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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

TYRELL GUENTNER and MAURICIO SEVERINO-MENDEZ, individuals on behalf of themselves and the State of California, as a private attorneys general,

Plaintiffs,

v.

VALCOR GROUP INC., a California Corporation Which Does Business as Valcor Security; and DOES 1 TO 50,

Defendants.

Case Number: 26STCV32537

Representative Action Complaint For:

1. Penalties Pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA") for Willful Misclassification in Violation of Labor Code section 226.8 and Other Violations of the Labor Code.

Plaintiffs Tyrell Guentner and Mauricio Severino-Mendez (collectively "Plaintiffs"), on behalf of themselves and the State of California, as private attorneys general, complain and allege of defendants Valcor Group Inc. and Does 1 to 50 (collectively, "Defendants"), and each of them, as follows:

I. INTRODUCTION

1. This action is a representative action brought pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), codified at California Labor Code sections 2698 through 2699.8.

2. The "PAGA Period" as used herein, is defined as the period from August 10, 2025, and continuing into the present and ongoing.

3. This PAGA action is brought on behalf of Plaintiffs, the State of California as private attorney general, and on behalf of the following aggrieved employees: *All individuals who are or were employed by Defendants as non-exempt employees in California during the PAGA Period* (the "Aggrieved Employees").

4. Plaintiffs are informed and believe and thereon allege that the California Industrial Welfare Commission ("IWC") Wage Order applicable to the facts of this case is IWC Wage Order 4-2001 (the "Applicable Wage Order") and possibly others that may be applicable. (Cal. Code of Regs., tit. 8, § 11040.) Plaintiffs reserve the right to amend or modify the definition of "Applicable Wage Order" with greater specificity or add additional IWC Wage Orders if additional applicable wage orders are discovered in litigation.

II. JURISDICTION & VENUE

5. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure section 410.10 because this is a civil action in which the matter in controversy, exclusive of interest, exceeds $35,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

6. This Court has personal jurisdiction over Defendants because Defendants have caused injuries in the County of Los Angeles and the State of California through their acts, and by their violation of the California Labor Code and California state common law. Defendants transact millions of dollars of business within the State of California. Defendants own, maintain offices, transact business, have an agent or agents within the County of Los Angeles, and/or otherwise are found within the County of Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of service of process.

7. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the Code of Civil Procedure. Defendants operate within California and do business within Los Angeles County, California. The unlawful acts alleged herein have a direct effect on Plaintiffs and all of Defendants' employees identified above within Los Angeles County and surrounding counties where Defendants may remotely operate. (See *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County* (2021) 60 Cal.App.5th 1069, 1075 ["We hold that venue is proper in any county in which an aggrieved employee worked and Labor Code violations allegedly occurred."].)

III. THE PARTIES

A. PLAINTIFF

8. At all relevant times, Plaintiffs, who are over the age of 18, were and currently are citizens of California residing in the State of California. Defendants employed Plaintiffs as non-exempt hourly employees in the County of Los Angeles.

9. Plaintiffs bring this action on behalf of themselves and the State of California, as private attorneys general, and on behalf of the following group of aggrieved employees: *All individuals who are or were employed by Defendants as non-exempt employees in California during the PAGA Period* (the "Aggrieved Employees").

10. The Aggrieved Employees, at all times pertinent hereto, are or were employees of Defendants during the relevant statutory period.

B. DEFENDANTS

11. Plaintiffs are informed and believe and thereon allege that Defendants were authorized to and doing business in Los Angeles County and is and/or was the legal employer of Plaintiffs and the other Aggrieved Employees during the applicable statutory periods. Plaintiffs and the other Aggrieved Employees were, and are, subject to Defendants' policies and/or practices complained of herein and have been deprived of the rights guaranteed to them by: California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2775, 2802, 2804, and others that may be applicable; California Business and Professions Code sections 17200 through 17210 ("UCL"); and the Applicable Wage Order (Cal. Code of Regs., tit. 8, § 11040).

12. Plaintiffs are informed and believe, and based thereon allege, that during the PAGA Period, Defendants did (and continue to do) business in the State of California, County of Los Angeles. Defendants' operations are headquartered in Los Angeles County.

13. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as Does 1 to 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this complaint when such true names and capacities are discovered. Plaintiffs are informed, and believe, and thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiffs and the other Aggrieved Employees to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

14. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned herein, Defendants were and/or are the employers of Plaintiffs and the other Aggrieved Employees. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants. Furthermore, the Defendants, and each of them, were the agents, representatives, and employees of each and every one of the other Defendants, and at all times herein mentioned were acting within the course and scope of said

agency, representation, and employment. Defendants, and each of them, approved of, condoned, or otherwise ratified every one of the acts or omissions complained of herein.

15. Plaintiffs are further informed, and believe, and thereon allege, that at all times mentioned herein, that Defendants, and each of them, are the alter egos of one another and that there existed and now exists a unity of interest and ownership between them such that the individuality and separateness of each of them has ceased. Plaintiffs are further informed, and believe, and thereon allege, that at all times mentioned herein, that Defendants, and each of them, have been and now are mere shells and naked frameworks that their principal uses for the conduct of that Defendant's own business, property, and affairs, for which Defendants, and each of them, have concealed and misrepresented their identities as the entities responsible for their ownership, management, and financial interests.

16. Plaintiffs are further informed, and believe, and thereon allege, that at all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiffs are informed, and believe, and thereon allege, that all Defendants were joint employers for all purposes of Plaintiffs and the other Aggrieved Employees.

IV. COMMON FACTS & ALLEGATIONS

17. Plaintiffs and the other Aggrieved Employees (collectively, the "Aggrieved Employees") are, and were at all relevant times, employed by the Defendants within the State of California.

18. The Aggrieved Employees are, and were, at all relevant times, non-exempt employees for the purposes of minimum wages, overtime, rest breaks, meal periods, and the other claims alleged in this complaint.

A. PLAINTIFFS' PERSONAL EXPERIENCES

19. Plaintiff Tyrell Guentner ("Plaintiff Guentner") worked for Defendants beginning on or around April 5, 2026, through July 30, 2026, as an hourly security officer. Throughout his em-

ployment, Plaintiff Guentner was paid on an hourly basis. Plaintiff Guentner was compensated approximately $19.00 an hour.

20. Plaintiff Mauricio Severino-Mendez ("Plaintiff Severino-Mendez") worked for Defendants beginning on May 7, 2025, through the present as an hourly security officer. Throughout his employment, Plaintiff Severino-Mendez was paid on an hourly basis. Plaintiff Severino-Mendez is currently compensated approximately $19.50 an hour.

2. Although Plaintiffs performed the core work of Defendants' business under Defendants' direction and control, Defendants classified Plaintiffs as an independent contractor, paid them without withholding, and reported their compensation on Internal Revenue Service Form 1099-NEC rather than Form W-2. Under California law, a worker is presumed to be an employee unless the hiring entity establishes that the worker is free from its control and direction in the performance of the work, that the work is outside the usual course of the hiring entity's business, and that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature. (Lab. Code, § 2775.) Security officers are not among the occupations exempted from that test. Defendants cannot establish any of the three conditions. Plaintiffs did not operate an independent business, did not have the opportunity to accept or reject scheduled assignments as a matter of choice, and did not control the manner and means of performing the work. Defendants controlled Plaintiffs' assignments, their hours and required availability, and the systems and protocols they were required to use. Despite being an employee, Plaintiffs were deprived of the benefits of that status. Defendants did not provide Plaintiffs with reimbursement of their business expenses, overtime pay at an overtime rate, or any other benefits of being an employee rather than an independent contractor.

3. Plaintiff Guentner asserts that about a month in to working for Defendants, they threatened to cut down hours unless he signed an agreement to become a 1099 independent contractor. After Plaintiff Guentner said no approximately three separate times, Defendants were still persistent and Plaintiff Guentner eventually signed the 1099 agreement out of fear of losing his job or hours. Even once Plaintiff Guentner signed the 1099 agreement, Defendants maintained constant control over how Plaintiff Guentner performed his job duties. For example, if Plaintiff Guentner was standing in a certain spot for too long, Defendants would instruct him to move.

4. Plaintiffs never received compliant rest or meal periods due to the demands of the job. Specifically, Plaintiff Severino-Mendez was directed by Defendants to never leave his post. Plaintiffs at times would not even be able to use the restroom for this reason. Plaintiff Severino-Mendez, with Defendants' knowledge and instruction, would punch in and out for his meal breaks without actually taking the break because he was not permitted to leave his post.

21. Plaintiffs had to use their personal phone to communicate with supervisors and to clock in and out. Plaintiffs assert that they were constantly on their personal phone for work purposes throughout all hours of the workday. For example, Plaintiff Severino-Mendez had to send photos when he arrived at his assigned location. Plaintiffs were never reimbursed for his personal cell phone use.

22. Additionally, Plaintiff Severino-Mendez was frequently assigned to two or three locations in one day. Plaintiff Severino-Mendez was not reimbursed for the mileage to get from one assigned location to the next.

5. Plaintiffs' experiences in this section are provided by way of example and do not represent the sum total of Labor Code violations experienced by Plaintiffs, which are further detailed below. Nor were these violations unique to Plaintiffs. Rather, they were regularly experienced by the other Aggrieved Employees, who were subject to the same uniform policies and practices.

B. WILLFUL MISCLASSIFICATION

23. Labor Code section 2775, subdivision (b), provides the test for determining whether an individual performing work for another is an independent contractor or an employee. It states as follows:

> "[A] person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:
>
> "**(A)** The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

"**(B)** The person performs work that is outside the usual course of the hiring entity's business.

"**(C)** The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed."

24. This standard is commonly referred to as the "ABC Test." Under the ABC Test, the alleged employer, rather than the worker, has the burden of establishing that the worker is an independent contractor and not intended to be included within the relevant wage order's coverage. "The focus is not on the label attached to a worker's position, but on how that individual's job may reasonably be viewed." (*Gonzales v. San Gabriel Transit, Inc.* (2019) 40 Cal.App.5th 1131, 1154–1155.) Further, the alleged employer must establish that the worker meets ***all three*** factors of the ABC Test or falls within an exception to the ABC Test. (*Id.* at p. 1154 ["The ABC test is conjunctive, and the hiring entity's failure to establish *any* of the following three factors precludes a finding that the worker is an independent contractor . . . ."].) Otherwise, Labor Code section 2775's default presumption applies and the worker must be treated as an employee. (See *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903, 955 ["The ABC test presumptively considers all workers to be employees, and permits workers to be classified as independent contractors only if the hiring business demonstrates that the worker in question satisfies each of three conditions . . . ."].)

25. Here, at all times during the PAGA Period, Defendants treated the Aggrieved Employees as independent contractors despite the fact that Defendants failed to meet any of the prongs of the ABC Test, let alone all three. First, Defendants retained the right to control the manner and method of how the Aggrieved Employees performed their job duties, and Defendants retained all necessary control over the Aggrieved Employees during their employment. Among other things, the Aggrieved Employees were required to follow detailed requirements imposed by Defendants governing the performance of their job. Further, Defendants set their compensation.

26. Second, the job duties performed by the Aggrieved Employees fell within Defendants' usual course of business. Specifically, the roles performed by the Aggrieved Employees are clearly comparable to those of Defendants' employees whose services are provided within the usual course

of Defendants' business. Thus, the work of the Aggrieved Employees was not merely incidental to Defendants' business, but rather, was an integral and ordinary part of that business.

27. Finally, the Aggrieved Employees were not engaged in an independently established trade, occupation, or business of the same nature as the work performed for Defendants. The Aggrieved Employees did not, for example, take any of the usual steps to establish and promote their businesses. Nor did the Aggrieved Employees—through incorporation, licensure, advertisements, or routine offerings to provide services to the public or to a number of potential customers—independently choose the burdens and benefits of self-employment by engaging in an independently established trade, occupation, or business. Critically, this last prong of the ABC Test requires that Defendants show the Aggrieved Employees "*actually . . . engaged* in an independent business, *not merely that [they] could be*." (*Gonzales v. San Gabriel Transit, Inc.* (2019) 40 Cal.App.5th 1131, 1155, emphasis in original.) That simply did not happen here: the Aggrieved Employees did not *actually engage* in independent businesses. "A company that labels as independent contractors a class of workers who are not engaged in an independently established business in order to enable the company to obtain the economic advantages that flow from avoiding the financial obligations that a wage order imposes on employers unquestionably violates the fundamental purposes of the wage order." (*Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903, 962.) Here, Defendants violated California law by attempting to do so.

28. Labor Code section 226.8 provides, in pertinent part, as follows:

> "**(a)** It is unlawful for any person or employer to engage in any of the following activities:
>
> "**(1)** Willful misclassification of an individual as an independent contractor.
>
> "**(2)** Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts

described in this paragraph would have violated the law if the individual had not been misclassified.

"**(b)** If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars ($5,000) and not more than fifteen thousand dollars ($15,000) for each violation, in addition to any other penalties or fines permitted by law.

"**(c)** If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than twenty-five thousand dollars ($25,000) for each violation, in addition to any other penalties or fines permitted by law."

29. As explained above, Defendants' treatment of the Aggrieved Employees cannot meet any part of the ABC Test and Defendants knew it. Defendants thus intentionally and willfully misclassified the Aggrieved Employees as independent contractors in violation of Labor Code section 226.8, subdivision (a). Moreover, this treatment was not merely occasional, but reflected Defendants' pattern and practice of willfully misclassifying Defendants' employees as independent contractors. Defendants are thus liable, through PAGA, for the civil penalties of up to $25,000 for *each* violation as provided by Labor Code section 226.8, subdivisions (b) and (c). (Lab. Code, § 2699, subd. (a).)

C. MINIMUM WAGE VIOLATIONS

30. Labor Code section 1197 requires employees to be paid at least the minimum wage fixed by the IWC, and any payment of less than the minimum wage is unlawful. Likewise, the Applicable Wage Order also obligates employers to pay each employee minimum wages for all hours

worked. (Cal. Code of Regs., tit. 8, § 11040.) Labor Code section 1198 makes unlawful the employment of an employee under conditions that the IWC Wage Orders prohibit.

31. These minimum wage standards apply to each hour that employees work. Therefore, an employer's failure to pay for any particular time worked by an employee is unlawful, even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.)

32. Here, Defendants failed to fully conform their pay practices to the requirements of the law during the relevant statutory periods. The Aggrieved Employees were not compensated for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and the Applicable Wage Order. Among other violations, the Aggrieved Employees were subject to the control of Defendants while off-the-clock and did not receive minimum wage for each hour worked.

33. Labor Code section 1197.1 authorizes employees who are paid less than the minimum wage fixed by an applicable state or local law, or by an order of the IWC, a civil penalty, among other damages, as follows:

> (1) "For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid."
>
> (2) "For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed." (Lab. Code, § 1197.1, subd. (a).)

34. As set forth above, Defendants failed to fully compensate the Aggrieved Employees for all minimum wages. Accordingly, through PAGA and to the extent permitted by law, Plaintiff and the Aggrieved Employees are entitled to recover penalties pursuant to California Labor Code section 1197.1 in addition to any other applicable penalties.

D. OVERTIME VIOLATIONS

35. Labor Code section 510 requires employers to compensate employees who work more than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510, subd. (a).) These rules are also reflected in the Applicable Wage Order.

36. In accordance with Labor Code section 1194 and the Applicable Wage Order, the Aggrieved Employees could not then agree and cannot now agree to work for a lesser wage than the amount provided by Labor Code sections 510 or the Applicable Wage Order.

37. Here, Defendants violated their duty to accurately and completely compensate the Aggrieved Employees for all overtime worked. The Aggrieved Employees periodically worked hours that entitled them to overtime compensation under the law but were not fully compensated for those hours.

38. Moreover, during the relevant statutory periods, Defendants had a policy and practice of failing to pay overtime wages at the proper rate when it actually paid overtime. Specifically, when Defendants paid overtime wages to the Aggrieved Employees, Defendants failed to include all compensation when calculating the regular rate of pay used in overtime calculations and when paying overtime.

39. For instance, the Aggrieved Employees would often receive, along with their hourly rates of pay for their working hours, additional remuneration and/or non-discretionary bonus pay. Defendants, however, calculated the regular rate of pay for the Aggrieved Employees without factoring into the regular rate of pay all other non-hourly pay earnings received during the pay period. As a result, the Aggrieved Employees were underpaid overtime wages when they worked in excess of eight hours in any workday and/or forty hours in a workweek when such additional forms of remuneration were earned. By their practice of periodically requiring the Aggrieved Employees to work in excess of eight hours in a workday and/or forty hours in a workweek without compensating

them at the rate of one and one-half (1½) their regular rate of pay, Defendants willfully violated the provisions of Labor Code sections 510, 1194, and 1199.

40. These actions were and are in clear violation of California's overtime laws as set forth in Labor Code sections 510, 1194, 1199, and the Applicable Wage Order. (Cal. Code of Regs., tit. 8, § 11040.) As a result of Defendants' faulty policies and practices, the Aggrieved Employees were not compensated for all hours worked or paid accurate overtime compensation.

E. REST BREAK VIOLATIONS

41. Pursuant to Labor Code section 226.7 and the Applicable Wage Order, Defendants were and are required to provide the Aggrieved Employees with compensated, duty-free rest periods of not less than ten minutes for every major fraction of four hours worked. Under the Applicable Wage Order, an employer must authorize and permit all employees to take ten minute duty free rest periods for every major fraction of four hours worked. (Cal. Code of Regs., tit. 8, § 11040.)

42. Likewise, Labor Code section 226.7 provides that "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission . . . ." (Lab. Code, § 226.7, subd. (b).) Labor Code section 226.7 also provides that employers must pay their employees one additional hour of pay at the employee's regular rate for each workday that a "meal or rest or recovery period is not provided." (Lab. Code, § 226.7, subd. (c).) The "regular rate" for these purposes must factor in all nondiscretionary payments for work performed by the employee, including non-discretionary bonuses, commissions, and other forms of wage payments exceeding the employees' base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.) Thus, the Wage Orders set when and for how long the rest period must take place and the Labor Code establishes that violations of the IWC Wage Orders are unlawful and sets forth the premium pay employer must pay their employees when employers fail to provide rest periods.

43. The California Supreme Court has held that, during required rest periods, "employers must relieve their employees of all duties and relinquish any control over how employees spend their break time." (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.) Relinquishing

control over employees during rest periods requires that employees be "free to leave the employer's premises" and be "permitted to attend to personal business." (*Id.* at p. 275.) The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

> "An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—it has violated the wage order and is liable." (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1033.)

44. Here, Defendants periodically did not permit the Aggrieved Employees to take compliant duty-free rest breaks, free from Defendants' control as required by Labor Code section 226.7, the Applicable Wage Order, and applicable precedent. (See *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269 [concluding that "during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time."].) At all relevant times, the Aggrieved Employees were periodically not provided with legally-compliant and timely rest periods of at least ten minutes for each four hour work period, or major fraction thereof due to Defendants' unlawful rest period policies/practices. The Aggrieved Employees were often expected and required to continue working through rest periods to meet the expectations of Defendants and finish the workday. In some cases when the Aggrieved Employees worked more than ten hours in a shift, Defendants failed to authorize and/or permit a third mandated rest period. As a result, the Aggrieved Employees were periodically unable to take compliant rest periods.

45. In such cases where Defendants did not offer the Aggrieved Employees the opportunity to receive a compliant off-duty rest period, "the court may not conclude employees voluntarily chose to skip those breaks." (*Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 410 ["If an employer fails to provide legally compliant meal or rest breaks, the court may not conclude employees voluntarily chose to skip those breaks."]; *Brinker Rest. Corp. v. Superior Court*, *supra*, 53 Cal.4th at p. 1033 ["No issue of waiver ever arises for a rest break that was

required by law but never authorized; if a break is not authorized, an employee has no opportunity to decline to take it."].)

46. In addition to failing to authorize and permit compliant rest periods, the Aggrieved Employees were not compensated with one hour's worth of pay at their regular rate of compensation when they were not provided with a compliant rest period in accordance with Labor Code section 226.7, subdivision (c). Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage Order.

F. MEAL BREAK VIOLATIONS

47. Labor Code section 512 and the Applicable Wage Order require employers to provide employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of work. (Lab. Code, § 512, subd. (a) ["An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes . . . ."]; Cal. Code of Regs., tit. 8, § 11040 ["No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes . . . ."].) Additionally, an employee who works more than ten hours per day is entitled to receive a second thirty-minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a) ["An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes . . . ."].)

48. "An on-duty meal period is permitted only when the nature of the work prevents an employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal break." (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California Department of Industrial Relations, Division of Labor Standards Enforcement ("DLSE") and courts have "found that the nature of the work exception applies: (1) where the work has some particular external force that requires the employee to be on duty at all times, and (2) where the employee is the sole employee of a particular employer." (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v. U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) "[I]t is the employer's

obligation to determine whether the nature of the work prevents an employee from being relieved before requiring an employee to take an on-duty meal period." (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at p. 946.)

49. Here, the Aggrieved Employees were never asked to sign any enforceable document agreeing to an on-duty meal period. Moreover, nothing in the nature of their work involved the kind of "external force" that might justify on-duty meal breaks. (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at p. 945.) Nevertheless, Defendants periodically did not provide compliant off-duty meal periods within the first five hours of work for the Aggrieved Employees.

50. As with rest breaks, meal breaks must be duty-free. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1035 ["The IWC's wage orders have long made a meal period's duty-free nature its defining characteristic."].) Relinquishing control over employees during meal periods requires that employees be "free to leave the employer's premises" and be "permitted to attend to personal business." (*Augustus v. ABM Security Services, Inc.*, *supra*, 2 Cal.5th at p. 275.) Under Labor Code section 512, if an employer maintains a uniform policy that does not authorize and permit the amount of meal time called for under the law (as specified in the Labor Code and/or applicable IWC Wage Order), "it has violated the wage order and is liable." (*Brinker Restaurant Corp. v. Superior Court*, *supra*, 53 Cal.4th at p. 1033.)

51. During the applicable statutory periods here, the Aggrieved Employees were periodically denied legally-compliant and timely off-duty meal periods of at least thirty minutes due to Defendants' unlawful meal period policy and practices. As a result of Defendants' uniform meal period policies and practices, the Aggrieved Employees were often not permitted to take compliant first meal periods before the end of the fifth hour of work. The Aggrieved Employees were also periodically not permitted to take second meal periods for shifts in excess of ten hours. Defendants thus violated Labor Code section 512 and the Applicable Wage Order by failing to advise, authorize, or permit the Aggrieved Employees to receive thirty-minute, off-duty meal periods within the first five hours of their shifts.

52. Labor Code section 226.7 provides that "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or

applicable regulation, standard, or order of the Industrial Welfare Commission." (Lab. Code, § 226.7, subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Order further obligate employers to pay employees one additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, § 11040 ["If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."].) The "regular rate" for these purposes must factor in all nondiscretionary payments for work performed by the employee, including non-discretionary bonuses, commissions, and other forms of wage payments exceeding the employees' base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.)

53. Accordingly, for each day that the Aggrieved Employees did not receive compliant meal periods, they were and are entitled to receive meal period premiums pursuant to Labor Code section 226.7 and the Applicable Wage Order. Defendants, however, failed to pay the Aggrieved Employees applicable meal period premiums for many workdays that the employees did not receive a compliant meal period. Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage Order.

G. UNTIMELY WAGES DURING EMPLOYMENT

54. Labor Code section 204 expressly requires employers who pay employees on a weekly, biweekly, or semimonthly basis to pay all wages "not more than seven calendar days following the close of the payroll period." Labor Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a penalty of:

> "(1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee.
>
> "(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus

25 percent of the amount unlawfully withheld." (Lab. Code, § 210, subd. (a).)

55. Notably, the penalty provided by Labor Code section 210 is "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article . . . ." (Lab. Code, § 210, subd. (a).)

56. Due to Defendants' failure to pay the Aggrieved Employees the wages described above, along with rest and meal break premiums, Defendants failed to timely pay the Aggrieved Employees within seven calendar days following the close of payroll in accordance with Labor Code section 204 on a regular and consistent basis. (See *Parson v. Golden State FC, LLC* (N.D. Cal., May 2, 2016, No. 16-CV-00405-JST) 2016 WL 1734010, at p. *3–5, 2016 U.S. Dist. LEXIS 58299 [finding that a failure to pay rest period premiums can support claims under Labor Code sections 203 and 204].) Defendants' failure to timely pay these wages was willful and intentional.

H. UNTIMELY WAGES AT SEPARATION

57. Labor Code section 203 provides "if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty" for up to thirty days. (Lab. Code § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.) As a result of Defendants' failure to pay the Aggrieved Employees for the wages described above, along with rest and meal break premiums, Defendants violated and continue to violate Labor Code section 203.

58. Due to Defendants' faulty pay policies, those Aggrieved Employees whose employment with Defendants concluded were not compensated for each and every hour worked at the appropriate rate. Defendants have failed to pay formerly-employed Aggrieved Employees whose sums were certain at the time of termination within at least seventy-two hours of their resignation and have failed to pay those sums for thirty days thereafter.

I. FAILURE TO REIMBURSE BUSINESS EXPENSES

59. At all relevant times herein, Defendants were subject to Labor Code section 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or

losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer." The purpose of this section is to "prevent employers from passing along their operating expenses onto their employees." (*Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554, 562.)

60. At all relevant times herein, Defendants were subject to Labor Code section 2804, which states that "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

61. Thus, the Aggrieved Employees were and are entitled to reimbursement for the expenses they incurred during the course of their duties. The duty to reimburse even extends to the use of equipment the employee may already own and would be required to pay for anyway. (*Cochran v. Schwan's Home Serv., Inc.* (2014) 228 Cal.App.4th 1137, 1144 ["The threshold question in this case is this: Does an employer always have to reimburse an employee for the reasonable expense of the mandatory use of a personal cell phone, or is the reimbursement obligation limited to the situation in which the employee incurred an extra expense that he or she would not have otherwise incurred absent the job? The answer is that reimbursement is always required. Otherwise, the employer would receive a windfall because it would be passing its operating expenses on to the employee."].)

62. Here, Defendants failed to fully reimburse the Aggrieved Employees for necessary expenditures incurred as a direct consequence and requirement of performing their job duties, including the costs associated with their personal cell phone and mileage they required to perform their work. Consequently, Defendants failed to comply with Labor Code section 2802.

J. WAGE STATEMENT VIOLATIONS

63. Defendants also failed to provide accurate itemized wage statements in accordance with Labor Code section 226, subdivisions (a)(1), (2), (5), and (9). Labor Code section 226, subdivision (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

(1) The gross wages earned;

(2) The total hours worked by the employee;

(3) The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate basis;

(4) All deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;

(5) The net wages earned;

(6) The inclusive dates of the period for which the employee is paid;

(7) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;

(8) The name and address of the legal entity that is the employer; and

(9) All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

64. Due to Defendants' failure to pay the Aggrieved Employees properly as described above, the wage statements issued do not indicate the correct amount of gross wages earned, total hours worked, or the net wages earned, or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Thus, Defendants have violated Labor Code section 226, subdivisions (a)(1), (2), (5), and (9).

65. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and intentionally failed to provide the Aggrieved Employees with accurate itemized wage statements in violation of Labor Code section 226, subdivision (e). Defendants knew that they were not providing the Aggrieved Employees with wage statements required by California law but nevertheless failed to correct their unlawful practices and policies. (See *Garnett v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d 1121, 1134 [finding the defendant knowingly and intentionally violated Labor Code section 226 because the "[d]efendant knew that it was not providing total hours worked to plaintiff or other employees paid on commission" even though it believed that employees paid

solely on commission or commission and salary "are exempt and therefore we do not record hours on a wage statement."].)

K. RECORDKEEPING VIOLATIONS

66. Labor Code section 226, subdivision (a), requires employers to keep an accurate record of, among other things, all hours worked by employees. Labor Code section 226.3 provides, in pertinent part, as follows:

> "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law." (Lab. Code, § 226.3.)

67. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including Defendants, to:

> "Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned." (Lab. Code, § 1174, subd. (d).)

68. As explained in detail above, Defendants failed to provide the Aggrieved Employees with accurate itemized wage statements. Defendants did so, in part, because they failed to accurately

track hours worked by the Aggrieved Employees. Defendants have thus failed to keep accurate records of the "total hours worked by the employee[s]" in violation of Labor Code section 226, subdivision (a), and are therefore subject to the penalties provided by Labor Code section 226.3. These penalties are "in addition to any other penalty provided by law." (Lab. Code, § 226.3.)

69. The failure to accurately track hours worked also resulted in a failure of Defendants to keep a record of all "payroll records showing the hours worked daily by" Defendants' employees, including Plaintiffs, and the other Aggrieved Employees, in violation of Labor Code section 1174, subdivision (d). Defendants' failure to maintain accurate and complete records as required by Labor Code section 1174, subdivision (d), was willful, and Defendants are therefore subject to the civil penalty provided by Labor Code section 1174.5.

V. EXHAUSTION OF REMEDIES

70. Plaintiffs have fully and completely exhausted administrative remedies under PAGA prior to proceeding with the PAGA claims stated in this complaint. Plaintiffs filed a PAGA notice online with the Labor and Workforce Development Agency ("LWDA") and sent a letter by certified mail to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by PAGA. (Lab. Code, §§ 2698–2699.8.)

71. As required by PAGA, Plaintiffs submitted the $75.00 filing fee to the LWDA with the online filing of the PAGA notice. (Lab. Code, § 2699.3, subd. (a)(1)(B).) Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within sixty-five calendar days of the postmark date of the PAGA notice. Plaintiffs are therefore entitled to commence and proceed with a civil action pursuant to Labor Code section 2699. Plaintiffs are aggrieved employees within the meaning of Labor Code section 2699, subdivision (c)(1), because Plaintiffs were employed by Defendants and personally suffered each of the violations alleged on behalf of the Aggrieved Employees within the period prescribed by section 340 of the Code of Civil Procedure.

VI. CAUSES OF ACTION

First Cause of Action

Penalties Pursuant to PAGA for Willful Misclassification in Violation of Labor Code section 226.8 and Other Violations of the Labor Code

(Against All Defendants)

72. Plaintiffs reallege and incorporate by reference all previous paragraphs.

73. Based on the above allegations incorporated by reference, Defendants violated Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2775, 2802, 2804, and others that may be applicable; and the Applicable Wage Order (Cal. Code of Regs., tit. 8, § 11040), and others that may be applicable.

74. As a result of the acts alleged above, Plaintiffs seek penalties under Labor Code sections 2698 through 2699.8 because of Defendants' violation of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 510, 512, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2775, 2802, 2804, and others that may be applicable; and the Applicable Wage Order (Cal. Code of Regs., tit. 8, § 11040), and others that may be applicable.

75. Under Labor Code sections 2699 and 2699.5, for each such violation, Plaintiffs and the Aggrieved Employees are entitled to recover civil penalties for each aggrieved employee per pay period, in the amounts provided by Labor Code section 2699 or as otherwise specifically provided by the Labor Code, in a total amount to be shown at the time of trial.

76. These penalties must be allocated sixty-five percent to the Labor and Workforce Development Agency ("LWDA") and thirty-five percent to the aggrieved employees. (Lab. Code, § 2699, subd. (m).) With limited exceptions provided in Labor Code section 2699, subdivision (i), these penalties may be stacked separately for each of Defendants' violations of the California Labor Code. (*Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th 773, 780–781 [citing with approval *Stoddart v. Express Services, Inc.* (E.D. Cal., Sept. 16, 2015, No. 2:12-CV-01054-KJM) 2015 WL 5522142, at *9, for the proposition that plaintiff could pursue separate claims for penalties under Labor Code section 226, subdivision (e), and penalties for Labor Code section 226, subdivision (a),

violations]; see also *Hernandez v. Towne Park, Ltd.* (C.D. Cal., June 22, 2012, No. CV 12-02972 MMM JCGX) 2012 WL 2373372, at *17 fn. 70 [noting that federal courts applying California law have found that "PAGA penalties can be stacked, i.e., multiple PAGA penalties can be assessed for the same pay period for different Labor Code violations."], internal quotation marks omitted).

77. For violations of Labor Code section 226, subdivision (a), Plaintiffs seek the civil penalty provided by Labor Code section 226.3. Labor Code section 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226." Accordingly, through PAGA and to the extent permitted by law Plaintiffs and the Aggrieved Employees are entitled to recover penalties pursuant to Labor Code section 226.3 and seek default PAGA penalties for each of Defendants' numerous violations of Labor Code section 226, subdivision (a).

78. Labor Code section 210 provides that "in addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections . . . 204 . . . shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld." Because Defendants' violations of Labor Code section 204 were willful and intentional, Plaintiffs and the Aggrieved Employees are also entitled to recover penalties under Labor Code section 210 through PAGA.

79. Labor Code section 1197.1 authorizes a civil penalty, restitution of wages, and liquidated damages, in the amount of: (1) one hundred dollars ($100) for any initial violation that is intentionally committed for each underpaid employee for each pay period for which the employee is underpaid, and (2) two hundred fifty dollars ($250) for each subsequent violation for the same specific offense for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. Accordingly, through

PAGA and to the extent permitted by law, Plaintiffs and the Aggrieved Employees are entitled to recover pursuant to Labor Code section 1197.1.

80. Plaintiffs were compelled to retain the services of counsel to file this action to protect their interests and those of the Aggrieved Employees, and to assess and collect the wages and penalties owed by Defendants. Plaintiffs have thereby incurred attorneys' fees and costs, which Plaintiffs are also entitled to recover under Labor Code section 2699, subdivision (k)(1).

VII. PRAYER FOR RELIEF

Plaintiffs pray for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For willful misclassification, penalties as provided by Labor Code section 226.8, subdivisions (b) and (c), any other penalties applicable under Labor Code section 2699, and attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (k)(1);

2. For the failure to maintain accurate employment records, penalties pursuant to Labor Code sections 226.3, 1174.5, and others that may be applicable;

3. For the violations of California's Unfair Competition Law, restitution to Plaintiffs of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code sections 17200 through 17210;

4. For the claim of penalties pursuant to PAGA and other provisions of the California Labor Code, civil penalties in the amounts provided by Labor Code section 2699 or as otherwise specifically provided by the Labor Code, together with injunctive relief as authorized by Labor Code section 2699, subdivision (e)(1), in the representative action brought on behalf of Plaintiffs and the Aggrieved Employees pursuant to the Labor Code Private Attorneys General Act of 2004, and for civil penalties recoverable through PAGA under Labor Code sections 210, 226.3, and 1174.5;

5. Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;

6. On all causes of action for which attorneys' fees may be available, for attorneys' fees and costs as provided by Labor Code section 2699, subdivision (k)(1), Code of Civil Procedure section 1021.5, and others as may be applicable;

7. For an order enjoining Defendants, and each of them, and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this complaint; and

8. For such other and further relief, this Court may deem just and proper.

Dated: October 14, 2026

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