(a), 226.7, 246, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802.

24 57. Pursuant to California Labor Code § 2699(a), Plaintiff seek to recover civil penalties
25 for all Aggrieved Employees, aside from Plaintiff, for Defendant’s violations of California Labor
26 Code provisions for which a civil penalty is specifically provided as alleged herein.

27 58. California Labor Code § 2699(f) provides that for all California Labor Code violations
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1 for which a civil penalty is not specifically provided, the following civil penalties are established: one
2 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
3 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation,
4 and as otherwise provided by PAGA.

5 59. All civil penalties sought and recovered under this action will be allocated as follows:
6 sixty-five (65) percent to the State of California and thirty-five (35) percent to Plaintiff and aggrieved
7 employees.

8 60. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
9 Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, on behalf of all other Aggrieved Employees, prays for relief against
12 Defendant, as follows:

- 13 1. For civil penalties according to proof;
14 2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g),
15 California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for
16 attorneys' fees and costs; and
17 3. For such further relief that the Court may deem just and proper.

18 Dated: March 3, 2025

THE WHEELER LAW FIRM, APC

19
20 By: 

SCOTT ERNEST WHEELER
JUSTIN A. WHEELER

21
22 *Attorney for Plaintiff and the other Aggrieved*
23 *Employees*
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