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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAR 16 2020

L. Melendrez

Attorneys for Plaintiff and all aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

RENE DIEGO JUAREZ, an individual, on
behalf of the State of California, as a private
attorney general,

PLAINTIFF,

v.

HARBOR PIPE AND STEEL INC.; and
DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO. **RIC 2001200**

**REPRESENTATIVE ACTION
COMPLAINT:**

1. Penalties Pursuant to Labor Code § 2699, et seq. for violations of Labor Code §§204(d) and 210

1 Plaintiff RENE DIEGO JUAREZ (“Plaintiff”), on behalf of himself and the people of the
2 State of California and as an “aggrieved employee” under the Labor Code Private Attorneys
3 General Act of 2004, §2699, et seq. (“PAGA”) complains of HARBOR PIPE AND STEEL INC.
4 (“Defendant”), and each of them, and DOES 1 to 50 (collectively “Defendants”), as follows:

5 **I.**

6 **GENERAL ALLEGATIONS**

7 1. This is a Representative Action, pursuant to Labor Code §2699 et seq., on behalf
8 of the following individuals:

9 All persons who are employed or have been employed by HARBOR
10 PIPE AND STEEL INC., in the State of California who worked one
11 or more pay periods as an hourly employee since one (1) year prior
12 to the date of Plaintiff’s notice letter to the Labor & Workforce
Development Agency (“LWDA”) and continuing to the present.
13 (“aggrieved employees”)

14 2. For at least one (1) year prior to the date of the letter sent to the Labor & Workforce
15 Development Agency and Defendant giving notice of this claim pursuant to PAGA and continuing
16 to the present, Defendant has failed to properly comply with Labor Code §204(d).

17 3. Defendant issued Plaintiff and all aggrieved employees paychecks more than seven
18 (7) calendar days following the close of the payroll period. Thus, Plaintiff is an aggrieved
19 employee within the meaning of PAGA and Defendant has violated Labor Code §204(d) and 210
with respect to Plaintiff and all aggrieved employees.

20 4. Plaintiff, on behalf of himself and all aggrieved employees presently or formerly
21 employed by Defendant during the liability period, brings this representative action pursuant to
22 Labor Code §2699, et seq. seeking penalties for Defendant’s violation of Labor Code § 204(d).

23 **II.**

24 **JURISDICTION & VENUE**

25 5. This Court has subject matter jurisdiction over any and all causes of action asserted
26 herein pursuant to Article VI, §10 of the California Constitution and California Code of Civil
27 Procedure §410.10 by virtue of the fact that this is a civil action in which the matter in controversy,
28 exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the

laws of the State of California or is subject to adjudication in the courts of the State of California.

6. This Court has personal jurisdiction over Defendant because Defendant has caused injuries in Riverside County and the State of California through their acts, and by their violation of the California Labor Code and California state common law.

7. At all times set forth herein, Defendant HARBOR PIPE AND STEEL INC. is and was, based upon information and belief, a California corporation doing business in Riverside County and in the State of California with its address at 1495 Columbia Ave Bldg 10, Riverside, CA 92507. At all relevant times, Defendant employed Plaintiff in the State of California.

8. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure §395. Defendant operates within California and does business within the county of Riverside, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all “aggrieved employees” within the State of California and Riverside County.

III.

PARTIES

A. Plaintiff

9. Plaintiff RENE DIEGO JUAREZ is a resident of State of California. Plaintiff was employed by Defendant as a non-exempt employee in California.

10. Upon information and belief, Plaintiff and all aggrieved employees are covered by California Industrial Welfare Commission Occupational Wage Order No. 1 -2001 (Title 8 Cal. Code of Regs. § 11010.)

11. Plaintiff and all current and former employees are aggrieved employees within the meaning of Labor Code §2699, et seq. (See Labor Code §2699(c).)

B. Defendants

12. Defendant HARBOR PIPE AND STEEL INC. is a California Corporation operating in California including in the County of Riverside. Defendant’s address is 1495 Columbia Ave Bldg 10, Riverside, CA 92507. Defendant employed Plaintiff and all aggrieved employees within California. Some of the violations alleged herein arose in the County of Riverside, California.

13. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure §474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

14. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each of the Defendants are legally attributable to the other Defendants.

15. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code and public policy as alleged herein.

IV.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

16. Plaintiff and the aggrieved employees are, and at all times pertinent hereto, have been classified as employees.

17. Upon information and belief, Plaintiff and the aggrieved employees are covered by California Industrial Welfare Commission Occupational Wage Order No. 1-2001 (Title 8 Cal. Code of Regs. § 11010).

18. Defendant issued Plaintiff and all aggrieved employees paychecks more than seven (7) calendar days following the close of the payroll period.

19. On a regular and consistent basis, for all aggrieved employees employed by Defendant, Defendant has failed to comply with Labor Code § 204(d) ad 210.

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1 V.

2 FIRST CAUSE OF ACTION

3 PLAINTIFF RENE DIEGO JUAREZ AND ALL AGGRIEVED EMPLOYEES AGAINST

4 ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE §2699, ET SEQ.

5 FOR VIOLATION OF LABOR CODE §204(d)

6 20. Plaintiff realleges and incorporates by reference all previous paragraphs.

7 21. Defendant's pay policies and practices violate Labor Code §204, which requires
8 that employees paid on a weekly, biweekly, or semimonthly basis be paid no later than seven (7)
9 calendar days following the close of the payroll period (Labor Code §204(d).)

10 22. For at least one (1) year prior to the date of the letter sent to the Labor & Workforce
11 Development Agency and Defendant giving notice of these PAGA claims and continuing to the
12 present, Defendant has violated Labor Code §204(d) with respect to Plaintiff and all aggrieved
13 employees.

14 23. Defendant issues its California employees, including Plaintiff, their wages more
15 than seven (7) days following the close of the payroll period. Thus, Plaintiff is an aggrieved
16 employee within the meaning of PAGA and Defendant's practice violates Labor Code §§204(d)
17 and 210 with respect to Plaintiff and all aggrieved employees.

18 24. Defendant's violation of Labor Code §§204(d) and 210 were all done on a regular
19 and consistent basis.

20 25. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
21 §2699, et seq. because of Defendant's violation of Labor Code §§204(d) and 210.

22 26. Under Labor Code §§2699(f)(2) and 2699.5, for each such violation, Plaintiff and
23 all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial
24 subject to the following formula:

25 a. \$100 for the initial violation per employee per pay period; and

26 b. \$200 for each subsequent violation per employee per pay period.

27 27. These penalties will be allocated 75% to the Labor & Workforce Development
28 Agency and 25% to the affected employees.

28. On January 10, 2020, Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California Labor and Workforce Development Agency / Department of Industrial Relations website (<https://dir.tfaforms.net/266>)¹ and mailed by certified mail, return receipt requested, to Defendant setting forth the specific facts and theories of the violations alleged against Defendant, as prescribed by Labor Code §2698 et seq. (Exhibit “1”).

29. Pursuant to Labor Code §2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within 65 calendar days of the postmark date of the notice. Therefore, Plaintiff is entitled to commence a civil action as though the LWDA has chosen not to investigate.

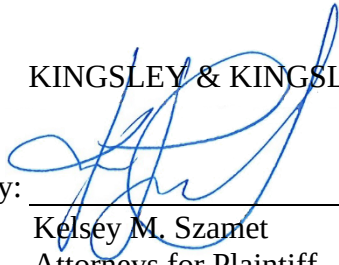
PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against HARBOR PIPE AND STEEL INC. and Does 1 to 50, Inclusive, and each of them, as follows for Plaintiff and all aggrieved employees:

- a. For penalties and other relief pursuant to Labor Code §2698 *et seq.* for Plaintiff and all other aggrieved employees.
- b. An award of prejudgment and post judgment interest;
- c. An award providing for payment of costs of suit;
- d. An award of attorneys’ fees; and
- e. Such other and further relief as this Court may deem proper and just.

DATED: March 16, 2020

KINGSLEY & KINGSLEY, APC

By: 

Kelsey M. Szamet
Attorneys for Plaintiff

¹ Since the time of Plaintiff’s LWDA letter submission, the website’s link has been updated.

EXHIBIT "1"

KINGSLEY & KINGSLEY

| L A W Y E R S |

January 10, 2020

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Harbor Pipe and Steel Inc.
1495 Columbia Ave Bldg 10
Riverside, CA 92507
7018 1130 0001 5815 1215

Re: RENE DIEGO JUAREZ v. HARBOR PIPE AND STEEL INC.
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents RENE DIEGO JUAREZ ("Plaintiff") and a proposed group of current and former employees working for HARBOR PIPE AND STEEL INC. ("Defendant") in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All persons who are employed or have been employed by HARBOR PIPE AND STEEL INC., in the State of California who worked one or more pay periods as an hourly employee since one (1) year prior to the date of this letter and continuing to the present. ("aggrieved employees").

Defendant failed to pay Plaintiff and all aggrieved employees all wages for a weekly payroll period within seven (7) calendar days following the close of the payroll period in violation of Labor Code §§ 204(d) and 210. Plaintiff and all aggrieved employees were paid after the seventh (7th) day following the close of the payroll period in violation of these statutes. As such, Plaintiff is an aggrieved employee within the meaning of Labor Code §2699, *et seq.*

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

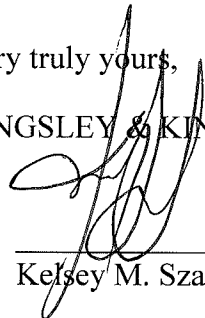
January 10, 2020

Page 2 of 2

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 204 and 210 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Kelsey M. Szamet

KMS/dm

- Cc:
1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/260>
 2. HARBOR PIPE AND STEEL INC. via USPS Certified Mail # 7018 1130 0001 5815 1215

Doug Menendez

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Friday, January 10, 2020 2:15 PM
To: Service Email
Subject: Thank you for submission of your PAGA Case.

1/10/2020

LWDA Case No. LWDA-CM-765990-20
Law Firm : Kingsley & Kingsley, APC
Plaintiff Name : Rene Diego Juarez
Employer: Harbor Pipe and Steel Inc.

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Harbor Pipe and Steel Inc.
1495 Columbia Ave Bldg 10
Riverside, CA 92507



9590 9402 5534 9249 7022 82

2. Article Number (Transfer from service label)

7018 1130 0001 5815 1215

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent☐ Addressee

B. Received by (Printed Name)

Jenny Herkes

C. Date of Delivery

1/13/2020

D. Is delivery address different from item 1?

☐ YesIf YES, enter delivery address below: ☐ No

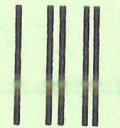
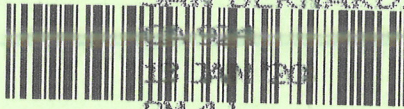
3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Insured Mail Restricted Delivery (over \$500)☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☒ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

USPS TRACKING#

SAN BERNARDINO



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 5534 9249 7022 82

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box •

KINGSLEY & KINGSLEY
A PROFESSIONAL CORPORATION
16133 VENTURA BOULEVARD, SUITE 1200
ENCINO, CALIFORNIA 91436

PAGA LETTER - HARBOR PIPE

