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1 James R. Hawkins (SBN 192925)  
 Christina M. Lucio (SBN 253677)  
 2 **JAMES HAWKINS APLC**  
 9880 Research Drive, Suite 200  
 3 Irvine, California 92618  
 Telephone: (949) 387-7200  
 4 Facsimile: (949) 387-6676  
 James@Jameshawkinsaplc.com  
 5 Christina@Jameshawkinsaplc.com

6 Attorneys for Plaintiff JACOB ABUTALEB  
 on behalf of himself and all others similarly situated

7  
 8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 9 **COUNTY OF LOS ANGELES**

10 JACOB ABUTALEB, individually and on  
 behalf of himself and all others similarly  
 11 situated,

12  
 13 Plaintiff,

v.

14 PLANNED PARENTHOOD LOS  
 ANGELES, a California Nonprofit  
 15 Corporation; ELITE SHOW SERVICES,  
 INC., a California Corporation; and DOES  
 16 1-50, inclusive,

17 Defendants.

Case No. **22STCV36154**

**REPRESENTATIVE COMPLAINT**

*Assigned for All Purposes To:*

Hon.  
 Dept.:

**COMPLAINT FOR DAMAGES FOR:**

- 1) **Civil Penalties Under Private Attorneys' General Act, Labor Code Section 2698 et seq.**

1 COMES NOW, Plaintiff JACOB ABUTALEB (“Plaintiff”), individually and on behalf of  
2 others similarly situated, and asserts claims against defendants PLANNED PARENTHOOD LOS  
3 ANGELES (“Planned Parenthood”), a California Nonprofit Corporation; ELITE SHOW  
4 SERVICES, INC. (“Elite”), a California Corporation; and DOES 1-50, inclusive (collectively  
5 “Defendants” or “Planned Parenthood”) as follows:

6 **INTRODUCTION**

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

12 2. Plaintiff brings this action pursuant to the PAGA on a representative basis on behalf  
13 of all non-exempt employees working directly or indirectly for Defendants in the State of California  
14 (the “Aggrieved Employees”) from one year prior to the filing of the PAGA notice to the conclusion  
15 of this action.

16 3. Plaintiff brings this action on behalf of himself and the Aggrieved Employees to  
17 recover civil penalties and address Defendants’ violations of the California Labor Code and the  
18 IWC Wage Orders.

19 4. Pursuant to *Huff v. Securitas Services*, 23 Cal. App. 5<sup>th</sup> 745, 751 (2018), an  
20 employee who brings a representative action and was affected by at least one of the violations  
21 alleged in the complaint has standing to pursue penalties on behalf of the state and not only for that  
22 violation, but for violations affecting other employees as well. Accordingly, Mr. Abutaleb has  
23 standing to pursue penalties on behalf of the state of violations affecting all the aggrieved  
24 employees working for Defendants, regardless of their classification, job title, or locations in  
25 California.

26 5. In this case, Defendants violated various provisions of the California Labor Code  
27 and IWC Wage Order. Defendants’ violations include: (1) failure to pay minimum wages; (2)  
28 failure to accurately pay overtime wages; (3) failure to provide lawful meal periods; (4) failure to

1 authorize and permit rest periods; (5) failure to timely pay wages during employment; (6) failure  
2 to timely pay wages owed upon separation from employment; (7) failure to reimburse necessary  
3 expenses (8) knowing and intentional failure to comply with itemized wage statement provisions;  
4 (9) failure to pay on-call time pay; (10) violation of the unfair competition law; and (11) failure to  
5 keep accurate record.

6 6. This action is timely because Plaintiff suffered from a violation or numerous  
7 violations of the California Labor Code within one year of the date on which a PAGA notice was  
8 sent to the LWDA via online submission. More than 65 days have passed, and no response has  
9 been received by the LWDA. Plaintiff thereby satisfied the notice requirement under the statute  
10 and permitting Plaintiff to proceed with this action in a representative capacity.

11 **JURISDICTION AND VENUE**

12 7. This Court has jurisdiction over this action pursuant to the California Constitution  
13 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except  
14 those given by statute to other courts.

15 8. Further, there is no federal question at issue, as the issues herein are based solely on  
16 California statutes and law, including the Labor Code, IWC Wage Orders, the California Code of  
17 Civil Procedure, the California Civil Code, and the California Business and Professions Code.

18 9. Venue is proper in this Court because one or more of the Defendants reside, transact  
19 business, or have offices in this County, Plaintiff is a resident of this County, and the acts or  
20 omissions alleged herein took place in this County.

21 **PARTIES**

22 10. Defendant Planned Parenthood Los Angeles is a California Nonprofit Corporation  
23 doing business in the state of California. It is based at 400 W. 30th Street, Los Angeles, CA 90007.

24 11. Upon information and belief, Defendants employ Non-Exempt Employees, like  
25 Plaintiff, throughout the State of California.

26 12. Defendant Elite Show Services, Inc. is a California Corporation doing business in  
27 the state of California. It is based at 2878 Camino Del Rio South, Suite 260, San Diego, CA 92108.

28 13. Upon information and belief, Defendants employ Non-Exempt Employees, like

1 Plaintiff, throughout the State of California.

2 14. Plaintiff Jacob Abutaleb is and during the liability period has been, a resident of  
3 California.

4 15. Plaintiff was employed in an hourly, non-exempt position by Defendants during the  
5 relevant time period.

6 16. Plaintiff and the members of the aggrieved group were employed, directly or  
7 indirectly, by Defendants as non-exempt employees in the State of California from one year prior  
8 to the filing of the PAGA notice to the conclusion of this action.

9 17. Whenever in this complaint reference is made to any act, deed, or conduct of  
10 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through  
11 one or more of Defendants' officers, directors, agents, employees, or representatives, who was  
12 actively engaged in the management, direction, control, or transaction of the ordinary business and  
13 affairs of Defendants.

14 18. The true names and capacities of Defendants, whether individual, corporate,  
15 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to  
16 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure  
17 § 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and  
18 capacities of the Defendants designated hereinafter as DOES when such identities become known.

19 19. Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants are  
20 the partners, agents, or principals and co-conspirators of Defendants and of each other; that  
21 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided  
22 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits  
23 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the  
24 liability of the Defendants as alleged herein.

25 20. Plaintiff is further informed and believes, and thereon alleges, that at all times  
26 material herein, each Defendant was completely dominated and controlled by its co-Defendants  
27 and each was the alter ego of the other. Whenever and wherever reference is made in this complaint  
28 to any conduct by Defendant or Defendants, such allegations and references shall also be deemed

1 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.  
2 Whenever and wherever reference is made to individuals who are not named as Defendants in this  
3 complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times  
4 acted on behalf of Defendants named in this complaint within the scope of their respective  
5 employments.

6 **FACTUAL ALLEGATIONS**

7 21. During the relevant time frame, Defendants compensated Plaintiff and the Non-  
8 Exempt Employees based upon an hourly wage.

9 22. Plaintiff and the Aggrieved Employees were, and at all times pertinent hereto, have  
10 been non-exempt employees within the meaning of the California Labor Code, and the  
11 implementing rules and regulations of the IWC California Wage Orders. They are subject to the  
12 protections of the IWC Wage Orders and the Labor Code.

13 23. During the relevant time, Plaintiff was employed by Defendants in an hourly, non-  
14 exempt position. He worked as a security guard for Defendants approximately 5-6 days per week,  
15 50+ hours per week.

16 24. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were  
17 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the  
18 requirements of California's wage and employment laws.

19 25. All Aggrieved Employees are similarly situated in that they are all subject to  
20 Defendants' uniform policies and systemic practices as specified herein.

21 26. Plaintiff and the Aggrieved Employees were required to clock in at the beginning of  
22 their shifts and out at the end of their shifts by calling Defendants on their personal cell phones.  
23 Plaintiff and the Aggrieved Employees were not paid for all hours worked because employees were  
24 required to work off the clock and because Defendants unlawfully rounded the hours worked by  
25 Plaintiff and the Aggrieved Employees such that they were not paid for all hours worked.

26 27. In addition to Defendants rounding policy, Plaintiff and the Aggrieved Employees  
27 were required to work off the clock without proper compensation including, but not limited to,  
28 attending pre-shift and post-shift activities, COVID-19 related screenings, and cellular phone use  
outside of scheduled shifts. Plaintiff and the Aggrieved Employees were also required to attend  
a firearms training, but were not compensated for the hours spent at said training.

28 28. Plaintiff and the Aggrieved Employees were regularly required to call Defendants

1 on a day they were scheduled to work or a day before in order to be informed of their exact hours.  
2 However, due to the uncertainty of which schedule they would be assigned for the following day,  
3 they were forced to remain available the entirety of the following day. Plaintiff and, on information  
4 and belief, the Aggrieved Employees, were not compensated for on-call or standby time.

5 29. In addition, Plaintiff and the Aggrieved Employees worked in excess of eight (8)  
6 hours in day and/or over forty (40) hours in a workweek. However, they were not properly paid for  
7 such time at a rate of time and one-half the employee's regular rate of pay per hour, or double time  
8 for hours worked in excess of 12 hours in one day or for work over 8 hours in a day on the seventh  
9 day of work in a workweek.

10 30. In addition, upon information and belief, Defendants failed to incorporate all forms  
11 of non-discretionary compensation into the regular rate, including differentials and incentives.

12 31. Plaintiff and the Aggrieved Employees were regularly required to work shifts in  
13 excess of five hours without being provided a lawful meal period and, on occasion, over ten hours  
14 in a day without being provided a second lawful meal period as required by law.

15 32. Indeed, during the relevant time, as a consequence of Defendants' scheduling  
16 practices, work demands, and Defendants' policies and practices, Defendants frequently failed to  
17 provide Plaintiff and the Aggrieved Employees timely, legally complaint uninterrupted 30-minute  
18 meal periods as required by law. Not only were Plaintiff's and the Aggrieved Employees' first  
19 meal breaks frequently not provided, untimely or short, but also Plaintiff and the Aggrieved  
20 Employees were not provided a second meal period when working shifts in excess of 10 hours and  
21 in excess of 12 hours.

22 33. On information and belief, Plaintiff and Aggrieved Employees did not waive their  
23 rights to a second meal period.

24 34. Despite the above-mentioned meal period violations, Defendants failed to  
25 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,  
26 one additional hour of pay at their regular rate as required by California law when meal periods  
27 were not timely or lawfully provided in a compliant manner.

28 35. Plaintiff is informed and believes, and thereon alleges, that Defendants know,  
should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees  
were entitled to receive accurate premium wages under Labor Code §226.7 but were not receiving  
accurately calculated compensation.

1           36. In addition, during the relevant time frame, Plaintiff and the Non-Exempt  
2 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest  
3 period for every four hours worked or major fraction thereof, which is a violation of the Labor Code  
4 and IWC wage order.

5           37. Defendants maintained and enforced scheduling practices, policies, and imposed  
6 work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful,  
7 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such  
8 requisite rest periods were not timely authorized and permitted.

9           38. Despite the above-mentioned rest period violations, Defendants did not compensate  
10 Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of  
11 pay at their regular rate as required by California law, including Labor Code section 226.7 and the  
12 applicable IWC wage order, for each day on which lawful rest periods were not authorized and  
13 permitted.

14           39. In addition, Plaintiff and the Aggrieved Employees were required to carry work-  
15 related cellular phones or other communications devices during meal and rest periods, and were  
16 required to remain available. Meal and rest periods were frequently interrupted as a consequence.

17           40. Plaintiff and the Aggrieved Employees were further required to remain on premises  
18 during rest periods.

19           41. Moreover, Plaintiff and the Aggrieved Employees were required to incur necessary  
20 expenses in the discharge of their duties, including but not limited to use of their personal cell  
21 phones, but were not reimbursed for such costs.

22           42. Defendants also failed to provide accurate, lawful itemized wage statements to  
23 Plaintiff and the Aggrieved Employees in part because of the above specified violations.

24           43. Defendants have also made it difficult to determine applicable rates of pay and  
25 account with precision for the unlawfully withheld wages and deductions due to be paid to Non-  
26 exempt Employees, including Plaintiff, during the liability period because they did not implement  
27 and preserve a lawful record-keeping method to record all hours worked, and non-provided rest  
28 and meal periods owed to employees as required for non-exempt employees by 29 U.S.C. section  
211(c), California Labor Code section 226, and applicable California Wage Orders.

          44. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
mentioned, Defendants knew that at the time of termination of employment (or within 72 hours

1 thereof for resignations without prior notice as the case may be) they had a duty to accurately  
2 compensate Plaintiff and Aggrieved Employees for all wages owed including straight time,  
3 overtime, meal and rest period premiums, and that Defendants had the financial ability to pay such  
4 compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so in part  
because of the above-specified violations.

5 45. Plaintiff and the Aggrieved Employees are covered by applicable California IWC  
6 Wage Orders and corresponding applicable provisions of the California Code of Regulations, Title  
7 8, section 11000 *et seq.*

8 ***FAILURE TO PAY MINIMUM WAGES***

9 46. Plaintiff incorporates each and every allegation set forth in all of the foregoing  
10 paragraphs as if fully set forth herein

11 47. Labor Code section 204 establishes the fundamental right of all employees in the  
12 State of California to be paid wages, including minimum wage, straight time, in a timely fashion  
13 for their work.

14 48. Labor Code section 1194(a) provides that notwithstanding any agreement to work  
15 for a lesser wage, any employee receiving less than the legal minimum wage compensation  
16 applicable to the employee is entitled to recover in a civil action the unpaid balance of the full  
17 amount of this minimum wage or overtime compensation, including interest thereon, reasonable  
18 attorney's fees, and costs of suit.

19 49. Labor Code section 1197 provides: The minimum wage for employees fixed by the  
20 commission or by any applicable state or local law, is the minimum wage to be paid to employees,  
21 and the payment of a lower wage than the minimum so fixed is unlawful.

22 50. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer  
23 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC  
24 Wage Order(s).

25 51. The applicable wage orders and California Labor Code sections 1197 and 1182.12  
26 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by  
27 state law.

28 52. Labor Code sections 1194(a) and 1194.2(a) provide that an employee who has not

1 been paid the legal minimum wage as required by Labor Code section 1197 may recover the unpaid  
2 balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount  
3 equal to the unpaid wages and interest accrued thereon.

4 53. During all relevant periods, the California Labor Code and wage orders required that  
5 Defendants fully and timely pay its non-exempt, hourly employees all wages earned and due for all  
6 hours worked.

7 54. The IWC Wage Orders define "hours worked" as "the time during which an  
8 employee is subject to the control of an employer, and includes all the time the employee is suffered  
9 or permitted to work, whether or not required to do so."

10 55. At all times relevant, Plaintiff and Aggrieved Employees consistently worked hours  
11 for which they were not paid because Defendants frequently required Plaintiff and the Aggrieved  
12 Employees to work off the clock (including without limitation during purported meal periods).

13 56. Plaintiff is informed and believes that Defendants were aware that Plaintiff and the  
14 Aggrieved Employees were working off the clock and that they should have been paid for this time.

15 57. In addition, Defendants failed to pay at least minimum wage for all hours worked  
16 because, upon information and belief, Defendants rounded hours worked against Plaintiff and the  
17 Aggrieved Employees' interests.

18 58. Defendant's policy and practice of not paying all minimum wages violates  
19 California Labor Code sections 204, 210, 216, 558, 1182.12, 1194, 1197, 1197.1, 1198, and the  
20 applicable wage order 4-2001 and 5-2001.

21 ***FAILURE TO PAY OVERTIME OWED***

22 59. Plaintiff incorporates each and every allegation set forth in all of the foregoing  
23 paragraphs as if fully set forth herein.

24 60. During all relevant periods, Defendant required Plaintiff and the Aggrieved  
25 Employees to work shifts in excess of eight (8) hours per workday and/or to work in excess of forty  
26 (40) hours per workweek.

27 61. During all relevant periods, both the California Labor Code sections 1194, 1197,  
28 510, 1198, and the pertinent wage order 4-2001 and 5-2001 required that all work performed by

1 an employee in excess of eight (8) hours in any workday, on the seventh day of work in any  
2 workweek, or in excess of forty (40) hours in any workweek be compensated at one and one-half  
3 (1.5) times the employee’s regular rate of pay. Any work in excess of twelve (12) hours in one (1)  
4 day is required to be compensated at the rate of no less than twice the regular rate of pay for an  
5 employee. In addition, any work in excess of eight (8) hours on any seventh (7th) day of a  
6 workweek is required to be compensated at the rate of no less than twice the regular rate of pay of  
7 an employee.

8 62. During all relevant periods, Defendants had a uniform policy of requiring Plaintiff  
9 and the Aggrieved Employees to work in excess of eight (8) hours in a workday and/or in excess  
10 of forty (40) hours in a workweek without compensating them at a rate of one and one-half (1.5)  
11 times their regular rate of pay. Upon information and belief, Defendants also failed to properly  
12 compensate Plaintiff and the Aggrieved Employees for hours worked in excess of twelve (12) hours  
13 in one (1) day, or eight (8) hours on the seventh (7th) day of a workweek.

14 63. The IWC Wage Orders define “hours worked” as “the time during which an  
15 employee is subject to the control of an employer, and includes all the time the employee is suffered  
16 or permitted to work, whether or not required to do so.”

17 64. At all times relevant, Plaintiff and Aggrieved Employees consistently worked hours  
18 for which they were not paid because Plaintiff and the Aggrieved Employees were required to work  
19 off the clock—some of these hours were over eight (8) hours in one (1) workday or in excess of  
20 forty (40) hours in a workweek and should have been paid at the overtime rate.

21 65. Plaintiff is informed and believes that Defendants were aware that Plaintiff and the  
22 Aggrieved Employees were working off the clock and that they should have been paid for this time.

23 66. By way of example, Plaintiff and Aggrieved Employees were required to do pre-  
24 and/or post-shift activities while off the clock, undergo COVID-19 related screenings or attend  
25 training. Defendants did not compensate Plaintiff and Aggrieved Employees for this time spent off  
26 the clock.

27 67. In addition, upon information and belief, Defendants failed to incorporate all forms  
28 of compensation, including without limitation differentials, and incentives, into the regular rate for

1 overtime purposes.

2 68. As a result, Defendants failed to pay Plaintiff and the Aggrieved Employees earned  
3 overtime wages and violated the law.

4 69. Defendants knew or should have known Plaintiff and the Aggrieved Employees  
5 were undercompensated as a result of these practices.

6 ***FAILURE TO PROVIDE LAWFUL MEAL PERIODS***

7 70. Plaintiff incorporates each and every allegation set forth in all of the foregoing  
8 paragraphs as if fully set forth herein.

9 71. Pursuant to Labor Code § 512, no employer shall employ an employee for a work  
10 period of more than five (5) hours without providing a meal break of not less than thirty (30)  
11 minutes in which the employee is relieved of all of his or her duties, except that when a work period  
12 of not more than six (6) hours will complete the day's work the meal period may be waived by  
13 mutual consent of the employer and employee.

14 72. During the relevant time, Defendants failed to provide Plaintiff and Aggrieved  
15 Employees timely and uninterrupted first meal periods of not less than thirty (30) minutes within  
16 the first five hours of a shift.

17 73. As a consequence of Defendants' policies and practices, requirements, scheduling  
18 practices, work demands, coverage and staffing, Plaintiff and the Aggrieved Employees were often  
19 required to forego such meal periods, take shortened meal periods, and/or commence their meal  
20 periods into and beyond the sixth hour of their shifts.

21 74. In addition, Plaintiff and, upon information and belief, the Aggrieved Employees  
22 were required to carry work-related cellular phones or other communications devices during meal  
23 and rest periods, and were required to remain available. Meal and rest periods were frequently  
24 interrupted as a consequence.

25 75. Upon information and belief, Plaintiff and the Aggrieved Employees were not paid  
26 one hour of pay at their regular rate for each day that a meal period was not lawfully provided, in  
27 part, because any such payments failed to include any incentives, gift cards, and other remuneration  
28 in the regular rate.

1           76.     As a proximate result of the aforementioned violations, Plaintiff and the Aggrieved  
2 Employees have been damaged in an amount according to proof at time of trial.

3           77.     Pursuant to Labor Code § 226.7, Plaintiff and Aggrieved Employees are entitled to  
4 recover one (1) hour of premium pay at the regular rate for each day in which a meal period  
5 violation occurred. They are also entitled to recover reasonable attorneys' fees, cost, interest, and  
6 penalties as applicable.

7           78.     As a result of the unlawful acts of Defendants, Defendants violated Labor Code  
8 section 512, 226.7, 1198, and the Wage Orders.

9                           ***FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS***

10          79.     Plaintiff incorporates by reference and realleges each and every allegation contained  
11 above, as though fully set forth herein.

12          80.     Pursuant to the IWC wage orders applicable to Plaintiff's and Aggrieved  
13 Employees' employment by Defendants, "Every employer shall authorize and permit all employees  
14 to take rest periods, which insofar as practicable shall be in the middle of each work period....  
15 [The] authorized rest period time shall be based on the total hours worked daily at the rate of ten  
16 (10) minutes net rest time per four (4) hours worked or major fraction thereof.... Authorized rest  
17 period time shall be counted as hours worked, for which there shall be no deduction from wages."

18          81.     Labor Code §226.7(a) prohibits an employer from requiring any employee to work  
19 during any rest period mandated by an applicable order of the IWC.

20          82.     Defendants were required to authorize and permit employees such as Plaintiff and  
21 Aggrieved Employees to take rest periods during shifts in excess of 3.5 hours, based upon the total  
22 hours worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction  
23 thereof, with no deduction from wages.

24          83.     Despite said requirements of the IWC wage orders applicable to Plaintiff's and  
25 Aggrieved Employee's employment with Defendants, Defendants failed and refused to authorize  
26 and permit Plaintiff and Aggrieved Employees to take lawful, net ten (10) minute rest periods for  
27 every four (4) hours worked, or major fraction thereof as a consequence of Defendants' policies  
28 and practices, requirements, scheduling practices, work demands, coverage and staffing. Such rest

1 breaks, when provided, were frequently untimely or less than net ten minutes because of the work  
2 requirements imposed by Defendants, and frequent calls during rest periods. Plaintiff and the  
3 Aggrieved Employees were required to carry work-related cellular phones or other communications  
4 devices during meal and rest periods, and were required to remain available. Meal and rest periods  
5 were frequently interrupted as a consequence.

6 84. In addition, Plaintiff and the Aggrieved Employees were further required to remain  
7 on premises during rest periods

8 85. Defendants did not pay Plaintiff one additional hour of pay at his regular rate of pay  
9 for each day that a rest period violation occurred. On information and belief, the other members of  
10 the aggrieved group endured similar violations as a result of Defendants' rest period policies and  
11 practices and Defendant did not pay said Aggrieved Employees premium pay as required by law.

12 86. By their failure to authorize and permit Plaintiff and the Aggrieved Employees to  
13 take a lawful, net ten (10) minute rest period free from work duties every four (4) hours or major  
14 fraction thereof worked, including failure to provide two (2) total rest periods on six to ten hour  
15 shifts and three (3) total ten (10) minute rest periods on days on which Plaintiff and the other  
16 Aggrieved Employees work(ed) work a third rest period for shifts in excess of ten (10) hours, and  
17 by their failure to provide compensation for such unprovided rest periods as alleged herein,  
18 Defendants willfully violated the provisions of Labor Code sections 226.7 and the applicable IWC  
19 Wage Order(s) 4-2001 and 5-2001.

20 87. As a result of the unlawful acts of Defendants, Defendants violated Labor Code  
21 section 226.7, 512, 1198, and the Wage Orders.

22 ***FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING***  
23 ***EMPLOYMENT***

24 88. Plaintiff incorporates by reference and realleges each and every allegation contained  
25 above, as though fully set forth herein.

26 89. Labor Code section 204 requires that all wages are due and payable twice in each  
27 calendar month.

28



1 them to Labor Code § 203 penalties.

2 98. In addition, irrespective of any derivative violation, Defendants failed to timely pay  
3 Plaintiff and, upon information and belief, other Aggrieved Employees earned compensation at the  
4 time of termination despite their obligations under Labor Code 201 and 202.

5 99. More than thirty (30) days have passed since affected Aggrieved Employees have  
6 left Defendants' employ, and on information and belief, they have not received payment pursuant  
7 to Labor Code § 203.

8 100. Plaintiff and the Aggrieved Employees are thus entitled to 30 days' wages as  
9 a penalty under Labor Code § 203, together with interest thereon and attorneys' fees and costs.

10 ***FAILURE TO REIMBURSE NECESSARY EXPENSES***

11 101. Plaintiffs repeat and incorporate herein by reference each and every allegation set  
12 forth above, as though fully set forth herein.

13 102. Labor Code § 2802 requires Defendants to indemnify Plaintiffs and Aggrieved  
14 Employees for necessary expenditures incurred in direct consequence of the discharge of his or her  
15 duties.

16 103. Plaintiff and the members of the Indemnification Aggrieved Group were required to  
17 incur expenses in the performance of their assigned job duties, including but not limited to personal  
18 cell phone expenses.

19 104. Upon information and belief, the Defendants did not reimburse Plaintiff or the  
20 Aggrieved Group for such expenses.

21 105. As a result of the unlawful acts of Defendants, Defendants violated Labor Code  
22 §2800 and 2802.

23 ***KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED***  
24 ***EMPLOYEE WAGE STATEMENT PROVISIONS***

25 106. Plaintiff repeats and incorporates herein by reference each and every allegation set  
26 forth above, as though fully set forth herein.

27 107. Labor Code section 226(a) reads in pertinent part: "Every employer shall,  
28 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either

1 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately  
2 when wages are paid by personal check or cash, an accurate itemized statement in writing showing  
3 (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions... (5) net  
4 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of  
5 the employee and only the last four digits of his or her social security number or an employee  
6 identification number other than a social security number, (8) the name and address of the legal  
7 entity that is the employer, and (9) all applicable hourly rates in effect during each the pay period  
8 and the corresponding number of hours worked at each hourly rate by the employee....”.

9 108. Further, the IWC Wage Orders require in pertinent part: Every employer shall keep  
10 accurate information with respect to each employee including the following: (3) Time records  
11 showing when the employee begins and ends each work period. Meal periods, split shift intervals,  
12 and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period  
13 and applicable rates of pay....”

14 109. Labor Code section 1174 of the California also requires Defendants to maintain and  
15 preserve, in a centralized location, among other items, records showing the names and addresses of  
16 all employees employed and payroll records showing the hours worked daily by, and the wages  
17 paid to, its employees. On information and belief and based thereon, Defendants have knowingly  
18 and intentionally failed to comply with Labor Code section 1174, including by implementing the  
19 policies and procedures and committing the violations alleged in the preceding causes of action and  
20 herein. Defendants' failure to comply with Labor Code section 1174 is unlawful pursuant to Labor  
21 Code section 1175.

22 110. Defendants have failed to record many of the items delineated in applicable  
23 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section 1174,  
24 including by virtue of the fact that each wage statement which failed to accurately compensate  
25 Plaintiff and Aggrieved Employees for all hours worked and for missed and non-provided meal and  
26 rest periods, or which failed to include compensation for all minimum wages earned or overtime  
27 hours worked, was an inaccurate wage statement.

28 111. On information and belief, Defendants failed to implement and preserve a lawful

1 record-keeping method to record all non-provided meal and rest periods owed to employees or all  
2 hours worked, as required for Non-Exempt Employees under California Labor Code section 226  
3 and applicable California Wage Orders. In order to determine if they had been paid the correct  
4 amount and rate for all hours worked, Plaintiff and Aggrieved Employees have been, would have  
5 been, and are compelled to try to discover the required information missing from their wage  
6 statements and to perform complex calculations in light of the inaccuracies and incompleteness of  
7 the wage statements Defendants provided to them.

8 112. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC  
9 Wage Orders, Defendants did not and still do not furnish each of the members of the Aggrieved  
10 Group with an accurate itemized statement in writing accurately reflecting all of the required  
11 information. Here, Plaintiff asserts the Defendant omitted required information, failed to accurately  
12 include all applicable hourly rates on the wage statements and the corresponding number of hours  
13 worked at such rates or hours paid at such rates. In addition, Defendants have failed to provide  
14 accurate itemized wage statements as a consequence of the above-specified violations for failure to  
15 accurately pay all wages owed, accurately record all hours worked, and failure to pay meal and rest  
16 period premiums as required by law.

17 113. Moreover, upon information and belief, as a pattern and practice, in violation of  
18 Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain  
19 accurate records pertaining to the total hours worked for Defendants by the members of the  
20 Aggrieved Group, including but not limited to, beginning and ending of each work period, meal  
21 period and split shift interval, the total daily hours worked, and the total hours worked per pay  
22 period and applicable rates of pay.

23 ***FAILURE TO PAY ON-CALL TIME PAY***

24 114. Plaintiff incorporates each and every allegation set forth in all of the foregoing  
25 paragraphs as if fully set forth herein.

26 115. Pursuant to the IWC wage orders applicable to Plaintiff and the Aggrieved  
27 Employees' employment by Defendants, "Each workday an employee is required to report for work  
28 and does report, but is not put to work or is furnished less than half said employee's usual or

1 scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but  
2 in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate  
3 of pay, which shall not be less than the minimum wage."

4 116. Plaintiff and Aggrieved Employees were required to call Defendants the day prior  
5 to a day they were scheduled in order to be informed of their exact hours. However, due to the  
6 uncertainty of which schedule they would be assigned for the following day, Plaintiff and  
7 Aggrieved Employees were forced to remain available the entirety of the following day to ensure  
8 they were available for the assigned shift. They were not compensated for the time they remained  
9 under the control of Defendants.

10 117. Moreover, upon information and belief, as a pattern and practice in violation of  
11 Labor Code sections 200-203, 226, and 226.3 and the IWC Wage Orders, Defendants did not  
12 compensate Plaintiff and the Aggrieved Employees and did not properly record said time.

13 ***FAILURE TO KEEP ACCURATE RECORDS***

14 118. Plaintiff repeats and incorporates herein by reference each and every allegation set  
15 forth above, as though fully set forth herein.

16 119. The IWC wage orders, Labor Code Sections 226(a), 1174, and 1174.5 require that  
17 the Defendant keep accurate payroll and timekeeping information.

18 120. The IWC Wage Orders required in pertinent part: Every employer shall keep  
19 accurate information with respect to each employee including the following: (3) Time records  
20 showing when the employee begins and ends each work period. Meal Periods, split shift intervals,  
21 and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period  
22 and applicable rate of pay..."

23 121. Labor Code section 1174 also requires Defendants to maintain and preserve, in a  
24 centralized location, among other items, records showing the names and addresses of all employees  
25 employed and payroll records showing the hours worked daily by and the wages paid to, its  
26 employees.



1           130. Plaintiff seeks to recover the PAGA civil penalties through a representative action  
2 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.  
3 4<sup>th</sup> 969. Class certification of the PAGA claims is not required.

4           131. Pursuant to Labor Code section 2698 et seq. and 2699(a), Plaintiff seeks to recover  
5 civil penalties for which Defendants are liable due to numerous Labor Code and Wage Order  
6 violations as set forth in this Complaint.

7           132. Specifically, Plaintiff, on behalf of himself and the Aggrieved Employees, seek  
8 penalties under Labor Code §2699, for, without limitation, the claims set forth herein, including:

- 9           a. Defendants' failure to comply with the requirement of Labor Code §1182.12,  
10           1194, 1197, 1198, and Wage Orders to pay at least minimum wage for every  
11           hour worked;
- 12           b. Defendants' failure to comply with the requirement of Labor Code §510, 1194,  
13           1197, 1198, and Wage Orders to accurately pay all wages earned;
- 14           c. Defendants' failure to comply with the requirement of Labor Code §216 to pay  
15           wages after demand was made;
- 16           d. Defendants' failure to comply with the requirement of Labor Code §§204 and  
17           210 to pay, without condition and within the time set by the applicable article,  
18           all wages, or parts thereof;
- 19           e. Defendants' failure to comply with the requirement of Labor Code §225.5 to  
20           pay wages due;
- 21           f. Defendants' failure to comply with the requirement of Labor Code §§201 and  
22           202 to pay wages due to former employees;
- 23           g. Defendants' failure to comply with the requirement of Labor Code §203 to pay  
24           waiting time penalties to former employees;
- 25           h. Defendants' failure to comply with the requirement of Labor Code §226.7, 512,  
26           1198, and IWC Wage Orders to provide timely, uninterrupted 30 minute off-  
27           duty meal periods;

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- i. Defendants’ failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Orders to pay one hour of premium pay at the regular rate for each lawful meal break that was not provided;
- j. Defendants’ failure to comply with the requirement of Labor Code §226.7, 1198, and IWC Wage Orders to authorize and permit ten (10) minute rest breaks;
- k. Defendants’ failure to comply with the requirement of Labor Code §§226.7, 1198, and IWC Wage Orders to pay one hour of premium pay at the regular rate for each statutorily required rest break that was not lawfully authorized and permitted;
- l. Defendants’ failure to reimburse necessary expenses in violation of Labor Code §2802;
- m. Defendants’ failure to pay for on call time in violation of Labor Code section 200-203, 1194, 1197, 1198, and the Wage Orders;
- n. Defendants’ failure to maintain required records in violation of Labor Code §226, 1174, and Wage Orders;
- o. Defendants’ failure to provide accurate compliant wage statements under Labor Code section 226;

133. Plaintiff seeks civil penalties for Defendants’ violation of Labor Code provisions for which a civil penalty is specifically provided, including but not limited to the following:

- a. Pursuant to Labor Code §210, for violations of Labor Code §204, Defendants are subject to a civil penalty in the amount of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred (\$200) per employee for violations in subsequent pay periods plus 25% of the amount unlawfully withheld.
- b. Pursuant to Labor Code §226.3, for violations of Labor Code §226 (a) Defendants are subject to a civil penalty in the amount of two hundred and fifty dollars (\$250) per aggrieved employee for the initial pay period where a violation occurs and one

1 thousand dollars (\$1,000) per aggrieved employee for violations in subsequent pay  
2 period.

3 c. Pursuant to Labor Code §558(a), “[a]ny employer or other person acting on behalf  
4 of an employer who violated, or causes to be violated, a section of this chapter or  
5 any provisions regulating hours and days of work in any order of the Industrial  
6 Welfare Commission,” including Labor Code §§510 and 512, shall be subject to a  
7 civil penalty, in addition to any other penalty provided by law, of fifty dollars (\$50)  
8 for initial violations for each underpaid employee for each pay period for which the  
9 employee was underpaid and one hundred dollars (\$100) for each subsequent  
10 violation for each underpaid employee for each pay period for which the employee  
11 was underpaid.

12 d. Pursuant to Labor Code §1174.5, for violations of Labor Code §1174(d), Defendants  
13 are subject to a civil penalty of five hundred dollars (\$500).

14 e. Pursuant to Labor Code §1197.1, an employer who pays or causes to be paid to any  
15 employee a wage less than the minimum fixed by an order of the commission, shall  
16 be subject to a civil penalty as follows: for any initial violation that is intentionally  
17 committed, one hundred dollars (\$100) for each underpaid employee for each pay  
18 period for which the employee is underpaid; and for each subsequent violation of  
19 the same offense, two hundred fifty dollars (\$250) for each underpaid employee for  
20 each pay period for which the employee is underpaid regardless of whether the  
21 initial violation was intentionally committed.

22 134. Further, as a result of the acts alleged hereinabove, Plaintiff seeks penalties under  
23 Labor Code §§2698 et seq. and 2699 because of Defendants’ violation of numerous provisions of  
24 the California Labor Code and IWC Wage Orders.

25 135. Under Labor Code §2699, Plaintiff and Aggrieved Employees are entitled to \$100  
26 for any initial violation and \$200 for all subsequent violations of the above-mentioned provisions  
27 of the California Labor Code.

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