

1 William L. Marder, Cal Bar No. 170131
POLARIS LAW GROUP, LLP
2 501 San Benito Street, Suite 200
Hollister, California 95023
3 Telephone: 831.531.4214
Facsimile: 831.634.0333

4 Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
5 515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
6 (213) 488-6555
7 (213) 488-6554 facsimile

8 Attorneys for Plaintiff and the Class
9
10

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SOLANO

13 ARTURO CARDENAS, as an individual
and on behalf of all others similarly
14 situated,

15 Plaintiffs,

16 v.

17 HIGH END DEVELOPMENT, INC., a
California corporation; and DOES 1
18 through 50, inclusive,

19 Defendants.
20

CASE NO.

CLASS ACTION COMPLAINT FOR:

**(1) VIOLATION OF CAL. LABOR CODE §
226(a);**

**(2) VIOLATION OF CAL. LABOR CODE §
2698, ET SEQ.**

DEMAND EXCEEDS \$25,000.00

21 Plaintiff Arturo Cardenas ("Plaintiff") hereby submits this Class Action Complaint
22 ("Complaint") against Defendant High End Development, Inc. (the "Company" or "Defendant")
23 and DOES 1-50 (hereinafter collectively referred to as "Defendants"), as an individual and on
24 behalf of the Class of all other similarly situated current and former employees of Defendants for
25 penalties and/or damages for violations of the California Labor Code, including without
26 limitation, failure to provide employees with accurate itemized wage statements as follows:

27 **INTRODUCTION**

28 1. This class action is within the Court's jurisdiction under California Labor Code §§

1 226 and 2698, *et seq.* and the California Industrial Welfare Commission's ("IWC") Wage Orders.

2 2. This Complaint challenges systemic illegal employment practices resulting in
3 violations of the California Labor Code against employees of Defendants.

4 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 jointly and severally have acted intentionally and with deliberate indifference and conscious
6 disregard to the rights of all employees by failing to keep accurate records and failing to provide
7 accurate itemized wage statements identifying all required information, including without
8 limitation, the inclusive dates of the period for which the employee is being paid and the address
9 of the employer on the actual wage statements themselves.

10 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
11 engaged in, among other things a system of willful violations of the California Labor Code and
12 applicable IWC Wage Orders by creating and maintaining policies, practices and customs that
13 knowingly deny employees the above stated rights and benefits.

14 JURISDICTION AND VENUE

15 5. The Court has jurisdiction over the violations of the California Labor Code §§ 226,
16 and 2698, *et seq.* As alleged below, Plaintiff has met all of the jurisdictional requirements to
17 proceed under the Private Attorney General's Act (the "PAGA"), Labor Code § 2698, *et seq.*

18 6. Venue is proper in Solano County because Plaintiff performed work for Defendant
19 in this County.

20 PARTIES

21 7. On or about October 28, 2019, Plaintiff was hired to work for Defendant as a
22 driver. Plaintiff's employment ended on or about December 9, 2019.

23 8. Defendant is a California corporation, which is engaged in the construction
24 industry. Defendant maintains business locations in this County.

25 9. Plaintiff was and is a victim of the policies, practices, and customs of Defendants
26 complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by
27 California Labor Code §§ 226 and 2698, *et seq.* and the applicable IWC Wage Orders.

28 10. Plaintiff is informed and believes, and based thereon alleges, that at all times
herein mentioned Defendants and DOES 1 through 50 are and were business entities, individuals,

1 and partnerships, licensed to do business and actually doing business in the State of California.

2 11. As such, and based upon all the facts and circumstances incident to Defendants'
3 business in California, Defendants are subject to California Labor Code §§ 226 and 2698, *et seq.*
4 and the IWC Wage Orders.

5 12. Plaintiff does not know the true names or capacities, whether individual, partner or
6 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
7 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
8 complaint when the true names and capacities are known. Plaintiff is informed and believes, and
9 based thereon alleges, that each of said fictitious Defendants was responsible in some way for the
10 matters alleged herein and proximately caused Plaintiff and members of the general public and
11 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

12 13. At all times herein mentioned, each of said Defendants participated in the doing of
13 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
14 Defendants, and each of them, were the agents, servants and employees of each of the other
15 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
16 within the course and scope of said agency and employment.

17 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
18 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
19 joint venturer of, or working in concert with each of the other co- Defendants and was acting
20 within the course and scope of such agency, employment, joint venture, or concerted activity. To
21 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
22 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
23 Defendants.

24 15. At all times herein mentioned, Defendants, and each of them, were members of,
25 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
26 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

27 16. At all times herein mentioned, the acts and omissions of various Defendants, and
28 each of them, concurred and contributed to the various acts and omissions of each and all of the
other Defendants in proximately causing the injuries and damages as herein alleged. At all times

1 herein mentioned, Defendants, and each of them, ratified each and every act or omission
2 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
3 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
4 the damages as herein alleged.

5 CLASS ACTION ALLEGATIONS

6 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
7 California Code of Civil Procedure § 382, of the following class:

- 8 a. All current and former California employees who received a wage
9 statement from Defendant at any time during the period of time from
10 March 13, 2019, through the present (“Wage Statement Class”).

11 18. **Numerosity and Ascertainability:** The members of the Class are so numerous
12 that joinder of all members would be impractical, if not impossible. The identity of the members
13 of the Class is readily ascertainable by review of the Company’s records, including payroll
14 records. Plaintiff is informed and believes, and based thereon alleges, that the Company failed to
15 provide accurate itemized wage statements to employees in violation of Labor Code § 226.

16 19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
17 necessary steps to represent fairly and adequately the interests of the class defined above.
18 Plaintiff’s attorneys are ready, willing and able to fully and adequately represent the class and the
19 named Plaintiffs. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in
20 the past and currently have a number of wage-and-hour class actions pending in California courts.

21 20. The Company uniformly administered a corporate policy, practice of failing to
22 provide accurate itemized wage statements to employees in violation of Labor Code § 226.

23 21. **Common Question of Law and Fact:** There are predominant common questions
24 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
25 concerning the Company’s failure to provide accurate itemized wage statements to employees in
26 violation of Labor Code § 226.

27 22. **Typicality:** The claims of the named Plaintiff are typical of the claims of all
28 members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar
and typical manner as the Class members. Plaintiff was not provided proper and accurate wage

1 statements identifying all information required by Labor Code § 226(a). Specifically, the
2 Company violated Labor Code § 226(a)(7) by failing to identify either the last four digits of the
3 employee's social security number or an employee identification number. Plaintiff's wage
4 statements violated Labor Code § 226(a)(7) because they did not specify Plaintiff's employee
5 identification number, or the last four digits of Plaintiff's social security number. Thus, Plaintiff
6 is a member of the Class and has suffered the alleged violations of California Labor Code §§ 226
7 and 2698, *et seq.*, and the applicable IWC Wage Orders.

8 23. The California Labor Code and upon which Plaintiff bases these claims is broadly
9 remedial in nature. These laws and labor standards serve an important public interest in
10 establishing minimum working conditions and standards in California. These laws and labor
11 standards protect the average working employee from exploitation by employers who may seek to
12 take advantage of superior economic and bargaining power in setting onerous terms and
13 conditions of employment.

14 24. The nature of this action and the format of laws available to Plaintiff and members
15 of the Class identified herein make the class action format a particularly efficient and appropriate
16 procedure to redress the wrongs alleged herein. If each employee were required to file an
17 individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage
18 since it would be able to exploit and overwhelm the limited resources of the individual Plaintiff
19 with Defendants' vastly superior financial and legal resources. Requiring each Class member to
20 pursue an individual remedy would also discourage the assertion of lawful claims by employees
21 who would be disinclined to file an action against their former and/or current employer for real
22 and justifiable fear of retaliation and permanent damage to their careers at subsequent
23 employment.

24 25. The prosecution of separate actions by the individual class members, even if
25 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
26 to individual Class members against the Company and which would establish potentially
27 incompatible standards of conduct for the Company, and/or (b) adjudications with respect to
28 individual Class members which would, as a practical matter, be dispositive of the interest of the
other Class members not parties to the adjudications or which would substantially impair or

1 impede the ability of the Class members to protect their interests. Further, the claims of the
2 individual members of the Class are not sufficiently large to warrant vigorous individual
3 prosecution considering all of the concomitant costs and expenses.

4 26. Such a pattern, practice and uniform administration of corporate policy regarding
5 illegal employee compensation described herein is unlawful and creates an entitlement to
6 recovery by Plaintiffs and the Class identified herein, in a civil action any and all applicable
7 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
8 of California Labor Code §§ 226 and 2698, *et seq.*, the applicable IWC Wage Orders, and Code
9 of Civil Procedure § 1021.5.

10 27. Proof of a common business practice or factual pattern, which the named Plaintiffs
11 experienced and are representative of, will establish the right of each of the members of the Class
12 to recovery on the causes of action alleged herein.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF LABOR CODE § 226(a)**

15 **(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AND THE CLASS)**

16 28. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 as
17 though fully set for herein.

18 29. The Company failed in its affirmative obligation to provide accurate itemized
19 wage statements in violation of Labor Code § 226(a). Specifically, the Company violated Labor
20 Code § 226(a)(7) by failing to identify either the last four digits of the employee's social security
21 number or an employee identification number. Plaintiff's wage statements violated Labor Code §
22 226(a)(7) because they did not specify Plaintiff's employee identification number, or the last four
23 digits of Plaintiff's social security number. Accordingly, the wage statements provided to
24 Plaintiffs and the Class failed to identify such information.

25 30. Such a pattern, practice and uniform administration of corporate policy as
26 described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class
27 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
28 including interest thereon, attorneys' fees, and costs of suit according to the mandate of California
Labor Code § 226.

1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

3 **(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF)**

4 31. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 as
5 though fully set for herein.

6 32. Plaintiff seeks penalties on behalf of the State of California for violations of Labor
7 Code § 226(a)(7) against Plaintiff and all similarly aggrieved employees from January 8, 2019,
8 through the present. On or about January 8, 2020, Plaintiff sent notice to the Labor Workforce
9 Development Agency (the "LWDA") of the violations of Labor Code § 226(a)(7). This violation
10 is applicable to all current and former employees of the employer, including Plaintiff.

11 33. As of the date of the filing of this Complaint, the LWDA has not notified Plaintiffs
12 whether it intends to investigate the claims. Therefore, Plaintiff may seek applicable penalties
13 under the PAGA.

14 34. Such a pattern, practice and uniform administration of corporate policy as
15 described herein is unlawful and creates an entitlement to recovery by the Plaintiff on behalf of
16 the State of California, in a civil action, for penalties pursuant to the PAGA, Labor Code §§ 226.3
17 and 2699(a), including interest thereon, attorneys' fees, and costs of suit according to the mandate
18 of PAGA for Defendant's violations of Labor Code § 226, as well as attorneys' fees and costs.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf
21 this suit is brought against Defendants, jointly and severally, as follows:

- 22 1. For an order certifying the proposed Class;
- 23 2. For an order appointing Plaintiff as the representative of the Class as described
24 herein;
- 25 3. For an order appointing counsel for Plaintiff as Class counsel;
- 26 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
27 California Labor Code § 226, and for costs and attorneys' fees;
- 28 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant
to Labor Code §§ 226.3 and 2698, *et seq.*;

1 6. On all causes of action, for attorneys' fees and costs as provided by California
2 Labor Code §§ 226, and 2698, *et seq.*, and Code of Civil Procedure § 1021.5; and

3 7. For such other and further relief as the Court may deem just and proper.

4 DATED: March 13, 2020

POLARIS LAW GROUP, LLP

5
6 By: 
7 William L. Marder
Attorneys for PLAINTIFF and the CLASS