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Superior Court of California
County of Los Angeles

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DERRELL ANDERSON, as an individual
and on behalf of all employees similarly
situated,

Plaintiff,

v.

CINDYS CLEANING SERVICES LLC
dba CYNDY'S CLEANING SERVICES
LLC; ABM INDUSTRIES
INCORPORATED; and DOES 1 through
50, inclusive,

Defendants.

Case No.: **20STCV13371**

CLASS ACTION

**COMPLAINT FOR DAMAGES AND FOR
CIVIL PENALTIES**

1. Violation of Cal. Labor Code §§ 510, 1194 (Recovery of Unpaid Minimum Wage and Overtime);
2. Violation of Cal. Labor Code §§ 226.7, 512 (Meal Period Violations);
3. Violation of Cal. Labor Code § 226.7, IWC Wage Order 5 (Rest Period Violations);
4. Violation of Cal. Labor Code § 226 (Failure to Provide Accurate Itemized Wage Statements);
5. Violation of Cal. Labor Code §§ 201, 202, 203 (Failure to Pay Wages Due at Separation of Employment); and
6. Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair Business Practice); and
7. Civil Penalties under Cal. Labor Code §§ 2698 and 2699 (Private Attorneys General Act)

REQUEST FOR JURY TRIAL

1 Plaintiff DERRELL ANDERSON ("Plaintiff" or "Mr. Anderson"), on behalf of himself
2 and all employees similarly situated, complains and alleges as follows:

3 **INTRODUCTION**

4 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
5 who were subjected to one or more of the violations alleged herein ("Plaintiff Class") by
6 Defendants CINDYS CLEANING SERVICES LLC dba CYNDY'S CLEANING SERVICES
7 LLC and ABM INDUSTRIES INCORPORATED (collectively referred to as "Defendants"). The
8 term "Relevant Time Period" or "Time Period" is defined as four (4) years prior to the filing of
9 this Complaint. Plaintiff reserves the right to amend this Complaint to reflect a different "Time
10 Period" as further discovery is conducted.

11 2. Plaintiff, individually and on behalf of the Plaintiff Class, seeks relief against
12 Defendants for their: (1) failure to pay all wages due including regular and overtime wages and
13 minimum wages; (2) failure to provide meal periods or premium compensation in lieu thereof;
14 (3) failure to provide rest periods or premium compensation in lieu thereof; (4) failure to provide
15 accurate itemized wage statements; (5) failure to pay wages due upon termination of employment;
16 and (6) unfair business practices.

17 3. At all relevant times herein, Defendants have consistently maintained and enforced
18 the following unlawful policies and practices against Plaintiff and the Plaintiff Class:

- 19 a. Willfully refusing to pay all hours worked, including regular, overtime,
20 and minimum wages;
- 21 b. Willfully refusing to permit off-duty meal periods or providing
22 compensation in lieu thereof;
- 23 c. Willfully refusing to permit rest periods or providing compensation in lieu
24 thereof;
- 25 d. Willfully refusing to furnish accurate itemized wage statements upon
26 payment of wages;
- 27 e. Willfully refusing to pay all wages due upon separation of employment;
28 and

1 f. Willfully engaging in unfair business practices.

2 **THE PARTIES**

3 **The Plaintiff**

4 4. Mr. Anderson is, and at all times herein mentioned was, a resident of the County
5 of Los Angeles. Mr. Anderson began his employment with Cindys on or about August 2019 as a
6 janitor and is still currently employed as janitor by Cindys. Throughout the Relevant Time Period,
7 Plaintiff's duties included cleaning and performing various janitorial services.

8 **The Defendants**

9 5. Plaintiff is informed and believes, and based thereon alleges, that Defendant
10 Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC ("Cindys") provides
11 cleaning and janitorial services for various venues, including event venues such as stadiums, in
12 Los Angeles County, and is and/or was the employer of Plaintiff and similarly situated employees
13 during the Relevant Time Period.

14 6. Plaintiff is informed and believes, and based thereon alleges, that Defendant ABM
15 Industries Incorporated ("ABM") is a Delaware corporation in the business of providing a variety
16 of services for various industries, including janitorial services, throughout the country which
17 includes California. On information and belief, ABM outsources janitorial services to third-
18 parties such as Cindys. ABM is then paid by the clients for whom the janitorial services were
19 rendered ("client(s)"), then subsequently issues payment to Cindys for the services performed.
20 Also, on information and belief, ABM keeps all timesheets signed by employees who perform
21 the janitorial services, including those directly employed by Cindys, for its records and to support
22 its claim of payment from the clients. Cindys and ABM (collectively referred herein as
23 "Defendants") are thus alleged to be Plaintiff's and similarly situated employees' joint employers
24 during the Relevant Time Period under the California Labor Code ("Labor Code") and relevant
25 case law. ((See, e.g., *Martinez v. Combs*, 49 Cal.4th 35 (2010)); (Lab. Code § 2810.3).)

26 7. Plaintiff is ignorant of the true names, capacities, relationships and extent of
27 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
28 inclusive, but on information and belief alleges that said Defendants are legally responsible for

1 the violations alleged herein. Plaintiff will amend this complaint to allege the true names and
2 capacities of the DOE Defendants when ascertained.

3 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
4 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
5 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant
6 are legally attributable to the other Defendants. Furthermore, Defendants operate as a joint
7 venture and/or single business enterprise, integrated enterprise and/or are agents of one another,
8 are alter egos, joint employers and conspire with one another to increase profits by engaging in
9 the conduct described in this complaint.

10 9. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
11 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
12 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
13 below was acting, at least in part, within the course and scope of that authority as such agent,
14 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
15 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant
16 are legally attributable to the other Defendants.

17 **JURISDICTION AND VENUE**

18 10. This Court has subject matter jurisdiction over the causes of action alleged in this
19 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
20 excluded from exercising subject matter jurisdiction over said causes of action. The penalties
21 recoverable for Plaintiff do not exceed seventy-five thousand dollars (\$75,000.00), and
22 collectively amongst Plaintiff Class do not exceed five million dollars (\$5,000,000.00.)

23 11. Plaintiff is a resident of the State of California. Defendant Cindys is a California
24 limited liability company doing business in the State of California, with headquarters located at
25 1016 E. 14th Place, Los Angeles, CA 90640. Defendant Cindys is thus a resident of and/or
26 domiciled in the State of California.

27 12. Additionally, Defendant ABM is a Delaware corporation doing business
28 throughout the State of California. There is no federal question at issue as the issues herein are

1 based solely on California statutes and law, including the California Labor Code ("Labor Code"),
2 Industrial Welfare Commission ("IWC") Wage Orders, California Code of Civil Procedure
3 ("Code of Civil Procedure"), California Business and Professions Code ("Business and
4 Professions Code"), and California Rules of Court ("Rules of Court"). By doing business in the
5 state of California, Defendant ABM has purposefully availed itself of the state's jurisdiction.
6 Accordingly, as personal jurisdiction over Defendant ABM would be constitutional, California's
7 long-arm statute provides that California courts may exercise personal jurisdiction over
8 Defendant ABM. (Code Civil Procedure § 410.10.)

9 13. Venue is proper in the County of Los Angeles, because Defendants conduct
10 business in the County of Los Angeles, and the acts and omissions set forth herein occurred in
11 the County of Los Angeles.

12 **PAGA ADMINISTRATIVE PREREQUISITE**

13 14. Pursuant to the Private Attorney Generals Act ("PAGA"), prior to filing this
14 complaint, on January 22, 2020, Plaintiff gave written notice to the Labor and Workforce
15 Development Agency ("LWDA") and by certified mail to Defendants of the specified provisions
16 of the Labor Code alleged to have been violated, including the facts and theories that support the
17 alleged violation as required by Labor Code section 2699.3. (LWDA Case No. LWDA-CM-
18 768100-20.). On January 23, 2020, Plaintiff gave an amended written notice to the LWDA
19 containing the correct certified mail numbers on the first page of the January 22, 2020 written
20 notice. A true and correct copy of Plaintiff's original and amended written notices sent to the
21 LWDA, dated January 22, 2020 and January 23, 2020 respectively, are attached hereto as **Exhibit**
22 **A.**

23 **FACTUAL ALLEGATIONS**

24 15. This lawsuit arises out of an ongoing wrongful scheme by Defendants to deny its
25 employees the benefits due under California's wage and hour laws for work performed in
26 California. Defendants wrongfully refused to provide Plaintiff and the Plaintiff Class minimum
27 wages, overtime compensation, meal and rest periods, and other statutory benefits mandated by
28 California.

1 16. During the Relevant Time Period, Defendants employed Plaintiff and the Plaintiff
2 Class in non-exempt positions throughout its California locations.

3 17. Defendants failed to provide Plaintiff and the Plaintiff Class with meal periods in
4 violation of the Labor Code and IWC Wage Orders. Plaintiff and the Plaintiff Class were entitled
5 to timely, uninterrupted, thirty (30) minute meal periods with the first (5) hours worked.
6 However, these breaks were either not provided, were interrupted, or were provided late.
7 Defendants would automatically deduct a meal period for Plaintiff and the Plaintiff Class even
8 when it did not in fact provide a meal period. On various occasions, Plaintiff complained to
9 Defendants about this, but Defendants refused to correct its practices.

10 18. Defendants also failed to make reasonably available legally compliant rest periods.
11 Mr. Anderson is informed and believes that Defendants did not have either written or verbal
12 policies regarding meal and rest breaks. This resulted in employees taking meal and rest breaks
13 only sporadically and often given at the verbal direction of a supervisor who did not always inform
14 employees it was time to take their respective meal or rest breaks. In order to efficiently clean
15 venues and/or facilities, employees were assigned to different sections, some of which were
16 distant from the entrance or area where a supervisor is located. Even in circumstances where a
17 supervisor might announce that it is time for employees to take a meal or rest break, many
18 employees are not within earshot and thus miss their respective meal or rest breaks. Due to
19 Defendants' policy and practices which prioritized work tasks over rest and meal period
20 compliance, Plaintiff and Plaintiff Class missed meal and rest periods, or received them untimely.

21 19. Mr. Anderson alleges he and the Plaintiff Class were not compensated with
22 premium pay for every meal period and rest period that was not provided, as required by Labor
23 Code sections 226.7 and 512 and the applicable IWC Wage Order.

24 20. Mr. Anderson further alleges that Defendants failed to compensate him and the
25 Plaintiff Class at the legally mandated wage rates for all hours worked. Mr. Anderson and Plaintiff
26 Class performed work off-the-clock, during overtime periods and during meal periods and
27 regularly and frequently worked beyond the eighth-hour of the shift. For example, Mr. Anderson
28 and Plaintiff Class were required to arrive thirty (30) minutes prior to the beginning of a work

1 shift only for Defendants to make them wait to sign-in and/or commence work up to two (2) hours
2 after the time they were informed the shift would begin. Mr. Anderson and Plaintiff Class were
3 also required to stay in the premises even after signing-out and wait until all other employees had
4 signed out before they could leave.

5 21. Further, to the extent the total hours worked exceeded eight (8) in one day, or forty
6 (40) in one week, all excess hours were required to be compensated at a rate of one-and-a-half
7 times the employee's base rate of pay. Defendants' failure to provide Plaintiff and the Plaintiff
8 Class any pay whatsoever for off-the-clock hours worked therefore necessarily resulted in
9 overtime violations as well.

10 22. Defendants failed to keep accurate time records reflecting the time Mr. Anderson
11 and Plaintiff Class started their shift, the time they began and ended their meal periods, and the
12 time they ended their shifts. Defendants required Plaintiff and Plaintiff Class to physically sign
13 in and out on a sheet that bore Defendant ABM's name and insignia. However, insofar as
14 Defendants required the employees to work before and/or after signing in/out, and deducted meal
15 period times even when no meal period was actually taken, the timekeeping by Defendants was
16 non-compliant as required under the Labor Code and Code of Regulations.

17 23. By failing to include on Plaintiff and the Plaintiff Class's paystubs all owed meal
18 and rest premium pay, and all minimum wage and overtime owed, Defendants failed to keep
19 accurate payroll records and failed to provide Plaintiff and the Plaintiff Class with complete and
20 accurate wage statements.

21 24. Defendants also failed to keep accurate wage statements by failing to include the
22 accurate name and address of the legal entity that is the employer. In particular, Plaintiff's and
23 Plaintiff Class's wage statements list the employer as "Cyndy's Cleaning Services LLC" with a
24 business address of "1016 East 14th Place, Los Angeles, CA 90640" although no such entity
25 appears in the California Secretary of State's ("SOS") online records. (SOS Business Search,
26 *available at* <https://businesssearch.sos.ca.gov/>.) Rather, two business entities with similar names
27 but with slight differences in spelling, owned and/or managed by the same person, Cynthia Perich,
28 are registered LLCs with SOS. Their respective Statements of Information provide the following:

- 1 a. Cyndy's Cleaning Service LLC (SOS File No. 201807310316)
2 Business Address: 700 Rio Del Sol Ave, Montebello, CA 90640
3 b. Cindys Cleaning Services LLC (SOS File No. 201814310215)
4 Business Address: 1016 E 14th Place, Los Angeles, CA 90640

5 25. Further, to the extent the above violations caused outstanding wages to be owed
6 to Plaintiff and the Plaintiff Class, Defendants failed to pay all wages earned to Plaintiff and the
7 Plaintiff Class upon the termination of their employment.

8 **CLASS ALLEGATIONS**

9 26. Plaintiff brings this action on behalf of himself, the general public, and the Plaintiff
10 Class, as a class action pursuant to Code of Civil Procedure section 382. The Plaintiff Class
11 consists of all individuals who worked for Defendants in a California location in a non-exempt
12 janitorial position through Defendant Cindys during the Relevant Time Period. Plaintiff reserves
13 the right under Rules of Court, rule 3.765, to amend or modify the Plaintiff Class description, or
14 to further divide the Plaintiff Class into subclasses by limitation to particular issues or by other
15 means.

16 27. This action has been brought and may be maintained as a class action pursuant to
17 Code of Civil Procedure section 382 because there is a well-defined community of interest in the
18 litigation, and because the Plaintiff Class is easily ascertained by Defendants' personnel and
19 payroll records.

20 **Numerosity**

21 28. The potential members of the class as defined are so numerous that joinder of all
22 class members is impracticable. While the precise number of the Plaintiff Class is unknown,
23 Plaintiff is informed and believes that Defendants employed around four hundred (400)
24 employees during the Relevant Time Period within the state of California, and alleges on
25 information and belief that a large enough portion of those so-employed held non-exempt
26 positions so as to be part of the Plaintiff Class.

27 **Commonality**

28 29. There are common questions of law and fact arising out of Defendants' conduct

1 as described herein, including, but not limited to:

- 2 a. Whether Defendants failed to pay all wages, including minimum and
3 overtime wages, due to Plaintiff and the Plaintiff Class;
- 4 b. Whether Defendants failed, and continues to fail, to provide meal periods
5 or premium compensation in lieu thereof to Plaintiff and the Plaintiff
6 Class;
- 7 c. Whether Defendants failed, and continues to fail, to authorize and permit
8 Plaintiff and the Plaintiff Class to take rest breaks, or pay premium
9 compensation in lieu thereof;
- 10 d. Whether Defendants failed to furnish wage statements to Plaintiff and the
11 Plaintiff Class containing all information required by Labor Code
12 section 226, subdivision (a);
- 13 e. Whether Defendants failed to pay all unpaid wages earned during the
14 course of employment to Plaintiff and the Plaintiff Class upon the
15 separation of their employment; and
- 16 f. Whether Defendants engaged in unlawful or unfair business practices.

17 **Typicality**

18 30. Plaintiff's claims are typical of the Plaintiff Class' claims, all of whom have
19 incurred and/or will incur damages, as a result of Defendants' common course of conduct and
20 common policies and practices. The claims of Plaintiff are typical because Defendants subjected
21 all of its non-exempt employees to identical violations of the IWC Wage Orders, Code of
22 Regulations, Labor Code, and Business and Professions Code, among other statutes.

23 **Adequacy of Representation**

24 31. Plaintiff will fairly and adequately represent and protect the interests of the
25 Plaintiff Class. Plaintiff's interests are not in conflict with those of the Plaintiff Class. Plaintiff's
26 attorneys are competent, well-versed, and experienced in litigating employment class actions and
27 other complex litigation matters.

28 **Superiority of Class Action**

1 32. Under the facts and circumstances set forth above, a class action is superior to any
2 other method available for both the fair and efficient adjudication of the rights of each class
3 members inasmuch as joinder of individual relatively small claims of each member of the Plaintiff
4 Class is not practical, and if each employee were required to file an individual lawsuit, the
5 Defendants would necessarily gain an unconscionable advantage since they would be able to
6 exploit and overwhelm the limited resources of each individual plaintiff. Requiring each member
7 of the Plaintiff Class to pursue an individual remedy would also discourage the assertion of lawful
8 claims by employees fearful of retaliation and permanent damage to their careers at present and/or
9 subsequent employment. Further, the substantial risk of inconsistent or varying verdicts or
10 adjudications with respect to the individual members of the Plaintiff Class against Defendants
11 herein further support class certification.

12 **FIRST CAUSE OF ACTION**

13 **Failure to Pay All Wages Owed, Including Minimum Wage and Overtime**
14 **(Plaintiff Against Defendants)**

15 33. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
16 fully alleged herein.

17 34. Labor Code section 1182.12 provides that on and after July 1, 2014, the minimum
18 wage for all industries shall not be less than nine dollars (\$9.00) per hour, and on and after January
19 1, 2016, the minimum wage for all industries shall not be less than ten (\$10.00) per hour. For
20 employers who employed twenty-six (26) or more people from January 1, 2017 to December 31,
21 2017, the minimum wage rate in California was ten dollars and fifty cents (\$10.50) per hour.
22 From January 1, 2018 to December 31, 2018, the minimum wage rate in California was eleven
23 dollars (\$11.00) per hour. From January 1, 2019 to December 31, 2019, the minimum wage rate
24 in California was twelve dollars (\$12.00) per hour. As of January 1, 2020, through December 31,
25 2020, the minimum wage rate in California is thirteen dollars (\$13.00) per hour. Plaintiff is
26 informed and believes Defendants employ more than twenty-six (26) employees and thus fall
27 within all requirements of section 1182.12.

28 35. Additionally, many California cities and counties impose a separate minimum

1 wage higher than that set by section 1182.12, which may be applicable to Plaintiff and the Plaintiff
2 Class. For example, Los Angeles County, where Plaintiff is employed, had a minimum wage of
3 ten dollars and fifty cents (\$10.50) per hour effective July 1, 2016, twelve dollars (\$12.00)
4 effective July 1, 2017, thirteen dollars and twenty-five cents (\$13.25) effective July 1, 2018, and
5 fourteen dollars and twenty-five cents (\$14.25) as of July 1, 2019. (County of Los Angeles
6 Minimum Wage Ordinance, *available at* <http://lacounty.gov/minimum-wage/>.)

7 36. Notwithstanding any other provision of the Labor Code, hourly minimum wage
8 rates are set for all industries according to statute. (Labor Code § 1182.12). Employers must pay
9 employees no less than minimum wage for each hour worked. (Labor Code § 1194; IWC Wage
10 Order 5-2001, Sect. 4.)

11 37. Any work in excess of eight hours in any workday and any work in excess of forty
12 (40) hours in a workweek shall be compensated at a rate of no less than one and one-half times
13 the regular rate of pay for an employee. (Labor Code § 510(a); IWC Wage Order 5-2001, Sect.
14 3(A).) Any work in excess of twelve (12) hours in a workday shall be compensated at the rate of
15 twice the regular rate of pay for an employee. (*Ibid.*)

16 38. Any employee receiving less than the legal minimum wage or legal overtime
17 compensation is entitled to recover in a civil action the amount of unpaid wages and interests
18 thereon, attorneys' fees, and costs of suit. (Labor Code § 1194(a).)

19 39. All wages earned in employment are due and payable twice during each calendar
20 month on dates designated in advance by the employer. (Labor Code § 204.)

21 40. Plaintiff and the Plaintiff Class regularly worked over eight (8) hours per day and
22 forty (40) hours per week. Defendants failed to pay Plaintiff and the Plaintiff Class all minimum
23 wage, overtime premiums, and/or double-time premiums for all hours worked in excess of eight
24 (8) hours per day and/or forty (40) hours per week for work performed for Defendants. Pursuant
25 to Labor Code sections 510, 1182.12, 1194, and section 3 of IWC Wage Order 5-2001, Plaintiff
26 and the Plaintiff Class seek the payment of all minimum wage, overtime, and/or double-time
27 compensation, and reporting time pay earned and accrued beginning four (4) years prior to filing
28 this complaint, according to proof.

41. Plaintiff and the Plaintiff Class were also frequently required to work through meal periods for which Defendants required at least thirty (30) minutes be deducted from the time recorded, resulting in additional unpaid wages. Additional time was worked by Plaintiff and the Plaintiff Class that employees were not permitted to record on time records also resulting in unpaid wages.

42. Plaintiff and the Plaintiff Class are entitled to liquidated damages, attorneys' fees, and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment interest.

SECOND CAUSE OF ACTION

Failure to Provide Meal Periods or Premium Compensation in Lieu thereof

(Plaintiff against Defendants)

43. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

44. Labor Code sections 226.7 and 512 and IWC Wage Order 5-2001, Sect. 11 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

45. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section. Plaintiff alleges Defendants failed to provide legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not relieving employees from all work duties during meal periods thereby preventing employees from taking legally compliant meal periods.

46. At all relevant times, Plaintiff and the Plaintiff Class have worked shifts of more than five (5) hours in a workday.

47. Pursuant to Labor Code section 226.7, Plaintiff and the Plaintiff Class are entitled

1 to damages equal to one (1) hour of wages at their regular rate of pay for each missed meal break,
2 in an amount according to proof.

3 48. At varying times relevant hereto, Plaintiff and the Plaintiff Class have worked
4 shifts of more than ten (10) hours in a workday.

5 49. Plaintiff individually, and on behalf of the Plaintiff Class, requests recovery of
6 meal period premium compensation pursuant to Labor Code section 226.7 which they are owed
7 beginning four (4) years prior to filing this complaint, as well as the assessment of any statutory
8 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and/or
9 other statutes.

10 50. Pursuant to Labor Code sections 218.5, Code of Civil Procedure section 1021.5
11 and any other applicable provision of law, Plaintiff requests the court award reasonable attorneys'
12 fees and costs incurred in this action.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Provide Rest Periods or Premium Compensation in Lieu Thereof**

15 **(Plaintiff against Defendants)**

16 51. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
17 fully set forth herein.

18 52. Labor Code section 226.7 provides that employers authorize and permit all
19 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours, or
20 major fraction thereof.

21 53. Labor Code section 226.7, subdivision (b) provides that if an employer fails to
22 provide and employee rest periods in accordance with this section, the employer shall pay the
23 employee one (1) hour of pay at the employees' regular rate of compensation for each workday
24 that the rest period is not provided. Plaintiff and the Plaintiff Class consistently worked over four
25 (4) hours per shift with no rest breaks, due to Defendants' uniform policies and practices.

26 54. Defendants failed to reasonably make available rest breaks to Plaintiff and the
27 Plaintiff Class during the Relevant Time Period.

28 55. Plaintiff and the Plaintiff Class are entitled to damages in an amount equal to one

1 (1) hour of wages per missed rest break, in a sum to be proven at trial. Pursuant to Labor Code
2 section 218.5, Code of Civil Procedure section 1021.5 and any other applicable provision of law,
3 Plaintiff requests the court award reasonable attorneys' fees and costs incurred in this action.

4 **FOURTH CAUSE OF ACTION**

5 **Failure to Provide Accurate Itemized Wage Statements and Maintain Records**
6 **(Plaintiff against Defendants)**

7 56. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
8 fully set forth herein.

9 57. Labor Code sections 226, 226.3, 1174, and 1174.5, and all applicable IWC Wage
10 Orders, provide that employers must keep records and provide employees with itemized wage
11 statements showing all hours worked and each applicable rate of pay in effect during the pay
12 period with the corresponding number of hours worked at each hourly rate.

13 58. Labor Code section 1174, subdivision (d), requires employers to keep at a central
14 location in California or at the plant or establishment at which the employees are employed,
15 payroll records showing the hours worked daily, and the wages paid to, each employee.

16 59. Labor Code section 226, subdivision (a), requires employers to provide employees
17 – either as a detachable part of the check, draft, or voucher paying the employee's wages, or
18 separately when wages are paid by personal check or cash – an accurate itemized wage statement
19 in writing including specified information, including but not limited to: (1) gross wages earned;
20 (2) total hours worked by the employee . . . ; (3) the number of piece-rate units earned . . . ; (4)
21 all deductions . . . ; (5) net wages; (6) the inclusive dates of the period for which the employee is
22 paid; (7) the name of the employee and only the last four digits of his or his social security number
23 or an employee identification number other than a social security number; (8) the name and
24 address of the legal entity that is the employer . . . ; and (9) all applicable hourly rates in effect
25 during the pay period and corresponding number of hours worked at each hourly rate by the
26 employee...

27 60. Labor Code section 226, subdivision (e), provides that if an employer knowingly
28 and intentionally fails to provide a statement itemizing, *inter alia*, the gross and net wages earned,

1 the total hours worked by the employee and the applicable hourly overtime rates, causing the
2 employee injury, then the employee is entitled to recover the greater of all actual damages or fifty
3 dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each subsequent
4 violation, up to four thousand dollars (\$4,000.00). Plaintiff is informed and believes that
5 Defendants willfully failed to make or keep accurate records for Plaintiff and Plaintiff Class.

6 61. IWC Wage Orders require that every employer shall keep accurate information
7 with respect to each employee, including time records showing when each employee begins and
8 ends each work periods, the total daily hours worked by each employee and the total hours worked
9 in each payroll period, and applicable rates of pay. Plaintiff is informed and believes that
10 Defendants willfully and intentionally failed to make and/or keep records which accurately reflect
11 the hours worked by Plaintiff and the Plaintiff Class. Specifically, Plaintiff believes that
12 Defendants did not maintain records for Plaintiff and the Plaintiff Class reflecting their time
13 actually worked and applicable rate of pay.

14 62. An employee is deemed to suffer injury if the employer fails to provide a wage
15 statement containing all of the required information set forth in Labor Code section 226,
16 subdivision (a). (Labor Code § 226(e)(2).) In addition, the omission of time worked, proper rates
17 of pay, records of missed meal and rest breaks and/or premium pay make it difficult for employees
18 to determine whether they were paid all wages due without complicated calculations and/or
19 reconstruction of records required to be maintained by the employer.

20 63. For each employee suffering an injury as a result of Defendants' knowing and
21 intentional failure to provide an accurate, itemized wage statement the employee is entitled to
22 recover the greater of actual damages or fifty dollars (\$50.00) for the initial pay period in which
23 a violation occurs and one hundred dollars (\$100.00) per employee for each violation in a
24 subsequent pay period.

25 64. Plaintiff is informed and believes that Defendants' failure to keep accurate payroll
26 records, as described above, violated Labor Code sections 1174, subdivision (d) and 226,
27 subdivision (a), and the applicable Wage Order. Plaintiff intends to seek penalties under Labor
28 Code section 2699, subdivision (f)(2). Plaintiffs and the Plaintiff Class are entitled to penalties of

1 one hundred (\$100.00) for the initial violation, and two hundred (\$200.00) for each subsequent
2 violation for every pay period during which these records and information were not kept by
3 Defendants.

4 65. Plaintiff is informed and believes that Defendants' failure to keep and maintain
5 accurate records and information and provide to Plaintiff and the Plaintiff Class itemized wage
6 statements containing all of the information mandated by the Labor Code, as described above,
7 was knowing and intentional, and Plaintiff and the Plaintiff Class are entitled to statutory penalties
8 for each pay period in which a violation occurred. Plaintiff further seeks recovery of attorneys'
9 fees and costs pursuant to Labor Code section 226, subdivision (e), and as otherwise permitted
10 by law.

11 **FIFTH CAUSE OF ACTION**

12 **Failure to Pay Wages Due upon Termination of Employment**

13 **(Plaintiff against Defendants)**

14 66. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
15 fully set forth herein.

16 67. Plaintiff is informed and believes, and based thereon alleges, that as part of
17 Defendants' ongoing unfair business practices, Defendants failed to pay all employees all wages
18 earned during their employment at the time of their separation in violation of Labor Code sections
19 201, 202, and 203.

20 68. Labor Code section 201 provides that employers are required to pay an employee
21 whose employment is terminated by the employer all wages earned throughout their employment
22 and unpaid immediately upon termination.

23 69. Labor Code section 202 requires employers to pay an employee who quits his or
24 his employment all wages earned and unpaid no later than seventy-two (72) hours thereafter.

25 70. Labor Code section 203 provides that when an employer who fails to pay all wages
26 earned and due to an employee who is discharged or quits within the appropriate timeframes set
27 forth in sections 201 and 202, the wages of the employee shall continue as a penalty at the
28 employee's regular rate of daily pay for each day the full amount of unpaid wages is not paid, up

1 to thirty (30) days.

2 71. Plaintiff and members of the Plaintiff Class whose employment was severed
3 within four (4) years of the filing of this complaint until the date of entry of judgment, without
4 being paid the proper payments, are entitled to up to thirty (30) days of pay at their regular rate
5 of pay as waiting time penalties, as appropriate to Plaintiff and each member of the Plaintiff Class.

6 **SIXTH CAUSE OF ACTION**

7 **Unfair or Unlawful Business Practices**

8 **(Plaintiff against Defendants)**

9 72. Plaintiff re-alleges and incorporates by reference all preceding paragraphs herein
10 as if fully alleged herein.

11 73. Plaintiff brings this claim individually and on behalf of the Plaintiff Class.

12 74. Business and Professions Code sections 17200, *et seq.*, known as California's
13 Unfair Competition Law ("UCL"), prohibits unfair competition in the form of any unlawful,
14 unfair, or fraudulent business act or practice.

15 75. Business and Professions Code section 17204 allows "any person who has
16 suffered injury in fact and has lost money or property as a result of such unfair competition" to
17 prosecute a civil action for violation of the UCL.

18 76. Labor Code section 90.5, subdivision (a), states it is the public policy of California
19 to vigorously enforce minimum labor standards in order to ensure employees are not required to
20 work under substandard and unlawful conditions, and to protect employers who comply with the
21 law from those who attempt to gain competitive advantage at the expense of their workers by
22 failing to comply with minimum labor standards.

23 77. Beginning at an exact date unknown to Plaintiff, but at least since the date four (4)
24 years prior to the filing of this lawsuit, Defendants have committed acts of unfair competition as
25 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair, and fraudulent
26 business practices and acts described in this complaint, including but not limited to violations of
27 Labor Code sections 201-204, 226, 226.7, 510, 512, 558, 1174, 1182.12, 1194, and 1197, as well
28 as other statutes as described above.

1 78. The violations of these laws and regulations, as well as of the fundamental
2 California public policies protecting workers, serve as unlawful predicate acts and practices for
3 purposes of Business and Professions Code sections 17200 *et seq.*

4 79. As a result of these actions, Plaintiff, on information and belief, alleges that
5 Defendants are able to unfairly compete with other comparable companies in the State of
6 California in violation of Business & Professions Code sections 17000 *et. Seq.* Due to these
7 unlawful, unfair and/or fraudulent business practices, Defendants have gained a competitive
8 advantage over other comparable companies doing business in the State of California.

9 80. The victims of these unlawful, unfair and/or fraudulent business practices include,
10 but are not limited to, Plaintiff, the Plaintiff Class, competing cleaning and janitorial service
11 companies in the State of California, and the general public. Plaintiff is informed and believes,
12 and based thereon alleges, that Defendants performed the above-mentioned acts with the intent
13 of gaining an unfair competitive advantage and thereby injuring Plaintiff, the Plaintiff Class, other
14 competitors, and the general public.

15 81. Plaintiff's success in this action will enforce important rights affecting the public
16 interest and public policy. In this regard, Plaintiff sues on behalf of the public as well as on behalf
17 of himself.

18 82. Business and Professions Code section 17203 provides that a court may make such
19 orders or judgments as may be necessary to prevent the use or employment by any person of any
20 practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to
21 prevent Defendants from repeating their unlawful, unfair, and fraudulent business acts and
22 business practices alleged above.

23 83. Business and Professions Code section 17203 provides that the Court may restore
24 to any person in interest any money or property that may have been acquired by means of such
25 unfair competition. Plaintiff and Plaintiff Class are entitled to restitution pursuant to Business and
26 Professions Code section 17203 for wages and payments unlawfully withheld from employees,
27 including the fair value of the meal and rest periods and other losses alleged herein, during the
28 four-year period prior to the filing of this complaint. All remedies are cumulative pursuant to

1 Business and Professions Code section 17205.

2 84. Business and Professions Code section 17202 provides: "Notwithstanding Section
3 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
4 forfeiture, or penal law in a case of unfair competition." Plaintiff and Plaintiff Class are entitled
5 to enforce all applicable penalty provisions of the Labor Code pursuant to Business and
6 Professions Code section 17202.

7 85. Plaintiff requests injunctive relief pursuant to Business and Professions Code
8 section 17203 to enjoin Defendants from continuing the unfair/unlawful business practices
9 alleged herein.

10 86. Plaintiff herein takes upon enforcement of these laws and lawful claims. There is
11 a financial burden involved in pursuing this action. The action is seeking to vindicate a public
12 right, and it would be against the interests of justice to penalize Plaintiff by forcing Plaintiff to
13 pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to
14 Code of Civil Procedure section 1021.5 and otherwise.

15 **SEVENTH CAUSE OF ACTION**

16 **Violation of the Private Attorneys General Act**

17 **(Plaintiff against Defendants)**

18 87. Plaintiff re-alleges and incorporates by reference all preceding paragraphs herein
19 as if fully alleged herein.

20 88. Labor Code sections 2698 through 2699 - The Labor Code Private Attorney's
21 General Act of 2004 provides for a civil penalty to be assessed and collected by the Labor and
22 Workforce Development Agency, or any of its departments, divisions, commissions, boards,
23 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
24 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
25 current or former employees.

26 89. Whenever the Labor and Workforce Development Agency, or any of its
27 departments, divisions, commissions, boards agencies or employees has discretion to assess a
28 civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the

1 same limitations and conditions to assess a civil penalty.

2 90. Plaintiff and Plaintiff Class are “aggrieved employees” as defined by Labor Code
3 section 2699 in that they are all current or former employees of Defendants, and one or more of
4 the alleged violations was committed against them.

5 91. Pursuant to the Private Attorney Generals Act (“PAGA”), prior to filing this
6 complaint, on January 22, 2020, Plaintiff gave written notice to the Labor and Workforce
7 Development Agency (“LWDA”) and by certified mail to Defendants of the specified provisions
8 of the Labor Code alleged to have been violated, including the facts and theories that support the
9 alleged violation as required by Labor Code section 2699.3. (LWDA Case No. LWDA-CM-
10 768100-20.) On January 23, 2020, Plaintiff gave an amended written notice to the LWDA
11 containing the correct certified mail numbers on the first page of the January 22, 2020 written
12 notice. A true and correct copy of Plaintiff’s original and amended written notices sent to the
13 LWDA, dated January 22, 2020 and January 23, 2020 respectively, are attached hereto as **Exhibit**
14 **A.**

15 92. Plaintiff asserts all of the claims in this complaint against Defendants, individually
16 and on behalf of all aggrieved employees of the Plaintiff Class, in his capacity as private attorney
17 general, and seeks all statutory penalties available under the Labor Code.

18 93. Pursuant to Labor Code section 2699 Plaintiff, individually and on behalf of all
19 aggrieved employees, request and are entitled to recover from Defendants: unpaid wages,
20 overtime compensation, rest and meal period compensation and penalties, waiting period wages
21 and penalties according to proof, penalties for failure to keep accurate payroll records, interest,
22 attorney’s fees and costs pursuant to Labor Code sections 218.5, 1194, subdivision (a), and 1174,
23 as well as all statutory penalties, and attorneys’ fees against Defendants, including but not limited
24 to:

- 25 (a) Penalties under Labor Code section 2699 in the amount of one hundred
26 dollars (\$100.00) for each aggrieved employee per pay period for each
27 initial violation, and two hundred dollars (\$200.00) for each aggrieved
28 employee per pay period for each subsequent violation;

1 (b) Penalties under Code of Regulations Title 8 section 11050 in the amount
2 of fifty dollars (\$50.00) for each aggrieved employee per pay period for
3 the initial violation, and two hundred dollars (\$200.00) for each aggrieved
4 employee per pay period for each subsequent violation; and

5 (c) Any and all additional penalties and sums are provided by the Labor Code
6 and/or other statutes.

7 94. In addition, thereto, Plaintiff seeks and is entitled to fifty percent (50%) of all
8 penalties obtained under Labor Code section 2699 to be allocated to the general fund, and twenty
9 five percent (25%) of all penalties obtained to be allocated to the Labor and Workforce
10 Development Agency, for education of employers and employees about their rights and
11 responsibilities under the Labor Code and twenty five percent (25%) to all aggrieved employee.

12 95. Further, Plaintiff is entitled to seek and recover reasonable attorney's fees and
13 costs pursuant to Labor Code sections 2699, 218.5, 226, 1174, and 1194, and any other applicable
14 statute.

15 **PRAYER FOR RELIEF**

16 **WHISEFORE**, Plaintiff prays for judgment as follows:

- 17 1. That the Court determine that this action may be maintained as a class action under
18 Code of Civil Procedure section 382;
- 19 2. That the Court appoint Plaintiff as Class Representative;
- 20 3. That the Court appoint Mahoney Law Group, APC as class counsel;
- 21 4. For compensatory and statutory damages;
- 22 5. For waiting time penalties pursuant to Labor Code section 203, on behalf of the
23 terminated or resigned employees;
- 24 6. For penalties pursuant to Labor Code sections 226, 226, subdivision (e), 226.7, 512,
25 1174 and 1194.2 and as provided for by Labor Code section 2699;
- 26 7. For interest accrued to date;
- 27 8. For restitution of all monies due to Plaintiff and the Plaintiff Class from the unlawful
28 business practices of Defendants;

- 1 9. For statutory and civil penalties according to proof;
- 2 10. For injunctive relief, enjoining Defendant from engaging in the unlawful and unfair
- 3 business practices complained herein;
- 4 11. For declaratory relief, enjoining Defendant's practices as being unlawful and unfair
- 5 business practices within the meaning of Business and Professions Code sections
- 6 17200, et seq., and declaring Defendant has unlawfully treated Plaintiff and Plaintiff
- 7 Class, failed to pay all wages and overtime compensation in violation of California
- 8 law, failed to pay wages to former employees, Plaintiff and other certain members of
- 9 Plaintiff Class, failed to provide Plaintiff and Plaintiff Class accurate itemized wage
- 10 statements upon payment of wages, and declaring the amounts of damages, penalties,
- 11 equitable relief, costs, and attorneys' fees Plaintiff and Plaintiff Class are entitled to;
- 12 12. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226
- 13 and 1194;
- 14 13. For reasonable attorneys' fees and costs pursuant to Labor Code sections 226,
- 15 subdivision (e), 218.5, and 1194, Code of Civil Procedure section 1021.5, and/or other
- 16 applicable laws and/or statutes; and
- 17 14. For all such other and further relief as the Court may deem just and proper.
- 18

19 Dated: April 1, 2020

20 **MAHONEY LAW GROUP, APC**

21 By: 

22 Kevin Mahoney, Esq.

23 Katherine J. Odenbreit, Esq.

24 Attorneys for Plaintiff DERRELL ANDERSON,

25 as an individual and on behalf of all employees

26 similarly situated

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Dated: April 1, 2020

By: Katherine J. Odenbreit
Kevin Mahoney, Esq.
Katherine J. Odenbreit, Esq.
Attorneys for Plaintiff DERRELL ANDERSON,
as an individual and on behalf of all employees
similarly situated

Exhibit A



Katherine Odenbreit, Esq.
562.590.5550 phone
562.590.8400 facsimile
kodenbreit@mahoney-law.net

January 22, 2020

VIA ELECTRONIC FILING

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

<https://dir.tfaforms.net/128>

VIA U.S. CERTIFIED MAIL

Certified Mail No: 7019 0700 0001 7488 3089

Return Receipt Requested

Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC

Attn: Cynthia Perich, Owner

101 W. Oakmont Drive

Montebello, CA 90640

VIA U.S. CERTIFIED MAIL

Certified Mail No.: 7019 0700 0001 7488 3119

Return Receipt Requested

ABM Industries Incorporated

Legal Department

One Liberty Plaza, 7th Floor

New York, NY 10006

VIA U.S. CERTIFIED MAIL

Certified Mail No.: 7019 0700 0001 7488 3096

Return Receipt Requested

CT Corporation System

Amanda Garcia – Agent for Service for ABM Industries Incorporated

818 West Seventh Street, Suite 930

Los Angeles, CA 90017

Re: *Derrelle Anderson v. Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC and ABM Industries Incorporated*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 et seq.**

To: California Labor and Workforce Development Agency, Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC, and ABM Industries Incorporated.

From: Derelle Anderson on behalf of himself and all aggrieved employees who were subject to

the employer's wage and hour policies and practices as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Derelle Anderson (hereinafter "Plaintiff" or "Mr. Anderson"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of himself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Cindys Cleaning Services LLC doing business as Cyndy's Cleaning Services LLC ("Cindys") provides cleaning and janitorial services for various events and venues in Los Angeles County. It employs around 400 individuals. Cindys' business address is 1016 East 14th Place, Los Angeles, CA 90021. ABM Industries Incorporated ("ABM") provides a variety of services for various industries, including janitorial services. On information and belief, ABM outsources janitorial services to third-parties such as Cindys. ABM is then paid by the clients for whom the janitorial services were rendered ("client(s)"), then subsequently issues payment to Cindys for the services performed. Also, on information and belief, ABM keeps all timesheets signed by employees, including those directly employed by Cindys, who perform the janitorial services for its records and to support its claim of payment from the clients. Cindys and ABM ("Defendants") are thus alleged to be joint employers under the California Labor Code ("Labor Code") and relevant case law. (*See, e.g., Martinez v. Combs*, 49 Cal.4th 35 (2010); Lab. Code § 2810.3.)

Mr. Anderson alleges Defendants violated various sections of the Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, and 1197, and Wage Order no. 5, subdivisions 3, 5, 7, 11 and 12, by failing to provide Mr. Anderson and all other aggrieved employees all wages for all hours worked including, but not limited to, overtime wages, regular hours, and meal/rest period premium pay. Mr. Anderson also alleges Defendants violated the Labor Code for failing to provide accurate wage statements, including accurate accounting of employees' hours and employer name. Finally, Mr. Anderson alleges that Defendants violated Labor Code section 2810.5 for failing to provide notice for employees' change of pay, whether it was an increase or decrease in pay.

Defendants failed to pay Mr. Anderson and other aggrieved employees for all hours worked at the legally mandated wage rates. Specifically, Defendants failed to pay Mr. Anderson and his co-workers the legally mandated overtime rate for all work performed during their shifts in violation of California law. Mr. Anderson and similarly aggrieved employees (1) performed work off-the-clock, during overtime periods and during meal periods; (2) regularly and frequently worked beyond the eighth-hour of the shift, but Defendants only compensated Mr. Anderson and aggrieved employees for eight hours at the regular pay rate. Moreover, when Mr. Anderson and other aggrieved employees worked substantial off-the-clock hours, their regular hourly rate of pay was sufficiently low to none for the additional hours to drive down the average hourly rate for such days to below the lawful minimum wage. For example, Mr. Anderson and other aggrieved

employees were required to arrive thirty (30) minutes prior to the beginning of a work shift only for Defendants to make them wait to sign-in and/or commence work up to two hours after the time they were informed the shift would begin. Mr. Anderson and other aggrieved employees were also required to stay in the premises even after signing-out and wait until all other employees had signed out before they could leave.

Based on currently available information and records, Defendants did not keep accurate time records in violation of the Labor Code, the applicable wage order, and actionable under PAGA. Defendants failed to keep accurate time records reflecting the time Mr. Anderson and similarly aggrieved employees started their shift, the time they began and ended their meal periods, and the time they ended their shifts. Defendants required Mr. Anderson and other aggrieved employees to physically sign in and out on a sheet that bore ABM's name and insignia. However, insofar as Defendants required the employees to work before and/or after signing in/out, and deducted meal period times even when no meal period was actually taken, the timekeeping by Defendants was non-compliant under Labor Code section 1174 and California Code of Regulations, Title 8, section 11050, subdivision 7.

Further, Defendants also failed to provide Mr. Anderson and other aggrieved employees with timely meal and rest periods. Mr. Anderson is informed and believes that Defendants did not have either written or verbal policies regarding meal and rest breaks. This resulted in employees taking meal and rest breaks only sporadically and often given at the direction of a supervisor who did not always inform employees it was time to take their respective meal or rest breaks. In order to efficiently clean venues and/or facilities, employees were assigned to different sections, some of which were distant from the entrance or area where a supervisor is located. Even in circumstances where a supervisor might announce that it is time for employees to take a meal or rest break, many employees are not within earshot and thus miss their respective meal or rest breaks. Due to Defendant's policy and practices which prioritized work tasks over rest and meal period compliance, Mr. Anderson and similarly aggrieved employees missed meal and rest periods, or received them untimely. Even though Mr. Anderson and other aggrieved employees were prevented from taking lawful timely uninterrupted meal and rest periods, Defendants failed to provide them with premium pay for every untimely or uninterrupted meal period and rest periods. Defendant's conduct, which is in violation of Labor Code sections 226.7, 512, as well as 8 CCR § 11050, subdivisions 11 and 12, is also actionable under PAGA.

As a result of Defendant's failure to pay all wages owed as described herein, Defendant further failed to keep accurate payroll records and failed to provide Mr. Anderson and other aggrieved employees with complete and accurate wage statements showing the true number of hours worked and accurate overtime/premium wages earned per pay period. Defendant also does not have the accurate name or address of the employer in wage statements. In particular, the wage statements list the employer as **Cyndy's Cleaning Services LLC** with a business address of **1016 East 14th Place, Los Angeles, CA 90640**. No such business entity appears on the California Secretary of State's ("SOS") online records. Rather, two business entities with similar names but with slight differences in spelling, owned and/or managed by the same person, Cynthia Perich, are registered LLCs with SOS. Their respective Statements of Information provide the following:

1. Cyndy's Cleaning Service LLC (SOS File No. 201807310316)
Business Address: 700 Rio Del Sol Ave, Montebello, CA 90640
2. Cindys Cleaning Services LLC (SOS File No. 201814310215)
Business Address: 1016 E 14th Place, Los Angeles, CA 90640

These blatant inaccuracies in Mr. Anderson's and other aggrieved employees' wage statements, including Defendant's failure to include the correct name and address of the employer, is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Defendant's failure to pay all wages owed as described herein, Defendant also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees.

Mr. Anderson will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Defendants. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,



Katherine Odenbreit, Esq.

MAHONEY LAW GROUP, APC



Katherine Odenbreit, Esq.
562.590.5550 phone
562.590.8400 facsimile
kodenbreit@mahoney-law.net

January 23, 2020

VIA ELECTRONIC FILING

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

<https://dir.tfaforms.net/128>

VIA U.S. CERTIFIED MAIL

Certified Mail No: 7019 0700 0001 7488 3126

Return Receipt Requested

Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC

Attn: Cynthia Perich, Owner

101 W. Oakmont Drive

Montebello, CA 90640

VIA U.S. CERTIFIED MAIL

Certified Mail No.: 7019 0700 0001 7488 3133

Return Receipt Requested

ABM Industries Incorporated

Legal Department

One Liberty Plaza, 7th Floor

New York, NY 10006

VIA U.S. CERTIFIED MAIL

Certified Mail No.: 7019 0700 0001 7488 3140

Return Receipt Requested

CT Corporation System

Amanda Garcia – Agent for Service for ABM Industries Incorporated

818 West Seventh Street, Suite 930

Los Angeles, CA 90017

Re: *Derrell Anderson v. Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC and ABM Industries Incorporated*

**AMENDED NOTICE OF LABOR CODE VIOLATIONS
PURSUANT TO LABOR CODE SECTION § 2698 et seq.**

This Notice was initially filed on January 22, 2020. This Amended Notice is being submitted to provide the accurate Certified Mail numbers that appear on Page 1 of this Notice. No other changes, substantive or otherwise, have been made in the Notice as filed on January 22, 2020, apart from the Certified Mail numbers and the addition of this paragraph.

To: California Labor and Workforce Development Agency, Cindys Cleaning Services LLC dba Cyndy's Cleaning Services LLC, and ABM Industries Incorporated.

From: Derrell Anderson on behalf of himself and all aggrieved employees who were subject to the employer's wage and hour policies and practices as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Derrell Anderson (hereinafter "Plaintiff" or "Mr. Anderson"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of himself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Cindys Cleaning Services LLC doing business as Cyndy's Cleaning Services LLC ("Cindys") provides cleaning and janitorial services for various events and venues in Los Angeles County. It employs around 400 individuals. Cindys' business address is 1016 East 14th Place, Los Angeles, CA 90021. ABM Industries Incorporated ("ABM") provides a variety of services for various industries, including janitorial services. On information and belief, ABM outsources janitorial services to third-parties such as Cindys. ABM is then paid by the clients for whom the janitorial services were rendered ("client(s)"), then subsequently issues payment to Cindys for the services performed. Also, on information and belief, ABM keeps all timesheets signed by employees, including those directly employed by Cindys, who perform the janitorial services for its records and to support its claim of payment from the clients. Cindys and ABM ("Defendants") are thus alleged to be joint employers under the California Labor Code ("Labor Code") and relevant case law. (*See, e.g., Martinez v. Combs*, 49 Cal.4th 35 (2010); Lab. Code § 2810.3.)

Mr. Anderson alleges Defendants violated various sections of the Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, and 1197, and Wage Order no. 5, subdivisions 3, 5, 7, 11 and 12, by failing to provide Mr. Anderson and all other aggrieved employees all wages for all hours worked including, but not limited to, overtime wages, regular hours, and meal/rest period premium pay. Mr. Anderson also alleges Defendants violated the Labor Code for failing to provide accurate wage statements, including accurate accounting of employees' hours and employer name. Finally, Mr. Anderson alleges that Defendants violated Labor Code section 2810.5 for failing to provide notice for employees' change of pay, whether it was an increase or decrease in pay.

Defendants failed to pay Mr. Anderson and other aggrieved employees for all hours worked at the legally mandated wage rates. Specifically, Defendants failed to pay Mr. Anderson and his co-workers the legally mandated overtime rate for all work performed during their shifts in violation of California law. Mr. Anderson and similarly aggrieved employees (1) performed work off-the-clock, during overtime periods and during meal periods; (2) regularly and frequently worked beyond the eighth-hour of the shift, but Defendants only compensated Mr. Anderson and

aggrieved employees for eight hours at the regular pay rate. Moreover, when Mr. Anderson and other aggrieved employees worked substantial off-the-clock hours, their regular hourly rate of pay was sufficiently low to none for the additional hours to drive down the average hourly rate for such days to below the lawful minimum wage. For example, Mr. Anderson and other aggrieved employees were required to arrive thirty (30) minutes prior to the beginning of a work shift only for Defendants to make them wait to sign-in and/or commence work up to two hours after the time they were informed the shift would begin. Mr. Anderson and other aggrieved employees were also required to stay in the premises even after signing-out and wait until all other employees had signed out before they could leave.

Based on currently available information and records, Defendants did not keep accurate time records in violation of the Labor Code, the applicable wage order, and actionable under PAGA. Defendants failed to keep accurate time records reflecting the time Mr. Anderson and similarly aggrieved employees started their shift, the time they began and ended their meal periods, and the time they ended their shifts. Defendants required Mr. Anderson and other aggrieved employees to physically sign in and out on a sheet that bore ABM's name and insignia. However, insofar as Defendants required the employees to work before and/or after signing in/out, and deducted meal period times even when no meal period was actually taken, the timekeeping by Defendants was non-compliant under Labor Code section 1174 and California Code of Regulations, Title 8, section 11050, subdivision 7.

Further, Defendants also failed to provide Mr. Anderson and other aggrieved employees with timely meal and rest periods. Mr. Anderson is informed and believes that Defendants did not have either written or verbal policies regarding meal and rest breaks. This resulted in employees taking meal and rest breaks only sporadically and often given at the direction of a supervisor who did not always inform employees it was time to take their respective meal or rest breaks. In order to efficiently clean venues and/or facilities, employees were assigned to different sections, some of which were distant from the entrance or area where a supervisor is located. Even in circumstances where a supervisor might announce that it is time for employees to take a meal or rest break, many employees are not within earshot and thus miss their respective meal or rest breaks. Due to Defendant's policy and practices which prioritized work tasks over rest and meal period compliance, Mr. Anderson and similarly aggrieved employees missed meal and rest periods, or received them untimely. Even though Mr. Anderson and other aggrieved employees were prevented from taking lawful timely uninterrupted meal and rest periods, Defendants failed to provide them with premium pay for every untimely or uninterrupted meal period and rest periods. Defendant's conduct, which is in violation of Labor Code sections 226.7, 512, as well as 8 CCR § 11050, subdivisions 11 and 12, is also actionable under PAGA.

As a result of Defendant's failure to pay all wages owed as described herein, Defendant further failed to keep accurate payroll records and failed to provide Mr. Anderson and other aggrieved employees with complete and accurate wage statements showing the true number of hours worked and accurate overtime/premium wages earned per pay period. Defendant also does not have the accurate name or address of the employer in wage statements. In particular, the wage statements list the employer as **Cyndy's Cleaning Services LLC** with a business address of **1016 East 14th Place, Los Angeles, CA 90640**. No such business entity appears on the California

Secretary of State's ("SOS") online records. Rather, two business entities with similar names but with slight differences in spelling, owned and/or managed by the same person, Cynthia Perich, are registered LLCs with SOS. Their respective Statements of Information provide the following:

1. Cyndy's Cleaning Service LLC (SOS File No. 201807310316)
Business Address: 700 Rio Del Sol Ave, Montebello, CA 90640
2. Cindys Cleaning Services LLC (SOS File No. 201814310215)
Business Address: 1016 E 14th Place, Los Angeles, CA 90640

These blatant inaccuracies in Mr. Anderson's and other aggrieved employees' wage statements, including Defendant's failure to include the correct name and address of the employer, is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Defendant's failure to pay all wages owed as described herein, Defendant also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees.

Mr. Anderson will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Defendants. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,



Katherine Odenbreit, Esq.

MAHONEY LAW GROUP, APC