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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

5/24/2024 9:37 AM

By: Grace Powell, DEPUTY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN BERNARDINO**

13 FRANCISCO CARRILLO GONZALEZ,
14 individually, and on behalf of all other
15 aggrieved employees,

16 Plaintiff,

17 v.

18 AC PRO INC., a California corporation; and
19 DOES 1 through 50, inclusive,

20 Defendants.

CIVSB2417579

CASE NO.:

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

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

1 This is a representative action brought by Francisco Carrillo Gonzalez, individually and on
2 behalf of all other aggrieved employees ("Plaintiff"), relating to systemic violations of California
3 wage and hour laws by his former employer, AC Pro Inc. ("AC Pro" or "Defendant") Plaintiff makes
4 the following allegations on information and belief, except as to allegations pertaining to Plaintiff
5 individually, which are based on his personal knowledge.

6 **INTRODUCTION**

7 1. Defendant specializes in partial and complete home renovations and is located in
8 Fontana, California. Defendant is a private, for-profit construction business.

9 2. As a private, for-profit business, Defendant implemented common policies and
10 practices that have resulted in systemic violations of California's wage and hour laws. Defendant
11 failed to implement adequate practices to protect the rights of its employees, particularly in light the
12 nature of its business, which is to keep labor costs low and maximize profits.

13 3. Defendant attempts to maximize profits by among other methods, understaffing its
14 facilities and limiting the number of drivers and providing insufficient time for Plaintiff and the
15 other aggrieved employees to complete their work causing Plaintiff and the other aggrieved
16 employees to suffer from late, short or missed meal, rest, and recovery breaks.

17 4. Defendant has implemented unlawful policies with respect to meal, rest, and recovery
18 breaks. Defendant also requires its non-exempt employees, who are informed that completing tasks
19 is always the top priority, to work through meal, rest, and recovery breaks. Plaintiff and other non-
20 exempt employees are so busy with their work, they have been denied the ability to take the meal,
21 rest, and recovery breaks that they were and are legally entitled to take. Moreover, Plaintiff and the
22 other aggrieved employees cannot simply stop unloading product at a worksite and often times
23 punch out for meal periods so as to not be written up on time-keeping applications which Defendant
24 requires to be downloaded on their private cellular phones.

25 5. Additionally, Defendant has implemented a nondiscretionary bonus/commission
26 program to reward Plaintiff and other aggrieved employees based upon their production. Defendant,
27 however; failed to adjust the regular rate of pay based on premium payments for missed meal
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1 periods to the extent any were paid, sick leave, etc., based upon the nondiscretionary
2 bonus/commission payments.

3 6. Furthermore, Defendant has uniformly failed to pay Plaintiff and other non-exempt
4 employees proper overtime wages due the fact that it willfully turns a blind eye to off-the-clock
5 work that Plaintiff and other non-exempt employees perform as a direct consequence of Defendant's
6 understaffing and imposition of an unreasonable workload.

7 7. Defendant also failed to provide Plaintiff and the other aggrieved employees with
8 accurate wage statements by failing to list any of the hours worked by Plaintiff and the other
9 aggrieved employees, including failing to list the correct regular rate of pay based upon the
10 nondiscretionary bonus/commission payments.

11 8. Plaintiff and other non-exempt employees similarly do not receive reimbursements
12 for the expenses they incur in the discharge of their job duties. These expenses include cellular
13 phone usage as Plaintiff and the other aggrieved employees are required to download mandated
14 applications in order to keep track of their time and GPS data time incurred for drivers when locating
15 worksites where product must be dropped off for projects.

16 **JURISDICTION AND VENUE**

17 9. The Superior Court of the State of California has jurisdiction in this matter because
18 Plaintiff is a citizen and resident of the State of California, and Defendant regularly conducts
19 business in the State of California.

20 10. Venue is proper in this judicial district and the County of San Bernardino, California
21 because Plaintiff resides in the County of San Bernardino and Defendant assigned Plaintiff to work
22 at worksites located throughout the County of San Bernardino and many of Defendant's unlawful
23 actions and omissions, as set alleged herein, occurred in the County of San Bernardino. Moreover,
24 Defendant's principal office is located in Fontana, California, a city located within the County of
25 San Bernardino.

26 11. Defendant employed Plaintiff and other aggrieved employees within the State of
27 California and the unlawful acts alleged herein have a direct effect on Plaintiff and other aggrieved
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1 employees.

2 **THE PARTIES**

3 12. During the statute of limitations period, Plaintiff was employed by Defendant and
4 assigned as a driver to deliver goods to worksites, as assigned by Defendant, located in the County of
5 San Bernardino, California and other locations throughout the State of California.

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

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

16 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
17 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
18 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
19 attributable to the other Defendant. Furthermore, Defendants in all respects acted as the employer
20 and/or joint employer of Plaintiff and the other aggrieved employees.

21 16. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
22 in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent,
23 and/or principal of the co-Defendants, and in performing the acts mentioned below was acting, at least
24 in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint
25 venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the
26 above co-Defendants. Plaintiff also alleges that the acts of each Defendant are legally attributable to
27 the other Defendants.

1 17. As a direct and proximate result of the unlawful actions of Defendant, Plaintiff and the
2 other aggrieved employees have suffered and continue to suffer penalties in amounts as yet
3 unascertained but subject to proof at trial and within the jurisdiction of this Court.

4 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

5 18. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
6 California Labor Code §§ 2698-2699.5, Plaintiff brings this action on behalf of himself and all other
7 aggrieved employees, e.g., current and former non-exempt employees of Defendant who performed
8 work for Defendant in the State of California at any time within the period beginning one (1) year
9 prior to the filing of the Complaint in this action, or as otherwise permitted under PAGA, and ending
10 at the time this action settles or proceeds to final judgment (“statute of limitations period”).

11 19. On March 15, 2024, Plaintiff gave written notice by certified mail pursuant to
12 California Labor Code § 2699.3, to the California Labor and Workforce Development Agency
13 (“LWDA”) and Defendant, of the specific provisions of the California Labor Code and IWC Wage
14 Order alleged to have been violated, including the facts and theories to support the alleged
15 violations. Plaintiff has not received any response from the LWDA. As Plaintiff has waited more
16 than sixty-five (65) days from the March 15, 2024, postmark date of his written notice before filing
17 this action, Plaintiff has complied with all of the requirements set forth in California Labor Code §
18 2699.3 to commence a representative action under PAGA.

19 **FACTUAL ALLEGATIONS**

20 **Failure to Provide Required Meal Periods**

21 **[Cal. Lab. Code §§ 226.7, 512, 558; § 10 of the Applicable IWC Wage Order]**

22 20. During the statute of limitations period, as part of Defendant’s illegal policies and
23 practices to minimize labor costs and maximize corporate profits, Defendant has required, permitted
24 or otherwise suffered Plaintiff and aggrieved employees to perform work during their meal periods,
25 to completely skip their meal periods, to take late and short meal periods, and Defendant has
26 otherwise failed to provide the required meal periods to Plaintiff and aggrieved employees as
27 required under California Labor Code §§ 226.7, 512, 558 and § 10 of the applicable IWC Order.

1 21. Defendant has implemented several practices that have caused Plaintiff and aggrieved
2 employees to systematically miss and otherwise take non-compliant meal periods. Defendant
3 systematically understaffs its worksites such that its non-exempt employees are given so much work
4 to complete that they regularly miss or take non-compliant meal periods. As a direct consequence of
5 this understaffing, Plaintiff and aggrieved employees have so much work to complete within their
6 scheduled shifts that they are forced to skip their meal periods altogether, to take them after working
7 longer than five (5) hours, to perform work during their meal periods, or return to work after taking
8 less than a thirty (30) minute meal period. Further, Defendant systemically deprived Plaintiff and
9 the other aggrieved employees of the opportunity to take second meal periods even though they
10 regularly work shifts in excess of ten (10) hours.

11 22. There are also frequently occasions when Plaintiff and aggrieved employees need to
12 perform other duties immediately before the time during which they are legally entitled to take a
13 meal period. Pursuant to Defendant's policies and practices, Plaintiff and aggrieved employees
14 cannot simply drop their urgent job duties to take a meal period. Consequently, Plaintiff and
15 aggrieved employees regularly miss meal periods, take late meal periods, or return early from meal
16 periods, and even clock out for meal periods but continue working during their meal periods.

17 23. Plaintiff and aggrieved employees often cannot simply stop working and take their
18 meal period, which often causes them to regularly miss and otherwise take non-compliant meal
19 periods.

20 24. Despite the foregoing, Defendant has implemented a policy and practice of actively
21 discouraging the issuance of meal period premium payments, and in the process, Defendant has also
22 violated California Labor Code §§ 226.7, § 10 of the applicable IWC Wage Order, and the
23 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to
24 compensate Plaintiff and aggrieved employees who were not authorized and permitted to take a
25 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper
26 regular rate of pay for each workday that such a meal period was not authorized or permitted.

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1 29. Plaintiff and aggrieved employees work outdoors performing intense manual labor as
2 assigned by Defendant. This work is performed over the course of many hours in temperatures
3 regularly exceeding 80 degrees Fahrenheit, and often up to 100 degrees Fahrenheit. Despite these
4 work conditions, Defendant has failed to implement an adequate policy or practice of providing
5 recovery periods for Plaintiff and the other aggrieved employees. Defendant has similarly failed to
6 make efforts to comply with heat illness prevention regulations by providing places of shade for
7 recovery periods or by supplying sufficient amounts of drinking water. For example, there are times
8 when Defendant does not provide Plaintiff and aggrieved employees with drinking water during an
9 entire workweek. As with meal and rest breaks, Defendant did not provide Plaintiff and the other
10 aggrieved employees with any written documents informing them of their rights to take recovery
11 periods, and thus they did not take them.

12 30. Defendant further violated Cal. Lab. Code §226.7, and the California Unfair
13 Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and the other
14 aggrieved employees who were not provided with a recovery period, one additional hour of
15 compensation at the proper regular rate of pay for each workday that a recovery period was not
16 provided.

17 31. As a proximate result of the aforementioned violations, Plaintiff and aggrieved
18 employees have been damaged in an amount according to proof at trial, and seek all wages earned
19 and due, interest, penalties, expenses and cost of suit.

20 **Failure to Pay Overtime Wages**

21 **[Cal. Lab. Code §§ 510, 1194, 1198; § 3 of the Applicable IWC Wage Order]**

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

2 33. Plaintiff and other aggrieved employees are current and former non-exempt
3 employees entitled to the protections of California Labor Code §§ 510, 1194, and § 3 of the
4 applicable IWC Order. During the statute of limitations period, Defendant has failed to compensate
5 Plaintiff and other aggrieved employees for all overtime hours worked as required under the
6 foregoing provisions of the California Labor Code and IWC Wage Order by, among other methods:
7 failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by
8 California Labor Code §§ 510, 1194 and § 3 of the applicable IWC Order, requiring, permitting or
9 suffering Plaintiff and other aggrieved employees to work off-the-clock, and to work through meal,
10 rest, and recovery breaks, but not compensating them for this time, improperly calculating the
11 regular rate of pay based on shift differentials, nondiscretionary bonus/commission payments and
12 other remuneration, and other methods to be discovered.

13 34. In a short-sighted attempt to maximize profits, Defendant understaffs its warehouse,
14 worksites and delivery drivers. Not only has this practice resulted in widespread missed meal, rest,
15 and recovery breaks, but it has also caused Plaintiff and other aggrieved employees to perform work
16 while off-the-clock. Defendant has actual or constructive knowledge of this off-the-clock work and
17 subtly condones it. Defendant knows that Plaintiff and other aggrieved employees perform this work
18 off-the-clock as indicated based upon Defendant's failure to list the hours worked in the wage
19 statements of Plaintiff and the other aggrieved employees.

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

23 **Failure to Pay Minimum Wages**

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

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

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

7 38. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4
8 of the applicable IWC Wage Order. As a proximate result of the aforementioned violations, Plaintiff
9 and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore,
10 pursuant to California Labor Code §§ 200, 203, 226, 1194, 1197.1, and any other applicable law,
11 Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to
12 them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

13 **Failure to Timely Pay Wages During Employment**

14 **[Cal. Lab. Code § 204]**

15 39. Pursuant to California Labor Code § 204, for all labor performed between the 1st and
16 15th days of any calendar month, Defendant is required to pay its nonexempt employees between the
17 16th and 26th day of the month during which the labor was performed. California Labor Code § 204
18 also provides that for all labor performed between the 16th and 26th days of any calendar month,
19 Defendant is required to pay its non-exempt employees between the 1st and 10th day of the following
20 calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in
21 excess of the normal work period shall be paid no later than the payday of the next regular payroll
22 period.

23 40. During the statute of limitations period, Defendant has knowingly and willfully failed
24 to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next
25 regular payroll period as required by California Labor Code § 204, including but not limited to,
26 compensation for missed meal and rest breaks, proper overtime wages due to an unlawful calculation
27 of the regular rate of pay, and for work performed off-the-clock.

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

2 **[Cal. Lab. Code §§ 201 - 203]**

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

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

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

15 44. During the statute of limitations period, Defendant has willfully failed to pay accrued
16 wages and other compensation to Plaintiff and other aggrieved employees in accordance with
17 California Labor Code §§ 201 and 202. Defendant does not have a sufficient policy to provide
18 Plaintiff and other aggrieved employees with their final paychecks within the timeframes required
19 under California law. In addition, because Defendant has failed and continues to fail to properly
20 compensate Plaintiff and other aggrieved employees for all hours worked when due, overtime
21 wages, and compensation for non-compliant meal, rest, and recovery breaks, Defendant has also
22 willfully failed and continues to fail to pay accrued wages and other compensation to Plaintiff and
23 other aggrieved employees in accordance with California Labor Code §§ 201 and 202.

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

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

26 45. During the statute of limitations period, Defendant has routinely failed to provide
27 Plaintiff and other aggrieved employees with timely and accurate itemized wage statements. To the
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1 extent Defendant provides wage statements, Defendant's pay stubs violate Labor Code § 226 on their
2 face by, among other things, failing to set forth all hours worked by Plaintiff and the other aggrieved
3 employees, including but not limited to, regular and overtime hours, failure to pay the regular rate of
4 pay based upon nondiscretionary bonus/commission payments. Derivatively, Defendant is not
5 providing Plaintiff and other aggrieved employees with proper meal periods, rest breaks, and recovery
6 periods, but intentionally fails to include in their wage statements one (1) additional hour of
7 compensation at their regular rates of pay for each non-compliant meal period, rest break or recovery
8 period, and other California Labor Code violations yet to be discovered.

9 46. In order to conceal its wage theft, Defendant knowingly and intentionally failed to
10 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements
11 in accordance with Labor Code § 226(a) and § 6 of the applicable IWC Order.

12 47. Plaintiff and other aggrieved employees suffered injury as a result of Defendant's
13 failure to provide timely and accurate itemized wage statements which prevented them from
14 discovering the scope and extent of Defendant's violations of California wage and hour laws,
15 prevented them from being able to determine the gross wages earned, the total hours worked, all
16 deductions made, the net wages earned, all applicable hourly rates in effect during each pay period
17 and the corresponding number of hours worked at each hourly rate, the accurate rate of pay, and other
18 violations yet to be discovered.

19 **Failure to Maintain Required Records**

20 **[Cal. Lab. Code §§ 226(a), 1174(d); § 6 of the Applicable IWC Wage Order]**

21 48. During the statute of limitations period, as part of Defendant's illegal payroll policies
22 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,
23 Defendant knowingly and intentionally failed to maintain records as required under California Labor
24 Code §§ 226(a) and 1174(d) and § 6 of the applicable IWC Order, including but not limited to the
25 following records: total daily hours worked by each non-exempt employee; applicable rates of pay;
26 all deductions; meal periods; regular rate of pay; time records showing when each non-exempt
27 employee begins and ends each workday; and accurate itemized wage statements. Defendant had
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1 knowledge that it was not providing its non-exempt employees with proper meal, rest, and recovery
2 periods, but knowingly failed to include in the wage statements one (1) extra hour of compensation
3 for each missed meal, rest, and recovery periods. Defendant also illegally and inaccurately recorded
4 the time in which Plaintiff and other aggrieved employees worked. Defendant has also failed to
5 maintain accurate, itemized wage statements, and other violations of the California Labor Code
6 which have not been discovered.

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

8 **[Cal. Lab. Code § 2802]**

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

12 50. During the statute of limitations period, and in violation of Labor Code § 2802,
13 Defendant failed to indemnify Plaintiff and other aggrieved employees for all business expenses
14 and/or losses incurred in direct consequence of the discharge of their duties, including but not
15 limited to, expenses relating to cellular telephone reimbursements. Defendant required Plaintiff and
16 the other aggrieved employees to download one or more time keeping applications on their personal
17 cellular phones and aggrieved employees were required to use their personal cellular phones for GPS
18 and map programs in order to drop off product. Defendant also failed to reimburse Plaintiff and the
19 other aggrieved employees for expenses associated with the maintenance of mandatory work
20 uniforms. As a result, Defendant failed to sufficiently reimburse Plaintiff and the other aggrieved
21 employees for all reasonable and necessary expenditures relating to the performance of their duties
22 and responsibilities.

23 **Failure to Furnish or Provide All Documents Signed or Obtained**

24 **[Cal. Lab. Code § 432]**

25 51. California Labor Code §432 provides an employee must be provided with copies of
26 any signed instrument relating to obtaining or holding employment. Here, Defendant failed to
27 provide all copies of signed documents relating to obtaining and holding employment to Plaintiff
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1 upon his request pursuant for his personnel file and wage records.

2 **FIRST CAUSE OF ACTION**

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

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

5 (On Behalf of Plaintiff against Defendant)

6 52. Plaintiff incorporates herein by specific reference, as though fully set forth, the
7 allegations in paragraphs 1 through 51.

8 53. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code §
9 2699(c), and a proper representative to bring a civil action on behalf of himself and other current and
10 former non-exempt employees of Defendant pursuant to the procedures specified in Labor Code §
11 2699.3, because Plaintiff was employed by Defendant and one or more of the alleged California
12 Labor Code violations was committed against Plaintiff during the statute of limitations period.

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

16 55. A plaintiff has standing to represent all aggrieved employees for all of his asserted
17 violations of the California Labor Code under PAGA. See *Huff v. Securitas Security Services USA,*
18 *Inc.* (2018) 23 Cal.App.5th 745, 757 (“For PAGA standing a plaintiff need only have been employed
19 by the violator and affected by ‘one or more’ of the alleged violations. (Sec. 2699, subds. (a), (c)).
20 Here, Plaintiff was not provided with a legally compliant wage statement pursuant to Labor Code
21 §226 since Defendant failed to list the hours worked on its wage statements provided to Plaintiff, in
22 addition to the meal, rest, and recovery period violations and other California Labor Code violations
23 as alleged herein.

24 56. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
25 penalties from Defendant in a representative action for the violations set forth above, including but
26 not limited to violations of California Labor Code §§ 201, 202, 203, 226(a), 226.7, 2510, 558, 512,
27 1174(d), 1194, 1197, and 1198.

1 57. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties
2 for Defendant's violations of California Labor Code provisions for which a civil penalty is
3 specifically provided, including but not limited to, the following:

- 4 a. Pursuant to California Labor Code § 210, for violations of California Labor
5 Code § 204, Defendant is subject to a civil penalty in the amount of one
6 hundred dollars (\$100) for the initial violation for each failure to pay each
7 employee, and two hundred dollars (\$200) per employee for violations in
8 subsequent pay periods.
- 9 b. Pursuant to California Labor Code § 558(a), "[a]ny employer or other person
10 acting on behalf of an employer who violates, or causes to be violated, a
11 section of this chapter or any provision regulating hours and days of work in
12 any order of the Industrial Welfare Commission," including California Labor
13 Code §§ 510 and 512, shall be subject to a civil penalty, in addition to any
14 other penalty provided by law, of fifty dollars (\$50) for initial violations for
15 each underpaid employee for each pay period for which the employee was
16 underpaid and one hundred dollars (\$100) for each subsequent violation for
17 each underpaid employee for each pay period for which the employee was
18 underpaid.
- 19 c. Pursuant to California Labor Code § 1174.5, for violations of California Labor
20 Code § 1174(d), Defendant is subject to a civil penalty of five hundred dollars
21 (\$500).
- 22 d. Pursuant to California Labor Code § 1197.1, an employers who pays or causes
23 to be paid to any employee a wage less than the minimum fixed by an order of
24 the commission, shall be subject to a civil penalty as follows: for any initial
25 violation that is intentionally committed, one hundred dollars (\$100) for each
26 underpaid employee for each pay period for which the employee is underpaid;
27 and for each subsequent violation of the same offense, two hundred fifty
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1 dollars (\$250) for each underpaid employee for each pay period for which the
2 employee is underpaid regardless of whether the initial violation was
3 intentionally committed.

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

9 59. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f)
10 for Defendant's violations of California Labor Code provisions for which a civil penalty is not
11 specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 432,
12 226.7, 558, 1194, 1197, 1198 and 2802.

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

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
17 for relief against Defendant, as follows:

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

23 DATED: May 24, 2024

LAW OFFICE OF SCOTT ERNEST WHEELER

24
25 By: 

SCOTT ERNEST WHEELER
JUSTIN A. WHEELER

26
27 *Attorneys for Plaintiff and the other aggrieved*
28 *employees*