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PATRICK PINEDA, as an individual and on behalf of all Aggrieved Employees

10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF RIVERSIDE**

12 * * *

RIC2001981

13 PATRICK PINEDA, as an individual and on
behalf of all Aggrieved Employees,

14 Plaintiff,

15 vs.

16 OLDCASTLE INFRASTRUCTURE, INC., a
17 Washington Corporation; and DOES 1 through
18 50, inclusive,

19 Defendants.

Case No.

**PLAINTIFF'S COMPLAINT FOR
DAMAGES FOR:**

**CLAIMS UNDER CAL. LABOR
CODE SECTION 2968 ET SEQ.**

- (1) Civil Penalties For Failure To Pay Minimum Wages;
- (2) Civil Penalties for Failure to Pay Overtime Wages;
- (3) Civil Penalties for Failure to Provide Meal Periods;
- (4) Civil Penalties for Failure to Provide Rest Periods;
- (5) Civil Penalties For Failure To Issue Itemized Wage Statements;
- (6) Civil Penalties For Failure To Pay Wages Due And Payable Twice Each Calendar Month;
- (7) Civil Penalties For Failure To Pay Wages Due Upon Demand;
- (8) Civil Penalties For Failure To Pay Wages Due Upon Termination

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**(9) Civil Penalties for Failure to
Maintain Adequate and Accurate
Payroll Records**

**(10) Civil Penalties for Failure to
Provide Notice of Pay**

JURY TRIAL DEMANDED

7 Plaintiff PATRICK PINEDA (“PLAINTIFF”), as an individual and on behalf of all
8 similarly-situated current and former employees, alleges against Defendants OLDCASTLE
9 INFRASTRUCTURE, INC., a Washington Corporation; and DOES 1 through 50, inclusive
10 (hereinafter collectively “DEFENDANTS”), as follows:

11 **GENERAL ALLEGATIONS**

12 **A. THE PARTIES**

13 1. PLAINTIFF is a current non-exempt employee of DEFENDANTS who, at all
14 times relevant herein, was residing in Madera County, California.

15 2. PLAINTIFF is informed and believes, and thereon alleges, that Defendant
16 OLDCASTLE INFRASTRUCTURE, INC. is a Washington corporation, registered to do
17 business in California, with employees in the Counties of Alameda, Madera, Riverside, San
18 Bernardino, San Joaquin, Santa Clara, Sonoma, and Tulare.

19 3. PLAINTIFF is unaware of the true names and/or capacities, whether individual,
20 partnership, limited partnership, corporate, or otherwise, of the Defendants sued herein as DOES
21 1 through 50, inclusive, and each of them, and therefore sues such Defendants by such fictitious
22 names pursuant to Code of Civil Procedure section 474. PLAINTIFF is informed and believes,
23 and thereon alleges, that each of the Defendants sued herein, including DOES 1 through 50,
24 inclusive, is and was proximately the cause of or contributed to cause the damages hereinafter
25 alleged, or in some other manner is responsible in whole or in part for the damages which have
26 been, are being, and will be suffered by PLAINTIFF as alleged herein. When the true names
27 and/or capacities of the Defendants are ascertained, PLAINTIFF will seek leave to amend this
28 Complaint to insert the same herein with appropriate charging allegations.

1 4. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS
2 and each of the DOE Defendants, were acting at all relevant times herein, as the agent, ostensible
3 agent, joint-venturer, joint-employer, alter ego, integrated enterprise, servant, employee, co-
4 conspirator and/or associate of each of the other Defendants, and were at all times acting within
5 the course and scope of said agency, servitude, employment, joint-venture, association, and/or
6 conspiracy and with the permission and consent of the other Defendants.

7 5. PLAINTIFF is informed and believes, and thereon alleges, that, at all times
8 relevant herein, the above DEFENDANTS and/or each of its managing agents and supervisors
9 aided, abetted, condoned, permitted, approved, authorized, and/or ratified the unlawful acts
10 described herein.

11 6. PLAINTIFF is informed and believes, and thereon alleges that, at all times
12 relevant herein, the various acts and representations of DEFENDANTS, including each of the
13 DOE Defendants, and each agent or representative of DEFENDANTS, were the result of, and in
14 furtherance of, an agreement whereby the DEFENDANTS and each agent or representative of
15 the DEFENDANTS knowingly conspired to engage in the acts described herein, including, but
16 not limited to, DEFENDANTS' violation of the California Labor Code.

17 7. PLAINTIFF brings Causes of Action ONE through TEN on behalf of himself and
18 all other similarly situated current and former California employees of DEFENDANTS as a
19 Private Attorney General action pursuant to California Labor Code section 2698 et seq. These
20 individuals shall hereinafter be referred to collectively as the "Aggrieved Employees."

21 **B. THE ACTION**

22 8. This action is brought, in part, to remedy the following:

23 (a) DEFENDANTS' failure to pay PLAINTIFF and the Aggrieved
24 Employees at least minimum wage for, among other things, time spent
25 working off the clock, in violation of Labor Code sections 1194, 1194.2,
26 and 1197;

27 (b) DEFENDANTS' failure to pay PLAINTIFF and the Aggrieved
28 Employees overtime and/or double time wages, as required by California

1 Labor Code section 510 and any applicable Wage Order due to, among
2 other things, DEFENDANTS' failure to pay PLAINTIFF and the
3 Aggrieved Employees for all time spent working off the clock;

4 (c) DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved
5 Employees with a reasonable opportunity to take a first net thirty-minute,
6 duty-free meal period for each workday during which such employees
7 worked more than five (5) hours, as mandated by California law, or to pay
8 such employees one (1) hour of additional wages at the employees'
9 regular rate of compensation for each workday for which the duty-free
10 meal period was and/or is not provided, as required by California Labor
11 Code sections 226.7 and 512 and the applicable Industrial Welfare
12 Commission Wage Order;

13 (d) DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved
14 Employees with a reasonable opportunity to take a paid net ten-minute,
15 duty-free rest period per four hours worked or major fraction thereof, as
16 mandated by California law, or to pay such employees one (1) hour of
17 additional wages at the employees' regular rate of compensation for each
18 workday for which the duty-free rest period was and/or is not provided, as
19 required by the applicable Industrial Welfare Commission Wage Order;

20 (e) DEFENDANTS' failure to issue accurate, itemized wage statements to
21 PLAINTIFF and the Aggrieved Employees in accordance with California
22 law;

23 (f) DEFENDANTS' failure to pay PLAINTIFF and the Aggrieved
24 Employees all wages due and owing at least twice monthly, as required by
25 Labor Code section 204;

26 (g) DEFENDANTS' failure to pay PLAINTIFF and the Aggrieved
27 Employees all wages due and payable upon demand, in violation of Labor
28 Code section 216;

1 (h) DEFENDANTS' failure to pay PLAINTIFF and the Aggrieved
2 Employees all wages due and owing upon the termination of employment
3 in violation of Labor Code sections 201, 202, and 203;

4 (i) DEFENDANTS' failure to maintain complete and accurate payroll records
5 of PLAINTIFF and the Aggrieved Employees, in violation of Labor Code
6 section 1174;

7 (j) DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved
8 Employees with a written notice of pay as required by Labor Code section
9 2810.5.

10 **C. VENUE**

11 9. Venue is proper in this county because, among other reasons, certain of the
12 violations of the California Labor Code alleged herein were committed in Riverside County and
13 DEFENDANTS conduct business and have employed and/or do employ certain of the Aggrieved
14 Employees in Riverside County. The unlawful acts alleged have a direct effect on PLAINTIFF
15 and other Aggrieved Employees. PLAINTIFF and the Aggrieved Employees will continue to
16 suffer the same harm as PLAINTIFF as a result of DEFENDANTS' wrongful conduct unless the
17 relief requested herein is granted.

18 10. PLAINTIFF is informed and believes, and thereon alleges, that during the one-
19 year period preceding the filing of this Private Attorneys General action, no other action has been
20 filed asserting the same or similar factual allegations against DEFENDANTS on behalf of the
21 same or similar Aggrieved Employees.

22 **D. EXHAUSTION**

23 11. Pursuant to California Labor Code section 2699.3(a)(1), PLAINTIFF mailed
24 written notice of DEFENDANTS' alleged violations of the California Labor Code to the
25 California Labor and Workforce Development Agency on January 3, 2020.

26 12. Through this Notice, and the LWDA's subsequent decision not to investigate the
27 alleged violations within the statutory timeframe, PLAINTIFF has exhausted administrative
28 remedies pursuant to California Labor Code section 2699.3 with respect to all Causes of Action.

1 **BACKGROUND ALLEGATIONS**

2 13. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS
3 were, at all relevant times herein, engaged in the business of manufacturing utility products and
4 construction accessories for telecommunications, energy, transportation, building structures and
5 water markets.

6 14. PLAINTIFF is a current non-exempt employee of DEFENDANTS who, at all
7 times relevant herein, has been employed as an hourly employee.

8 15. PLAINTIFF is informed and believes, and thereon alleges, that at all times
9 mentioned herein, DEFENDANTS had and have statutory obligations to pay PLAINTIFF and all
10 Aggrieved Employees at a rate of no less than minimum wage for all hours worked, and a rate of
11 one-and-a-half times the regular rate of pay for all hours worked in excess of eight (8) in a
12 workday, forty (40) in a workweek, and/or for the first eight (8) hours on the seventh day of
13 work in any one workweek. PLAINTIFF further alleges that DEFENDANTS had and have
14 statutory obligations to pay PLAINTIFF and all Aggrieved Employees at the rate of twice the
15 regular rate of pay for all hours worked in excess of twelve (12) hours in a workday and for any
16 work in excess of eight (8) hours on the seventh day of a workweek.

17 16. PLAINTIFF is informed and believes, and thereon alleges, that at all times
18 mentioned herein, DEFENDANTS had and have statutory obligations to provide PLAINTIFF
19 and all Aggrieved Employees with a net thirty-minute, duty-free meal period during any
20 workday during which PLAINTIFF and the Aggrieved Employees worked more than five hours
21 and/or pay PLAINTIFF and the Aggrieved Employees one hour of additional wages at the
22 regular rate of pay.

23 17. PLAINTIFF is informed and believes, and thereon alleges, that at all times
24 mentioned herein, DEFENDANTS had and have statutory obligations to provide PLAINTIFF
25 and all Aggrieved Employees with a second net thirty-minute, duty-free meal period during any
26 workday during which PLAINTIFF and the Aggrieved Employees worked more than ten hours
27 and/or pay PLAINTIFF and the Aggrieved Employees one hour of additional wages at the
28 regular rate of pay.

1 18. PLAINTIFF is informed and believes, and thereon alleges, that at all times
2 mentioned herein, DEFENDANTS had and have statutory obligations to provide PLAINTIFF
3 and all Aggrieved Employees with a paid net ten-minute, duty-free meal period during any
4 workday during which PLAINTIFF and the Aggrieved Employees worked more than three and
5 one-half hours, and for every four hours of work or major fraction thereof, or pay PLAINTIFF
6 and the Aggrieved Employees one hour of additional wages at the regular rate of pay.

7 19. PLAINTIFF is informed and believes, and thereon alleges, that at all times
8 mentioned herein, DEFENDANTS had and have statutory obligations to timely pay all wages
9 owed to PLAINTIFF and all Aggrieved Employees at the time that any Class Member's
10 employment with DEFENDANTS ended, whether voluntarily or involuntarily.

11 20. PLAINTIFF is informed and believes, and thereon alleges, that at all times
12 mentioned herein, DEFENDANTS had and have statutory obligations to issue mandated,
13 accurate, itemized wage statements to PLAINTIFF and all Aggrieved Employees.

14 21. PLAINTIFF is informed and believes, and thereon alleges, that PLAINTIFF and
15 all Aggrieved Employees did not secret or absent themselves from DEFENDANTS nor did they
16 refuse to accept the earned but unpaid wages from DEFENDANTS.

17 22. As a result of DEFENDANTS' actions, PLAINTIFF and all Aggrieved
18 Employees have suffered damages, including lost pay, wages, and interest.

19 **FIRST CAUSE OF ACTION**

20 **CIVIL PENALTIES FOR FAILURE TO PAY MINIMUM WAGES (PLAINTIFF,**
21 **Individually and on Behalf of All Similarly Situated Aggrieved Employees, Against**
22 **DEFENDANTS)**

23 23. The allegations of each of the foregoing paragraphs are re-alleged and
24 incorporated herein by this reference.

25 24. At all relevant times, DEFENDANTS were subject to the provisions of the
26 California Labor Codes mentioned herein.

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1 25. California Labor Code section 2699(a) specifically provides for a private right of
2 action to recover penalties for violations of the Labor Code:

3 Notwithstanding any other provision of law, any provision of this
4 code that provides for a civil penalty to be assessed and collected
5 by the Labor and Workforce Development Agency or any of its
6 departments, divisions, commissions, boards, agencies, or
7 employees, for a violation of this code, may, as an alternative, be
8 recovered through a civil action brought by an aggrieved employee
9 on behalf of herself or herself and other current or former
10 employees.

11 26. California Labor Code section 2699.3(a) states:

12 A civil action by an aggrieved employee pursuant to subdivision
13 (a) or (f) of Section 2699 alleging a violation of any provision
14 listed in Section 2699.5 shall commence only after the following
15 requirements have been met: (1) The aggrieved employee or
16 representative shall give written notice by certified mail to the
17 Labor and Workforce Development Agency and the employer of
18 the specific provisions of this code alleged to have been violated,
19 including the facts and theories to support the alleged violation.
20 2(A) The agency shall notify the employer and the aggrieved
21 employee or the representative by certified mails that it does not
22 intend to investigate the alleged violation within 30 calendar days
23 of the postmark date of the notice received pursuant to paragraph
24 (1). Upon receipt of that notice or if no notice is provided within
25 33 calendar days of the postmark date the notice given pursuant to
26 paragraph (1), the aggrieved employee may commence a civil
27 action pursuant to Section 2699.

28 27. PLAINTIFF has exhausted his administrative remedies pursuant to California
Labor Code section 2699.3 in that PLAINTIFF gave written notice of her claims under
California Labor Code section 2699 *et seq.* to DEFENDANTS and to the California Labor and
Workforce Development Agency and the California Labor and Workforce Development Agency
failed to respond to PLAINTIFF's notice within the appropriate time frame. Thus, PLAINTIFF
is entitled to a statute of limitations period of one (1) year prior to the filing of the complaint plus
an additional sixty-five (65) days during which the claim was tolled while PLAINTIFF
exhausted the aforementioned administrative remedies.

28. PLAINTIFF is entitled to recover these penalties for himself and other current or former Aggrieved Employees through a civil action filed on their own behalf. These penalties are in addition to all other remedies permitted by law.

29. DEFENDANTS set the policies for, established, controlled, consented to, approved and/or ratified the non-payment of the wages due to PLAINTIFF and other current and former Aggrieved Employees in violation of the California Labor Code and the applicable Wage Order.

30. DEFENDANTS failed to comply with California Labor Code sections 1194, 1194.2 and 1197 by failing to pay PLAINTIFF the California minimum wage due PLAINTIFF for each hour worked when DEFENDANTS required PLAINTIFF to engage in off-the-clock tasks, including requiring employees to remain on call and respond to work calls and emails during meal periods and outside regularly scheduled shifts. PLAINTIFF is therefore entitled to the penalties set forth in the California Labor Code, including but not limited to the penalties set forth California Labor Code sections 210, 225.5, 558, and 1197.1, on behalf of himself and other current and former Aggrieved Employees of DEFENDANTS, for each and every pay period that DEFENDANTS violated California Labor Code sections, 1194, 1194.2 and 1197, or to those penalties set forth in California Labor Code sections 2699(f) if it is determined that there is no established civil penalty for violation of the foregoing provisions of the California Labor Code.

31. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

SECOND CAUSE OF ACTION

CIVIL PENALTIES FOR FAILURE TO PAY OVERTIME WAGES

**(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,
Against DEFENDANTS)**

32. The allegations of each of the foregoing paragraphs are re-alleged and incorporated herein by this reference.

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33. At all relevant times, DEFENDANTS were subject to the provisions of the California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

34. PLAINTIFF has exhausted his administrative remedies pursuant to California Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

35. DEFENDANTS failed to comply with California Labor Code section 510 by failing to pay PLAINTIFF and the other Aggrieved Employees at the correct hourly rate for those hours worked in excess of ten (10) in a workday, in excess of six (6) days in a workweek, and/or for hours worked on the seventh day of a workweek as required under California law. Amongst other practices, this occurred through DEFENDANTS' failure to account for the variety of off the clock tasks that DEFENDANTS required PLAINTIFF and the Aggrieved Employees to engage in, further failing to account for all hours worked in paying overtime premiums. PLAINTIFF is therefore entitled to the penalties set forth in the California Labor Code, including but not limited to the penalties set forth in California Labor Code sections 210, 225.5, and 558 on behalf of himself and other current and former Aggrieved Employees of DEFENDANTS, for each and every pay period that DEFENDANTS violated California Labor Code section 510, or to those penalties set forth in California Labor Code section 2699(f) if it is determined that there is no established civil penalty for violation of the foregoing provisions of the California Labor Code.

36. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

THIRD CAUSE OF ACTION

CIVIL PENALTIES FOR FAILURE TO PROVIDE MEAL PERIODS

**(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,
Against DEFENDANTS)**

1 37. The allegations of each of the foregoing paragraphs are re-alleged and
2 incorporated herein by this reference.

3 38. At all relevant times, DEFENDANTS were subject to the provisions of the
4 California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

5 39. PLAINTIFF has exhausted his administrative remedies pursuant to California
6 Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year
7 prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim
8 was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

9 40. DEFENDANTS failed to comply with California Labor Code sections 226.7 and
10 512 and Section 11 of the applicable Industrial Welfare Commission Wage Order by failing to
11 provide PLAINTIFF and other Aggrieved Employees with all meal periods to which
12 PLAINTIFF and other Aggrieved Employees were entitled under California law. PLAINTIFF is
13 therefore entitled to the penalties set forth in the California Labor Code, including but not limited
14 to the penalties set forth in California Labor Code sections 210, 225.5, and 558 on behalf of
15 themselves and other current and former Aggrieved Employees of DEFENDANTS, for each and
16 every pay period that DEFENDANTS violated California Labor Code sections 226.7 and 512, or
17 to those penalties set forth in California Labor Code section 2699(f) if it is determined that there
18 is no established civil penalty for violation of the foregoing provisions of the California Labor
19 Code.

20 41. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
21 pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who
22 prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

23 **FOURTH CAUSE OF ACTION**

24 **CIVIL PENALTIES FOR FAILURE TO PROVIDE REST PERIODS**

25 **(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,**
26 **Against DEFENDANTS)**

27 42. The allegations of each of the foregoing paragraphs are re-alleged and
28 incorporated herein by this reference.

43. At all relevant times, DEFENDANTS were subject to the provisions of the California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

44. PLAINTIFF has exhausted his administrative remedies pursuant to California Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

45. DEFENDANTS failed to comply with California Labor Code sections 226.7 and Section 12 of the applicable Industrial Welfare Commission Wage Order by failing to provide PLAINTIFF and other Aggrieved Employees with all rest periods to which PLAINTIFF and other Aggrieved Employees were entitled under California law. PLAINTIFF is therefore entitled to the penalties set forth in the California Labor Code, including but not limited to the penalties set forth in California Labor Code sections 210, 225.5, and 558 on behalf of himself and other current and former Aggrieved Employees of DEFENDANTS, for each and every pay period that DEFENDANTS violated California Labor Code sections 226.7, or to those penalties set forth in California Labor Code section 2699(f) if it is determined that there is no established civil penalty for violation of the foregoing provisions of the California Labor Code.

46. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

FIFTH CAUSE OF ACTION

CIVIL PENALTIES FOR FAILURE TO ISSUE ITEMIZED WAGE STATEMENTS
(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,
Against DEFENDANTS)

47. The allegations of each of the foregoing paragraphs are re-alleged and incorporated herein by this reference.

48. At all relevant times, DEFENDANTS were subject to the provisions of the California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

1 49. PLAINTIFF has exhausted his administrative remedies pursuant California Labor
2 Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year prior to
3 the filing of the complaint plus an additional sixty-five (65) days during which the claim was
4 tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

5 50. DEFENDANTS failed to comply with California Labor Code section 226 by
6 failing to provide PLAINTIFF and other Aggrieved Employees with itemized wage statements to
7 which PLAINTIFF and other Aggrieved Employees were entitled under California law.
8 PLAINTIFF is therefore entitled to the penalties set forth in the California Labor Code, including
9 but not limited to the penalties set forth in California Labor Code sections 226.3 and 1174.5 on
10 behalf of himself and other current and former Aggrieved Employees of DEFENDANTS, for
11 each and every pay period that DEFENDANTS violated California Labor Code sections 226 and
12 1174, or to those penalties set forth in California Labor Code section 2699(f) if it is determined
13 that there is no established civil penalty for violation of the foregoing provisions of the
14 California Labor Code.

15 51. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
16 pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who
17 prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

18 **SIXTH CAUSE OF ACTION**

19 **CIVIL PENALTIES FOR FAILURE TO PAY WAGES DUE AND PAYABLE TWICE**

20 **EACH CALENDAR MONTH**

21 **(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,**
22 **Against DEFENDANTS)**

23 52. The allegations of each of the foregoing paragraphs are re-alleged and
24 incorporated herein by this reference.

25 53. At all relevant times, DEFENDANTS were subject to the provisions of the
26 California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

27 54. PLAINTIFF has exhausted his administrative remedies pursuant to California
28 Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year

1 prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim
2 was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

3 55. DEFENDANTS failed to comply with California Labor Code section 204 by
4 failing to timely pay twice during each calendar month all wages owed to PLAINTIFF and other
5 Aggrieved Employees. PLAINTIFF is therefore entitled to the penalties set forth in the
6 California Labor Code, including but not limited to the penalties set forth in California Labor
7 Code section 210 on behalf of himself and other current and former Aggrieved Employees of
8 DEFENDANTS, for each and every pay period that DEFENDANTS violated California Labor
9 Code section 204, or to those penalties set forth in California Labor Code section 2699(f) if it is
10 determined that there is no established civil penalty for violation of the foregoing provisions of
11 the California Labor Code.

12 56. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
13 pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who
14 prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

15 **SEVENTH CAUSE OF ACTION**

16 **CIVIL PENALTIES FOR FAILURE TO PAY WAGES DUE UPON DEMAND** 17 **(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,** 18 **Against DEFENDANTS)**

19 57. The allegations of each of the foregoing paragraphs are re-alleged and
20 incorporated herein by this reference.

21 58. At all relevant times, DEFENDANTS were subject to the provisions of the
22 California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

23 59. PLAINTIFF has exhausted his administrative remedies pursuant to California
24 Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year
25 prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim
26 was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

27 60. DEFENDANTS failed to comply with California Labor Code section 216 by
28 having the ability to pay yet willfully refusing to pay wages due and payable upon demand,

1 and/or denying the amount or validity thereof, or that the same is due, with intent to secure for
2 itself, or other person, any discount upon such indebtedness, or with intent to annoy, harass,
3 oppress, hinder, delay, or defraud PLAINTIFF and other Aggrieved Employees to whom such
4 indebtedness is due. PLAINTIFF is therefore entitled to the penalties set forth in the California
5 Labor Code, including but not limited to the penalties set forth in California Labor Code section
6 225.5, on behalf of himself and other current and former Aggrieved Employees of
7 DEFENDANTS, for each and every pay period that DEFENDANTS violated California Labor
8 Code section 216, or to those penalties set forth in California Labor Code section 2699(f) if it is
9 determined that there is no established civil penalty for violation of the foregoing provisions of
10 the California Labor Code.

11 61. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
12 pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who
13 prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

14 **EIGHTH CAUSE OF ACTION**

15 **CIVIL PENALTIES FOR FAILURE TO PAY WAGES DUE UPON TERMINATION**
16 **(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,**
17 **Against DEFENDANTS)**

18 62. The allegations of each of the foregoing paragraphs are re-alleged and
19 incorporated herein by this reference.

20 63. At all relevant times, DEFENDANTS were subject to the provisions of the
21 California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

22 64. PLAINTIFF has exhausted his administrative remedies pursuant to California
23 Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year
24 prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim
25 was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

26 65. DEFENDANTS failed to comply with California Labor Code section sections
27 201, 202 and 203 by failing to provide the Aggrieved Employees with wages due upon
28 termination of their employment. PLAINTIFF is therefore entitled to the penalties set forth in

1 California Labor Code section 256 on behalf of the Aggrieved Employees of DEFENDANTS,
2 for each and every pay period that DEFENDANTS violated California Labor Code sections 201
3 through 203, or to those penalties set forth in California Labor Code section 2699(f) if it is
4 determined that there is no established civil penalty for violation of the foregoing provisions of
5 the California Labor Code.

6 66. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
7 pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who
8 prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

9 **NINTH CAUSE OF ACTION**

10 **CIVIL PENALTIES FOR FAILURE TO MAINTAIN ADEQUATE AND ACCURATE**
11 **PAYROLL RECORDS**

12 **(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,**
13 **Against DEFENDANTS)**

14 67. The allegations of each of the foregoing paragraphs are re-alleged and
15 incorporated herein by this reference.

16 68. At all relevant times, DEFENDANTS were subject to the provisions of the
17 California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

18 69. PLAINTIFF has exhausted his administrative remedies pursuant to California
19 Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year
20 prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim
21 was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

22 70. DEFENDANTS failed to comply with California Labor Code sections 221, 224,
23 226 and 1174 by failing to provide PLAINTIFF and other Aggrieved Employees with itemized
24 wage statements to which PLAINTIFF and other Aggrieved Employees were entitled under
25 California law. DEFENDANTS' failure to provide accurate wage statements also resulted in
26 their failure to maintain complete and accurate payroll records in accordance with California
27 Labor Code section 1174. PLAINTIFF is therefore entitled to the penalties set forth in the
28 California Labor Code, including but not limited to the penalties set forth in California Labor

1 Code section 1174.5 on behalf of himself and other current and former Aggrieved Employees of
2 DEFENDANTS, for each and every pay period that DEFENDANTS violated California Labor
3 Code section 1174, or to those penalties set forth in California Labor Code section 2699(f) if it is
4 determined that there is no established civil penalty for violation of the foregoing provisions of
5 the California Labor Code.

6 71. In addition, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
7 pursuant to California Labor Code section 2699(g)(1), which states, "Any employee who
8 prevails in any action shall be entitled to an award of reasonable attorneys' fees and costs."

9 **TENTH CAUSE OF ACTION**

10 **CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE OF PAY**

11 **(PLAINTIFF, Individually and on Behalf of Current and Former Aggrieved Employees,**
12 **Against DEFENDANTS)**

13 72. The allegations of each of the foregoing paragraphs are re-alleged and
14 incorporated herein by this reference.

15 73. At all relevant times, DEFENDANTS were subject to the provisions of the
16 California Labor Code and Industrial Welfare Commission Wage Orders mentioned herein.

17 74. PLAINTIFF has exhausted his administrative remedies pursuant to California
18 Labor Code section 2699.3, and is thus entitled to a statute of limitations period of one (1) year
19 prior to the filing of the complaint plus an additional sixty-five (65) days during which the claim
20 was tolled while PLAINTIFF exhausted the aforementioned administrative remedies.

21 75. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS
22 failed to comply with California Labor Code section 2810.5 by failing to provide to PLAINTIFF
23 and other Aggrieved Employees with a written notice, in the language the employer normally
24 uses to communicate employment-related information to the employee, containing the following
25 information:

26
27 The rate or rates of pay and basis thereof, whether paid by the
28 hour, shift, day, week, salary, piece, commission, or otherwise,
including any rates for overtime, as applicable;

1 Allowances, if any, claimed as part of the minimum wage,
2 including meal or lodging allowances;

3 The regular payday designated by the employer in accordance with
4 the requirements of this code;

5 The name of the employer, including any “doing business as”
6 names used by the employer;

7 The physical address of the employer’s main office or principal
8 place of business, and a mailing address, if different;

9 The telephone number of the employer;

10 The name, address, and telephone number of the employer’s
11 workers’ compensation insurance carrier;

12 That an employee: may accrue and use sick leave; has a right to
13 request and use accrued paid sick leave; may not be terminated or
14 retaliated against for using or requesting the use of accrued paid
15 sick leave; and has the right to file a complaint against an employer
16 who retaliates.

17 76. PLAINTIFF is therefore entitled to the penalties set forth in the California Labor
18 Code for each and every pay period that DEFENDANTS violated California Labor Code section
19 2810.5, or to those penalties set forth in California Labor Code section 2699(f) if it is determined
20 that there is no established civil penalty for violation of the foregoing provisions of the
21 California Labor Code.

22 77. In addition, PLAINTIFF seeks an award of reasonable attorneys’ fees and costs
23 pursuant to California Labor Code section 2699(g)(1), which states, “Any employee who
24 prevails in any action shall be entitled to an award of reasonable attorneys’ fees and costs.”

25 78. Pursuant to California Labor Code section 218.6, in any action brought for the
26 nonpayment of wages, the Court shall award interest on all due and unpaid wages at the rate of
27 interest specified in subdivision (b) of Section 3289 of the Civil Code [currently 10 percent per
28 annum], which shall accrue from the date that the wages are due and payable[.]” PLAINTIFF

1 and current and former Aggrieved Employees of DEFENDANTS are therefore entitled to said
2 interest.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFF prays as follows:

- 5 1. For penalties pursuant to Labor Code section 2699 on behalf of PLAINTIFF and
6 all other current and former aggrieved employees of DEFENDANT;
7 2. For an award of costs of suit and reasonable attorney fees.
8 3. For such other and further relief as the Court deems just and proper.

9 **DEMAND FOR TRIAL BY JURY**

10 PLAINTIFF, on behalf of himself and all Aggrieved Employees, hereby demands trial by
11 jury of Causes of Action ONE through TEN to the extent authorized by law.

12
13 Dated: March 27, 2020

SUTTON HAGUE LAW CORPORATION, P.C.

14
15 By:  _____

16 S. BRETT SUTTON
17 Attorneys for Plaintiff
18 PATRICK PINEDA
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