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Attorneys for Plaintiffs STEVEN MUIR and FREDRICK EARNHART
on behalf of the general public as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

STEVEN MUIR and FREDRICK
EARNHART, on behalf of the general public as
private attorney general,

Plaintiffs,

v.

RAILPROS FIELD SERVICES, INC., a Texas
Corporation; RAILPROS, INC., a California
Corporation and DOES 1-50, inclusive,

Defendants.

Case No.

ASSIGNED FOR ALL PURPOSES TO:
JUDGE:
DEPT:

**[PROPOSED] PAGA
REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 *et seq*).**

COMES NOW Plaintiffs STEVEN MUIR and FREDRICK EARNHART (“Plaintiffs”), on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, asserts claims against Defendants RAILPROS FIELD SERVICES, INC., a Texas Corporation; RAILPROS, INC., a California Corporation and DOES 1-50, inclusive (“Defendants”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to unpaid wages resulting from Defendants’: (a) failure to pay minimum and overtime wages, (b) failure to provide meal periods, (c) failure to provide rest periods, (d) failure to provide accurate itemized wage statements, (e) failure to timely pay wages during employment, (f) failure to pay vested vacation pay, (g) unlawful deduction of wages, and (h) subjecting employees to illegal non-compete provisions in their employment contracts with Defendants. As a result Plaintiffs seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

4. This Court has jurisdiction over Defendants because, upon information and belief, Defendants either has sufficient minimum contacts in California, or otherwise intentionally avails

1 itself of the California market so as to render the exercise of jurisdiction over it by the California
2 Courts consistent with traditional notions of fair play and substantial justice.

3 5. Venue as to each Defendants is proper in this judicial district pursuant to Code of
4 Civil Procedure section 395. Defendants is doing business throughout California, including but
5 not limited to Orange County, and each Defendants is within the jurisdiction of this Court for
6 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiffs and
7 all other aggrieved employees within the State of California. Defendants employs numerous
8 aggrieved employees in in the State of California.

9 6. On information and belief, Defendants has conducted business within the State of
10 California during the purported liability period and continue to conduct business throughout the
11 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiffs, and the
12 similarly situated aggrieved employees within California.

13 7. The California Superior Court also has jurisdiction in this matter because on
14 information and belief there are no federal questions at issue, as the issues herein are based solely
15 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
16 California Code of Civil Procedure, the California Civil Code, and the California Business and
17 Professions Code.

18 8. On information and belief, during the statutory liability period and continuing to
19 the present ("liability period"), Defendants consistently maintained and enforced against
20 Defendants' aggrieved Employees, among others, the following unlawful practices and policies,
21 in violation of California state wage and hour laws: (a) failure to pay minimum and overtime
22 wages, (b) failure to provide meal periods, (c) failure to provide rest periods, (d) failure to provide
23 accurate itemized wage statements, (e) failure to timely pay wages during employment, (f) failure
24 to pay vested vacation pay, (g) unlawful deduction of wages, and (h) subjecting employees to
25 illegal non-compete provisions in their employment contracts with Defendants.

26 9. On information and belief, during the statutory liability period and continuing to
27 the present, Defendants has had a consistent policy of failing to pay wages including overtime
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1 wages for hours worked while subject to the control of Defendants.

2 10. On information and belief, during the statutory liability period and continuing to
3 the present, Defendants has failed to provide meal periods to Plaintiffs and aggrieved employees.
4 Defendants has also failed to provide meal premiums for missed meal periods.

5 11. On information and belief, during the statutory liability period and continuing to
6 the present, Defendants has failed to provide rest periods to Plaintiffs and aggrieved employees.
7 Defendants has also failed to provide rest premiums for missed rest periods.

8 12. On information and belief, during the statutory liability period and continuing to
9 the present, Defendants has failed to provide Plaintiffs and aggrieved employees accurate itemized
10 wage statements.

11 13. On information and belief, during the statutory liability period and continuing to
12 the present, Defendants has failed to provide Plaintiffs and aggrieved employees timely payment
13 of all wages owed to them during their employment.

14 14. On information and belief, during the statutory liability period and continuing to
15 the present, Defendants has subjected Plaintiffs and aggrieved employees to illegal non-compete
16 provisions in their employment contracts with Defendants.

17 15. Plaintiffs on behalf of the general public as private attorney general and all other
18 aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations
19 enumerated under 2699.5 as follows: sections 201-204, 221, 226, 227.3, 432.5, 510, 512, 558,
20 226.3, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198 and seeking penalties, interest, attorneys'
21 fees and costs.
22

23 **III. PARTIES**

24 **A. Plaintiffs**

25 16. Plaintiff, STEVEN MUIR, was at all times relevant to this action, a resident of
26 California. Plaintiff was employed by Defendants in July of 2023 as a Non-Exempt Employee for
27 Defendants with the title of Railroad Worker in Charge until July of 2024. Plaintiff worked across
28 several counties in Southern California.

1 17. Plaintiff, FREDRICK EARNHART, was at all times relevant to this action, a
2 resident of California. Plaintiff was employed by Defendants in July of 2021 as a Non-Exempt
3 Employee for Defendants with the title of Flagger until July of 2024. Plaintiff worked across
4 several counties in Southern California

5 18. As Defendants' employee, Plaintiffs, and all other aggrieved employees were
6 regularly required to and subsequently suffered:

- 7 a) to perform work subject to the control of the employer without being compensated all
8 wages including overtime, all in violation of California labor laws, regulations, and the
9 Industrial Welfare Commission Wage Order ("IWC");
10 b) not provided first and second meal periods nor paid premium wages;
11 c) not provided first and second rest periods nor paid premium wages;
12 d) not provided accurate itemized wage statements;
13 e) not paid vested vacation pay;
14 f) subjected to unlawful deduction of wages;
15 g) not paid timely during employment; and
16 h) subjected to illegal non-compete provisions in employment contracts.

17 19. On information and belief, Defendants willfully failed to pay all earned wages in
18 the form regular wages and overtime wages, to its Non-Exempt Employees and members of the
19 Representative Group; nor have Defendants returned to Plaintiffs or members of the
20 Representative Group, upon or after separation from employment with Defendants, all wages
21 earned and owing. Plaintiffs seeks penalties under Labor Code 2698, *et. seq.* on behalf of the
22 general public as private attorney general and all other aggrieved employees.
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24 **B. Defendants**

25 20. Defendants, RAILPROS FIELD SERVICES, INC. and RAILPROS, INC. operate
26 as Railroad contractors. Plaintiffs estimate there are in excess of one hundred (100) Non-Exempt
27 Employees who work or have worked for Defendants over the last year.

28 21. Other than identified herein, Plaintiffs are unaware of the true names, capacities,

1 relationships and extent of participation in the conduct alleged herein, of the Defendants sued as
2 DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants is
3 legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants
4 by such fictitious names. Plaintiffs will amend this complaint when their true names and
5 capabilities are ascertained.

6 22. Plaintiffs are informed and believes and thereon alleges that each Defendants,
7 directly or indirectly, or through agents or other persons, employed Plaintiffs and other members
8 of the Representative Group, and exercised control over their wages, hours, and working
9 conditions. Plaintiffs are informed and believes and thereon alleges that each Defendants acted in
10 all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
11 business plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally
12 attributable to the other Defendants.

13 14 **IV. GENERAL ALLEGATIONS**

15 1. At all times set forth herein, Defendants employed Plaintiffs and other persons in
16 the capacity of non-exempt positions, however titled, throughout the state of California.

17 2. Plaintiffs are informed and believes Aggrieved Employees have at all times
18 pertinent hereto been Non-Exempt within the meaning of the California Labor Code and the
19 implementing rules and regulations of the IWC California Wage Orders.

20 3. Defendants continues to employ Non-Exempt Employees, however titled, in
21 California and implement a uniform set of policies and practices to all non-exempt employees, as
22 they were all engaged in the generic job duties related to Defendants' railroad contracting business.

23 4. Plaintiffs are informed and believes, and thereon alleges, that Defendants is and
24 was advised by skilled lawyers and other professionals, employees, and advisors with knowledge
25 of the requirements of California's wage and employment laws.

26 5. On information and belief, during the relevant time frame, Plaintiffs and Aggrieved
27 Employees frequently worked well over eight (8) hours in a day and forty (40) hours in a work
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1 week.

2 6. During the relevant time frame, Defendants compensated Plaintiffs and Aggrieved
3 Employees based upon an hourly rate.

4 7. On information and belief, during the relevant time frame, Plaintiffs and Aggrieved
5 Employees typically worked five (5) days a week.

6 8. Plaintiffs are informed and believes that the Aggrieved Employees were required
7 to keep similar schedules.

8 9. During the liability period, Defendants failed to compensate Plaintiffs and
9 Aggrieved Employees for all hours worked, resulting in underpayment of minimum and overtime
10 wages. For instance, worked off-the-clock daily. They were not compensated for time spent
11 driving from their home to the jobsite and back in a company vehicle.

12 10. Plaintiffs were required to drive a company vehicle with the company's logo and
13 name printed all over the vehicle to and from work. They were not permitted to drive anyone else
14 in the car or drive anywhere in it for non-work-related purposes.

15 11. Plaintiffs were subjected to many restrictions while driving the company vehicle,
16 such that it should be considered compensable time. Despite this, Plaintiffs were not permitted to
17 clock in until they arrived at the jobsite.

18 12. Plaintiffs were also required to be on-call waiting for the company to call them in
19 after hours. Plaintiffs were expected to carry and be alert to their work phone after hours for this
20 reason. If Plaintiffs did not answer their work phone, the company would call their personal phone.
21 Plaintiffs were reprimanded for not answering their work phone after hours.

22 13. On information and belief, if an employee is unable to go to work after being called
23 in, their vacation accrual for the quarter is withheld from them. Once called in, employees had to
24 report to work within a reasonable amount of time.

25 14. During the relevant time, as a consequence of Defendants' staffing and scheduling
26 practices, work demands, and Defendants' policies and practices, Defendants frequently failed to
27 provide Plaintiffs and Aggrieved Employees timely, legally complaint uninterrupted 30-minute
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1 meal periods on shifts over five hours as required by law.

2 15. On information and belief, Plaintiffs and Aggrieved Employees did not sign a meal
3 waiver.

4 16. Plaintiffs and Aggrieved Employees were not provided with valid lawful on-duty
5 meal periods.

6 17. Despite the above-mentioned meal period violations, Defendants failed to
7 compensate Plaintiffs, and on information and belief, failed to compensate Aggrieved Employees,
8 one additional hour of pay at their regular rate as required by California law when meal periods
9 were not timely or lawfully provided in a compliant manner.

10 18. Plaintiffs are informed and believe, and thereon alleges, that Defendants know,
11 should know, knew, and/or should have known that Plaintiffs and Aggrieved Employees were
12 entitled to receive premium wages based on their regular rate of pay under California Labor Code
13 § 226.7 but were not receiving such compensation.

14 19. In addition, during the relevant time frame, Plaintiffs and the Non-Exempt
15 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
16 period for every four hours worked or major fraction thereof, which is a violation of the California
17 Labor Code and IWC wage order.

18 20. Defendants maintained and enforced scheduling practices, policies, and imposed
19 work demands that frequently required Plaintiffs and Aggrieved Employees to forego their lawful,
20 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
21 requisite rest periods were not timely authorized and permitted as a result of Defendants' failure
22 to provide relief for Plaintiffs and Aggrieved Employees to take their lawfully required breaks.

23 21. Despite the above-mentioned rest period violations, Defendants did not compensate
24 Plaintiffs, and on information and belief, did not pay Aggrieved Employees one additional hour of
25 pay at their regular rate as required by California law, including California Labor Code § 226.7
26 and the applicable IWC wage order, for each day on which lawful rest periods were not authorized
27 and permitted.
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1 22. Defendants imposed illegal non-compete provisions on Aggrieved Employees
2 through their employment contracts, in violation of Labor Code § 432.5.

3 23. On information and belief, during the relevant timeframe, Defendants had a policy
4 that provided for paid time off/vacation time for its employees, including Plaintiffs and Aggrieved
5 Employees.

6 24. During the relevant timeframe, Defendants failed to accurately pay said vested paid
7 time off/vacation time to its employees at the time of termination, including Plaintiffs and
8 Aggrieved Employees, at their final rate in accordance with said policy and in accordance with the
9 law.

10 25. On information and belief, during the relevant timeframe, Defendants deprived
11 Plaintiffs and Aggrieved Employees of PTO benefits as a punitive measure when Plaintiffs and
12 Aggrieved Employees did not appear at work on days originally scheduled as days off, resulting
13 in unlawful deduction of their wages.

14 26. Upon information and belief, Defendants knew and or should have known that it is
15 improper to implement policies and commit unlawful acts such as:

16 (a) requiring employees to work four (4) hours or a major fraction thereof without
17 being provided a minimum ten (10) minute rest period and without compensating the employees
18 with one (1) hour of pay at the employees' regular rate of compensation for each workday that a
19 rest period was not provided;

20 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
21 without being provided an uninterrupted thirty minute meal period and/or a second meal period,
22 and without compensating employees with one (1) hour of pay at the regular rate of compensation
23 for each workday that such a meal period was not provided;

24 (c) failing to pay overtime and minimum wages;

25 (d) failing to provide accurate wage statements;

26 (e) failing to accurately pay vacation pay;

27 (f) unlawful deduction of wages;
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- 1 (g) subjecting employees to illegal non-compete provisions in employment contracts;
2 (h) conducting and engaging in unfair business practices.

3 27. In addition to the violations above, and on information and belief, Defendants knew
4 they had a duty to compensate Plaintiffs and Aggrieved Employees for the allegations asserted
5 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
6 knowingly, recklessly, and/or intentionally failed to do so.

7 28. Plaintiffs and Aggrieved Employees they seek to represent are covered by, and
8 Defendants are required to comply with, applicable California Labor Codes, Industrial Welfare
9 Commission Occupational Wage Orders (hereinafter “IWC Wage Orders”) and corresponding
10 applicable provisions of California Code of Regulations, Title 8, § 11000 *et seq.*

11 **V. REPRESENTATIVE CLAIMS**

12 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 *et seq.***

13 29. Plaintiffs incorporates by reference and re-alleges each and every allegation
14 contained above, as though fully set forth herein.

15 30. PAGA is a mechanism by which the State of California can enforce state labor laws
16 through the employee suing under the PAGA who do so as the proxy or agent of the state’s labor
17 law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a
18 law enforcement action designed to protect the public and not to benefit private parties. The
19 purpose of the PAGA is not to recover damages or restitution, but to create a means of “deputizing”
20 citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California
21 Legislature specified that “it was...in the public interest to allow aggrieved employees, acting as
22 private attorneys general to recover civil penalties for Labor Code violations...” Stats. 2003, Ch.
23 906, section 1. Accordingly, PAGA claims cannot be subject to arbitration.

24 31. Plaintiffs brings this Representative Action on behalf of the State of California with
25 respect to himself and all other individuals who are or previously were employed by Defendants
26 as non-exempt California employees during the applicable statutory period (the “aggrieved
27 employees”).
28

1 32. On December 3, 2024 Plaintiffs complied with notice requirements pursuant to
2 Labor Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit**
3 **A**, indicating that the LWDA and Defendants were put on notice of the claims alleged here and
4 that the notice requirement has been satisfied. Sixty-five days have passed and the LWDA has not
5 indicated intent to investigate the claims. Therefore, Plaintiffs may proceed with this action in a
6 representative capacity. The substance and violations set forth in this Complaint of which the
7 LWDA was provided timely notice, Plaintiffs has also sent a copy of this PAGA Representative
8 Action Complaint to the LWDA.

9 33. Plaintiffs are an aggrieved employee as defined in Labor Code Section 2699(a).
10 Plaintiffs brings this cause of action on behalf of all current and former California non-exempt
11 Employees of Defendants.

12 34. Pursuant to Labor Code section 2699(a) Plaintiffs seek to recover civil penalties for
13 which Defendants is liable due to numerous Labor Code violations as set forth in this Complaint,
14 including without limitation Labor Code section 201-204, 226, 226.3, 226(b), 510, 512, 558, 1174,
15 1174.5, 1175, 1194, 1197, 1197.1, 1198, 1198.5 2802, and 2698 *et seq.*, applicable IWC Wage
16 Orders and California Code of Regulations, Title 8, section 11000 *et. seq.*

17 35. Defendants violated Labor Code section 510, and 1194 by failing to accurately pay
18 overtime wages owed. Therefore, Defendants violated section 510, and 1194 by not compensating
19 its Non-Exempt Employees for work performed in excess of eight hours (8) in a day or forty hours
20 in a work week (40). Section 510 of the Labor Code codifies the right to overtime compensation
21 at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight
22 (8) hours in a day or forty (40) hours in a work week and to overtime compensation twice the
23 regular rate of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight
24 (8) hours in a day on the seventh day of work in a particular work week.

25 36. Pursuant to Labor Code § 512, no employer shall employ an employee for a work
26 period of more than five (5) hours without providing a meal break of not less than thirty (30)
27 minutes in which the employee is relieved of all of his or her duties. Also pursuant to California
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1 law and the relevant IWC Wage Order(s), no employer shall require an employee to work more
2 than ten hours without being provided a second meal period, which can be waived by mutual
3 consent up until the twelfth hour.

4 37. For the Liability Period, Defendants failed to provide Plaintiffs and the Aggrieved
5 Employees timely and uninterrupted first meal periods of not less than thirty (30) minutes.

6 38. For the Liability Period, Defendants failed to provide Plaintiffs and the Aggrieved
7 Employees proper second meal periods for shifts in excess of ten hours.

8 39. Pursuant to the IWC wage orders applicable to Plaintiffs and the Aggrieved
9 Employees, "Every employer shall authorize and permit all employees to take rest periods, which
10 insofar as practicable shall be in the middle of each work period.... [The] authorized rest period
11 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per
12 four (4) hours worked or major fraction thereof.... Authorized rest period time shall be counted as
13 hours worked, for which there shall be no deduction from wages." Labor Code §226.7(a) prohibits
14 an employer from requiring any employee to work during any rest period mandated by an
15 applicable order of the IWC. Defendants were required to authorize and permit employees such
16 as Plaintiffs and the Aggrieved Employees to take rest periods, based upon the total hours worked
17 at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof, with no
18 deduction from wages.

19 40. Despite said requirements applicable to Plaintiffs and the Aggrieved Employees,
20 Defendants failed and refused to authorize and permit Plaintiffs and the Aggrieved Employees to
21 take ten (10) minute rest periods for every four (4) hours worked, or major fraction thereof.
22 Plaintiffs regularly worked shifts without properly authorized rest periods. Defendants did not pay
23 Plaintiffs an hour of wages for each day that a rest period violation occurred. On information and
24 belief, the Aggrieved Employees endured similar violations as a result of Defendants' rest period
25 policies and practices.

26 41. By their failure to provide rest periods for every four (4) hours or major fraction
27 thereof worked by Plaintiffs and the Aggrieved Employees, Defendants violated the provisions of
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1 Labor Code sections 226.7 and the applicable IWC Wage Order(s).

2 42. Plaintiffs and the Aggrieved Employees were also injured because the wage
3 statements Defendants provided to them failed to accurately state the hours worked and also to
4 state that the Aggrieved Employees were being paid one hour of pay at their regular rate for days
5 in which they were not provided with each of their authorized meal and rest periods. Defendants
6 has made it impossible to properly calculate important information from the wage statements that
7 were provided to Plaintiffs and the Aggrieved Employees throughout the liability period.

8 43. On information and belief, Defendants willfully failed to pay all wages due and
9 owing upon separation from employment. These wages include minimum and overtime wages.

10 44. On information and belief, Defendants willfully failed to pay all wages due and
11 owing during employment. These wages include minimum and overtime wages.

12 45. On information and belief, Defendants failed to provide accurate itemized wage
13 statements which failed to include all hours worked, including overtime, due and owing to
14 Plaintiffs and the aggrieved employees pursuant to Labor Code section 226(a).

15 46. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
16 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
17 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
18 for each violation in a subsequent citation, for which the employer fails to provide the employee a
19 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

20 47. Additionally, Defendants has no accurate records relating to aggrieved employees'
21 work periods, total daily hours worked, total hours worked per payroll period and applicable pay
22 rates, in violation of applicable Wage Orders. Similarly, Defendants failed to maintain accurate
23 records relating to hours worked daily in violation of Labor Code sections 1174(d), 1174.5.

24 48. As a result of Defendants' unlawful conduct, Plaintiffs and aggrieved employees
25 are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours
26 worked.

27 49. Labor Code §432.5 states in pertinent part "No employer, or agent, manager,
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1 superintendent, or officer thereof, shall require any employee or applicant for employment to
2 agree, in writing, to any term or condition which is known by such employer, or agent, manager,
3 superintendent, or officer thereof to be prohibited by law.” Despite, this Defendants included a
4 non-compete clause in the employment agreements disseminated to their employees.

5 50. Labor Code §204 (a) states in pertinent part “All wages, other than those mentioned
6 in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and
7 payable twice during each calendar month, on days designated in advance by the employer as the
8 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month
9 shall be paid for between the 16th and the 26th day of the month during which the labor was
10 performed, and labor performed between the 16th and the last day, inclusive, of any calendar
11 month, shall be paid for between the 1st and 10th day of the following month.” Despite, this
12 Defendants failed to timely pay all wages owed timely during employment.

13 51. Labor Code § 227.3 provides that “...whenever a contract of employment or
14 employer policy provides for paid vacations, and an employee is terminated without having taken
15 off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in
16 accordance with such contract of employment or employer policy respecting eligibility or time
17 served; provided, however, that an employment contract or employer policy shall not provide for
18 forfeiture of vested vacation time upon termination.”

19 52. Defendants have a policy that provides paid vacation. Defendants have failed to
20 pay vested vacation time due to Plaintiffs and Aggrieved Employees at separation from
21 employment in accordance with California law.

22 53. As a result of the unlawful acts of Defendants, Plaintiffs and the Aggrieved
23 Employees
24 have been deprived of their vested vacation time in amounts to be determined at trial, and are
25 entitled to the recovery of such amounts, and Defendants are liable to Plaintiffs and Aggrieved
26 Employees for penalties and interest pursuant to Labor Code § 203, in an amount according to
27 proof at the time of trial.
28

1 54. Plaintiffs and the Representative aggrieved Employees are entitled to recover
2 Penalties and attorneys' fees and costs sunder Labor Code section 2698, et. seq.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs prays for judgment against Defendants, as follows:

- 5 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
- 6 2. For reasonable attorneys' fees and costs; and
- 7 3. For such other and further relief as the Court deems proper.
- 8

9 Dated: January 23, 2025

JAMES HAWKINS APLC

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11 By: _____

JAMES R. HAWKINS
GREGORY MAURO
MICHAEL CALVO
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15 Attorneys for Plaintiffs STEVEN MUIR and
16 FREDRICK EARNHART on behalf of the
17 general public as private attorney general
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