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County of Alameda

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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

SHEIK MASTAN, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

LANDRY'S PAYROLL, INC., a Texas
Corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: **25CV120921**

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

1 Plaintiff, SHEIK MASTAN, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 LANDRY'S PAYROLL, INC., a Texas Corporation; and DOES 1-100, inclusive PLAINTIFF is
4 informed and believes and thereon alleges as follows:

5 **INTRODUCTION**

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

10 **JURISDICTION AND VENUE**

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

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

21 **THE PARTIES**

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

24 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title
25 of server or a similar title and/or job position, from in or around 2022 through in or around June
26 2024. DEFENDANTS assigned PLAINTIFF to work at its restaurant, venue, dining establishment,
27 and/or facilities located in San Leandro, California, which operates under the name “Horatio’s”
28 and/or “Horatio’s Seafood Restaurant”.

1 6. Defendant, LANDRY'S PAYROLL, INC., is a Texas corporation that at all relevant
2 times, was authorized to do business in California and is doing business in California.

3 7. DEFENDANTS own, operate, manage and/or staff its employees to work at the
4 restaurants, venues, dining establishments, facilities and/or other location(s) in California, including
5 but not limited to, in Anaheim, Beverly Hills, Burbank, Coronado, Costa Mesa, Los Angeles,
6 Malibu, Newport Beach, Palm Desert, Santa Ana, San Diego, San Francisco, San Jose, Santa Clara,
7 San Leandro, Thousand Oaks, among other cities/neighborhoods located throughout the State of
8 California. DEFENDANTS operate restaurants, venues, dining establishments, and/or other
9 facilities in California under including but not limited to the following brand names: Bubba Gump
10 Shrimp Co.; Claim Jumper; Horatio's/Horatio's Seafood Restaurant; Joe's Crab Shack; Kincaid's;
11 McCormick & Schmick's; Rainforest Café; Rusty Pelican; Skates on the Bay; Chart House; Del
12 Frisco's Double Eagle Steakhouse; Mastro's Steakhouse; Morton's The Steakhouse; Palm; and
13 Peohe's. DEFENDANTS, through its various locations, serve the including but not limited to,
14 restaurant and/or hospitality industry.¹

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

21 9. PLAINTIFF is further informed and believes that, at all relevant times, each
22 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
23 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
24 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
25 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
26 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
27 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant

28
¹ See <https://www.landrysinc.com/dining/>. Last visited on April 28, 2025.

1 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
2 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
3 controlled, aided and abetted the conduct of all other Defendants.

4 **JOINT LIABILITY**

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

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

1 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
2 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
3 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
4 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
5 policies and practices regardless of the location(s) where they worked. Among other things,
6 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
7 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
8 over the day-to-day operations and employment matters, including the power to hire and fire, set
9 schedules, issue employee policies, and determine rates of compensation across its locations in
10 California; (3) DEFENDANTS utilize the same policies and procedures for all California
11 employees, including issuing the same employee handbooks and other form agreements; (4)
12 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
13 employment matters; and, (6) DEFENDANTS share employees.

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

21 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
22 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
23 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
24 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
25 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
26 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
27 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
28 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's

1 and Aggrieved Employees' employment with or without cause. Upon information and belief,
2 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
3 writing the details of their compensation, and the manner in which they were to take meal and rest
4 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
5 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
6 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

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

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

15 **PAGA ALLEGATIONS**

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

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

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

1 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
2 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
3 violations.

4 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

5 19. PLAINTIFF, on February 21, 2025, through counsel, gave written notice by online
6 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
7 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
8 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
9 certified mail.

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

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

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

21 **FACTUAL ALLEGATIONS**

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

26 24. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title
27 of server or a similar title and/or job position, from in or around 2022 through in or around June
28 2024.

1 25. PLAINTIFF regularly worked at least approximately eight (8) to nine-and-one half
2 (9 ½) hours per day.

3 26. DEFENDANTS assigned PLAINTIFF to work at its restaurant, venue, dining
4 establishment, and/or facilities located in San Leandro, California, which operates under the name
5 “Horatio’s” and/or “Horatio’s Seafood Restaurant”.

6 27. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
7 DEFENDANTS as hours worked.

8 28. PLAINTIFF and other Aggrieved Employees also earned tips as part of their
9 compensation.

10 29. **Unpaid Minimum and Overtime Wages.** Based on information and belief,
11 DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked,
12 resulting in the underpayment of minimum and overtime wages.

13 30. Based on information and belief, Aggrieved Employees were not paid for all hours
14 worked due to DEFENDANTS’ mandated off-the clock work policies and/or practices.

15 31. For example, based on information and belief, DEFENDANTS required, suffered
16 and/or permitted PLAINTIFF and other Aggrieved Employees to complete work tasks during
17 unpaid meal periods, resulting in DEFENDANTS’ failure to compensate PLAINTIFF and other
18 Aggrieved Employees for all hours worked and the underpayment of wages owed.

19 32. For example, during the liability period, PLAINTIFF was regularly required to work
20 through PLAINTIFF’s meal periods and not relieved of all duties and DEFENDANTS’ control
21 during meal periods, however, DEFENDANTS’ wage statements for PLAINTIFF for the liability
22 period show a total of a single meal period premium payment. Based on information and belief,
23 DEFENDANTS had a practice of deducting time for purported meal periods from PLAINTIFF’s
24 total hours worked in order to avoid paying not only meal period premiums but also all owed
25 minimum wages and overtime wages.

26 33. Moreover, based on information and belief, DEFENDANTS failed to pay
27 PLAINTIFF and other Aggrieved Employees split shift premium wages when they worked split
28 shifts during the relevant period.

1 34. For example, at times, DEFENDANTS required PLAINTIFF and other Aggrieved
2 Employees to work two separate shifts in the same day. However, DEFENDANTS failed to pay
3 PLAINTIFF and Aggrieved Employees split shift compensation whenever their work schedules
4 were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted
5 in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an
6 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to
7 the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an
8 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to
9 the minimum wage for that workday, except when the employee resides at the place of employment).
10 For example, on multiple occasions, DEFENDANTS required PLAINTIFF to work two separate
11 shifts in the same day but failed to pay PLAINTIFF split shift compensation whenever
12 PLAINTIFF's work schedule was interrupted by a non-paid non-working period established by
13 DEFENDANTS, thereby failing to pay PLAINTIFF all owed split shift premium wages.

14 35. DEFENDANTS also failed to separately itemize these split shift premium wages on
15 PLAINTIFF's and other Aggrieved Employees' wage statements, in violation of Labor Code
16 sections 510, 1194 and all applicable IWC Wage Orders. See,
17 https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on
18 the pay stub provided to the employee, and it should be shown as a separate category such as "Split
19 Shift Premium" and should not be lumped into another category such as wages, bonus, etc.
20 DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF and
21 Aggrieved Employees on their wage statements.

22 36. *Unlawful Deductions:* Labor Code section 221 prohibits an employer from
23 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
24 to said employee." Based on information and belief DEFENDANTS made unlawful automatic
25 deductions from PLAINTIFF's paychecks during the relevant period. For example, DEFENDANTS
26 unlawfully deducted earned wages from PLAINTIFF's pay checks, thereby failing to pay all earned
27 minimum wages.

28 37. For example, DEFENDANTS' wage statements for PLAINTIFF show deductions

1 itemized as "Paid in Amount" on wage statements for almost all, if not all pay periods, for hundreds
2 of dollars per pay period. For example, DEFENDANTS' wage statement for PLAINTIFF for pay
3 date 05/20/24 shows regular wages earnings of \$589.28. However, the same wage statement shows
4 a deduction of \$634.61. Similarly, DEFENDANTS' wage statement for PLAINTIFF for pay date
5 06/03/24 shows regular wages earnings of \$244.80, yet the same wage statement shows a deduction
6 for \$269.75. Such a practice is in violation of including but not limited to, Labor Code Sections 221-
7 222, 1197.1, and 510, which each subjects DEFENDANTS to civil penalties under Labor Code
8 Section 2699.

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

12 39. Based on information and belief, DEFENDANTS had actual and/or constructive
13 knowledge that its off-the-clock work resulted in the underpayment of minimum wages and
14 overtime wages owed to Aggrieved Employees, in violation of California's minimum and overtime
15 wage laws.

16 40. Based on information and belief, DEFENDANTS failed to incorporate all non-
17 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
18 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
19 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
20 wages owed to PLAINTIFF and other Aggrieved Employees.

21 41. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
22 worked shifts of more than five (5) hours, entitling them to at least one meal period. However,
23 PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty (30) minute
24 meal periods. Based on information and belief, Aggrieved Employees were consistently unable to
25 take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal
26 periods, interrupted meal periods, and/or work through part or all their meal periods due to
27 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
28 pressuring them to take non-compliant meal periods or skip meal periods completely.

1 42. For example, PLAINTIFF was usually forced to work during PLAINTIFF's meal
2 periods due to understaffing, lack of coverage and/or the need to complete assigned job duties.
3 DEFENDANTS did not pay PLAINTIFF a meal period premium for each missed, worked through
4 and/or otherwise legally noncompliant meal period.

5 43. For example, during the liability period, it was typical for PLAINTIFF to work
6 during PLAINTIFF's owed meal periods due to the need to complete assigned job duties / lack of a
7 relief worker. However, DEFENDANTS' wage statements for PLAINTIFF reflect the payment of
8 only a single meal period premium during the liability period. As such, DEFENDANTS failed to
9 pay a meal period premium for each legally noncompliant meal period, in violation of California
10 meal period law.

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

15 45. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
16 additional hour of wages at their respective regular rates of compensation for each workday a lawful
17 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
18 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
19 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
20 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
21 compensation for purposes of calculating the owed meal period premium.

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

26 47. For example, PLAINTIFF was usually required to work during his owed rest periods
27 due to the need to complete assigned job duties.

28 48. Aggrieved Employees were pressured to complete their work duties according to a

1 designated schedule such that rest breaks were only taken once tasks were completed, and/or as time
2 permitted.

3 49. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
4 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
5 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
6 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
7 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
8 shift differential pay, and/or other non-discretionary compensation into the regular rate of
9 compensation for purposes of calculating the owed rest period premium.

10 50. For example, DEFENDANTS wage statements for PLAINTIFF do not reflect the
11 payment of a single rest period premium during PLAINTIFF's employment.

12 51. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
13 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
14 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
15 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
16 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
17 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
18 applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate by the employee.

20 52. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
21 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
22 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
23 Aggrieved Employees (by virtue of off-the-clock work policies and practices) which results in a
24 violation of Labor Code section 226(a).

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

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

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

8 56. **Reporting Time Pay Violations:** Section 5 of all applicable IWC Wage Orders,
9 provides as follows:

10 57. (A) Each workday an employee is required to report for work and does report, but is
11 not put to work or is furnished less than half said employee's usual or scheduled day's work, the
12 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
13 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
14 than the minimum wage. (B) If an employee is required to report for work a second time in any one
15 workday and is furnished less than two (2) hours of work on the second reporting

16 58. Aggrieved Employees were not paid reporting time wages in accordance with
17 California law, including but not limited to the applicable IWC Wage Order. For example, at times,
18 Aggrieved Employees reported to work for a scheduled shift but were sent home and were not paid
19 all owed reporting time pay wages in accordance with California law. Specifically, PLAINTIFF
20 experienced this at least around three times during PLAINTIFF's employment without receiving
21 reporting time pay.

22 59. Moreover, even when DEFENDANTS purported to pay reporting time pay wages,
23 DEFENDANTS failed to pay the full amount of reporting time pay wages owed. For example,
24 during pay period beginning on 05/14/24 and ending on 05/27/04, PLAINTIFF was only paid a total
25 of two (2) hours of reporting time pay wages ("Show Up Pay") even though PLAINTIFF was owed
26 a total of four (4) hours in reporting time pay wages as his shift was generally eight (8) hours or
27 more in length.

28 60. Based on information and belief, DEFENDANTS have a policy and practice of

1 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
2 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
3 pay all reporting time wages to Aggrieved Employees violated and continue to violate the applicable
4 Wage Order, section 5(A)-(B) and the California Labor Code, including but not limited to section
5 1198.

6 **61. Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
7 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
8 were due and owing upon termination or resignation. Based on information and belief,
9 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
10 requirements of Labor Code sections 201-202.

11 **62.** Upon separation of employment, Aggrieved Employees final paychecks were not
12 timely provided and/or did not include all wages owed as they were devoid of, including but not
13 limited to, all owed minimum wages, overtime wages, premium wages, including but not limited to,
14 split shift premium wages, and reporting time pay wages.

15 **63.** These violations subject DEFENDANTS to civil penalties under Labor Code section
16 203, 210, and/or 256.

17 **64. Violations of Labor Code Section 351.** Labor Code Section 351 prohibits
18 employers and their agents from sharing in or keeping any portion of a gratuity left for or given to
19 one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions
20 from gratuities, or from using gratuities as direct or indirect credits against an employee's wages.

21 **65.** DEFENDANTS failed to ensure that Aggrieved Employees fully received the
22 gratuities left for them by patrons, in violation of Labor Code section 351. Based on information
23 and belief, DEFENDANTS deducted credit card processing fees from tips left by patrons thereby
24 failing to ensure that PLAINTIFF and other Aggrieved Employees received the full amount of
25 gratuities left for them by patrons, in violation of Labor Code section 351.

26 **66. Unreimbursed Business Expenses.** Based on information and belief,
27 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
28 direct consequence of the performance of their job duties without providing reimbursement, in

1 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved
2 Employees were improperly required to provide and maintain work tools that are supposed to be the
3 responsibility of the employer.

4 67. Based on information and belief, DEFENDANTS shifted the costs of doing business
5 onto PLAINTIFF and other Aggrieved Employees requiring them to pay for business expenses,
6 including but not limited to, uniforms/work clothing/work shoes/personal protective/safety
7 gear/hand tools/equipment and/or the use of Aggrieved Employees' personal cell phones for work-
8 related purposes.

9 68. For example, DEFENDANTS required PLAINTIFF to purchase and/or maintain
10 DEFENDANTS' required uniforms, work clothing, work shoes, protective/safety gear, however,
11 DEFENDANTS failed to provide PLAINTIFF with any and/or full reimbursement for these
12 business expenses. For example, PLAINTIFF had to purchase uniforms/work clothing of a specific
13 brand and/or color, however, DEFENDANTS did not reimburse PLAINTIFF at all for these
14 business expenses.

15 69. Based on information and belief, DEFENDANTS regularly failed to reimburse and
16 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
17 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
18 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
19 assigned by DEFENDANTS.

20 70. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
21 for all reasonable expenses associated with carrying out their duties required that Aggrieved
22 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
23 2802.

24 71. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
25 engaged in these same herein described unlawful practices, which led to violations of the California
26 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
27 unlawful practices to all of its employees that it applied to PLAINTIFF.

FIRST CAUSE OF ACTION
VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS
2698, *ET SEQ.*

(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all Defendants)

72. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

Meal Period Violations

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

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

75. Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided”).

76. Employers must pay employees an additional hour of wages at the employees’ regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation

1 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

2 77. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
3 unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take
4 late meal periods, interrupted meal periods, and/or work through part or all of their meal periods
5 due to understaffing, the nature and constraints of their job duties, and/or commentary from
6 supervisors pressuring them to take non-compliant meal periods or skip meal periods completely.

7 78. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
8 actual and/or constructive knowledge that its unlawful policies and practices resulted in the denial
9 of compliant meal periods in violation of California's meal period laws.

10 79. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
11 periods in violation of California law and/or failed to pay the proper meal period premium for failure
12 to incorporate all non-discretionary remuneration including but not limited to, commissions,
13 multiple base rates of pay, bonuses, shift differential pay and/or other non-discretionary
14 compensation into the regular rate or compensation for purposes of calculating the owed meal period
15 premium.

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

21 **Rest Period Violations**

22 81. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
24 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
25 “insofar as practicable.” In *Brinker v Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012),
26 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
27 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
28 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at

1 1029). The rest period requirement obligates employers to permit and authorize employees to take
2 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
3 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
4 257. If the employer fails to provide any required rest period, the employer must pay the employee
5 one hour of pay at the employee's regular rate of compensation for each workday the employer did
6 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
7 applicable IWC Wage Order, §12(B).

8 82. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
9 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
10 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
11 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
12 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
13 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
14 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
15 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
16 "onus is on the employer to clearly communicate the authorization and permission [to take rest
17 periods] to its employees.").

18 83. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
19 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
20 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
21 to DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,
22 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
23 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

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

1 85. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
2 first meal periods as required by California law.

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

9 87. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
10 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
11 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

12 **Minimum and Overtime Wage Violations**

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

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

26 90. As explained above, DEFENDANTS violated California's minimum and overtime
27 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
28 by virtue of, among other things, DEFENDANTS' off-the-clock work policies and practices

described above which resulted in unpaid minimum and overtime wages.

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

92. Moreover, based on information and belief, DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees split shift premium wages when they worked split shifts during the relevant period.

93. *Unlawful Deductions:* Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee.” Based on information and belief, DEFENDANTS made unlawful automatic deductions from PLAINTIFF’s paychecks during the relevant period. For example, DEFENDANTS unlawfully deducted earned wages from PLAINTIFF’s pay checks, thereby failing to pay all earned minimum wages.

94. For example, DEFENDANTS’ wage statements for PLAINTIFF show deductions itemized as “Paid in Amount” on wage statements for almost all, if not all pay periods, for hundreds of dollars per pay period. For example, DEFENDANTS’ wage statement for PLAINTIFF for pay date 05/20/24 shows regular wages earnings of \$589.28. However, the same wage statement shows a deduction of \$634.61. Similarly, DEFENDANTS’ wage statement for PLAINTIFF for pay date 06/03/24 shows regular wages earnings of \$244.80, yet the same wage statement shows a deduction for \$269.75. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222, 1197.1, and 510, which each subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

95. Based on information and belief, DEFENDANTS had actual or constructive knowledge that off-the-clock work policies and practices resulted in the underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved Employees.

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

97. Based on information and belief, DEFENDANTS further violated California’s

1 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
2 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
3 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
4 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
5 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
6 other Aggrieved Employees.

7 98. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
8 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
9 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
10 Wage Orders, section 20.

11 **Reporting Time Pay Violations:**

12 99. Section 5 of all applicable IWC Wage Orders, provides as follows:

13 100. (A) Each workday an employee is required to report for work and does report, but is
14 not put to work or is furnished less than half said employee's usual or scheduled day's work, the
15 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
16 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
17 than the minimum wage. (B) If an employee is required to report for work a second time in any one
18 workday and is furnished less than two (2) hours of work on the second reporting

19 101. Aggrieved Employees were not paid reporting time wages in accordance with
20 California law, including but not limited to the applicable IWC Wage Order. As explained herein,
21 at times, Aggrieved Employees reported to work for a scheduled shift but were sent home and were
22 not paid all owed reporting time pay wages in accordance with California law. Based on information
23 and belief, DEFENDANTS have a policy and practice of failing to pay all reporting time wages to
24 Aggrieved Employees, in violation of California law, including but not limited to, the applicable
25 IWC Wage Order, Section 5. DEFENDANTS' failure to pay all reporting time wages to Aggrieved
26 Employees violated and continue to violate the applicable Wage Order, section 5(A)-(B) and the
27 California Labor Code, including but not limited to section 1198.

28 **Violations of Labor Code Section 351**

1 102. Labor Code Section 351 prohibits employers and their agents from sharing in or
2 keeping any portion of a gratuity left for or given to one or more employees by a patron.
3 Furthermore, it is illegal for employers to make wage deductions from gratuities, or from using
4 gratuities as direct or indirect credits against an employee's wages.

5 103. DEFENDANTS failed to ensure that Aggrieved Employees fully received the
6 gratuities left for them by patrons, in violation of Labor Code section 351. Based on information
7 and belief, DEFENDANTS deducted credit card processing fees from tips left by patrons thereby
8 failing to ensure that PLAINTIFF and other Aggrieved Employees received the full amount of
9 gratuities left for them by patrons, in violation of Labor Code section 351.

10 **Business Expense Violations**

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

17 105. Among other things, under California law, when employees must use their personal
18 cellphones for work-related purposes, the employer must reimburse them for a reasonable
19 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
20 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
21 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
22 *Id.* 1144-1145.

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

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

1 108. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
2 full reimbursement for all reasonable expenses associated with carrying out their duties required
3 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
4 expenses in violation of Labor Code section 2802.

5 109. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
6 Employees have suffered injury in that they were not completely reimbursed as mandated by
7 California law.

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

12 111. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
13 Employees have suffered injury in that they were not completely reimbursed as mandated by
14 California law.

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

19 **Wage Statement Violations**

20 113. California law requires every employer semi-monthly or at the time of each payment
21 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
22 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
23 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
24 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
25 is paid; (7) the name of the employee and only the last four digits of his or her social security number
26 or an employee identification number other than a social security number; (8) the name and address
27 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
28 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

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

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

18 116. As explained above, wage statements issued by DEFENDANTS failed to list the
19 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of off-the-clock work
20 policies and practices described above), which results in a violation of Labor Code section 226(a).
21 Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor
22 Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

27 118. Separately, and independent from the above allegations, based on information and
28 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that

1 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
2 entity that is the employer.

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

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

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

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

14 123. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
15 Employees have suffered injury. The absence of accurate information on their wage statements has
16 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
17 mathematical computations to determine the amount of wages owed, and will cause difficulty and
18 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
19 submission of inaccurate information about wages and amounts deducted from wages to state and
20 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
21 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
22 and pay records than if DEFENDANT had complied with its legal obligations.

23 124. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
24 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
25 during which the statute provisions were violated. ²

26 **Untimely Payment of Final Wages**

27 125. California Labor Code section 201(a) provides, in relevant part, that "[i]f an

28 ² Labor Code § 226.3 (establishing that the civil penalty is ~~25~~ per employee per violation").

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

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

13 127. Based on information and belief, upon separation of employment, Aggrieved
14 Employees’ final paychecks were not timely provided and/or did not include all wages owed, in
15 violation of Labor Code section 201-202. Based on information and belief, Aggrieved Employees’
16 final paychecks did not include all wages owed as they are devoid of, including but not limited to,
17 all owed minimum wages, overtime wages, premium wages, including but not limited to, split shift
18 premium wages, and reporting time pay wages.

19 128. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
20 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
21 256.

22 129. Under the provisions of PAGA and the above mentioned Labor Code sections,
23 including but not limited to Labor Code sections 201-203, 210, 221, 222, 226, 226.7, 227.3, 256,
24 351, 510, 512, 558, 558.1, 1194, 1197, 1197.1, 2699, 2699.3, 2802, and all applicable Wage Orders
25 as well as all interpretations of these laws by California Courts and administrative bodies, as well
26 as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
27 penalties:

28 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the

relevant California Labor Code provisions listed herein only if permitted by the PAGA statute, pursuant to Labor Code section 2699(a); and

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

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

PRAYER FOR RELIEF

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

1. For civil penalties under Labor Code Section 2699;
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: April 28, 2025

CROSNER LEGAL, PC

By: 

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