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and on behalf of all other similarly situated
current and former employees of Defendants,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

GUILLERMO VALENZUELA, individually,
and on behalf of all other similarly situated
current and former employees of Defendants,

Plaintiffs,

vs.

NU LINE TECHNOLOGIES, LLC, a
California corporation; and DOES 1 through
10, inclusive,

Defendants.

Case No.: 37-2020-00015352-CU-OE-CTL

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

1. Failure to Provide Meal Periods [Cal. Lab. Code §§ 204, 226.7 and 558];
2. Failure to Provide Required Rest Breaks [California Labor Code §§ 226.7 and 512];
3. Failure to Provide Accurate Records of Meal Periods [Cal. Lab. Code §1174 and IWC Order § 7(A)(3)];
4. Failure to Pay Minimum Wage [Cal. Lab. Code §§ 558 and 1197.1];
5. Failure to Pay Overtime Compensation [Cal. Lab. Code § 558];
6. Failure to Timely Pay All Wages at Termination [California Labor Code §§ 201, 202 and 203];
7. Failure to Furnish Accurate Itemized Wage Statements [Cal. Lab. Code §§ 226(a)];
8. Unlawful Business Practices [California Business and Professions Code §§ 17200, *et seq.*]; and
9. Representative Action for Civil Penalties [Cal. Lab. Code §§ 2698-2699.5]

DEMAND FOR JURY TRIAL

1 Plaintiff Guillermo Valenzuela (“Named Plaintiff”), on behalf of himself and on behalf of
2 all other similarly situated current and former employees of Defendants (and, together with
3 Named Plaintiff, “Plaintiffs”) and the people of the State of California as “aggrieved employees”
4 (the “Aggrieved Employees”) acting as private attorneys general under the Labor Code Private
5 Attorneys General Act of 2004, § 2699, *et seq.* (“PAGA”) complain of Defendant NU LINE
6 TECHNOLOGIES, LLC (“NU LINE” or “Defendant”), and DOES 1 through 10, and each of
7 them (collectively, “Defendants”), as follows:

8 INTRODUCTION AND GENERAL ALLEGATIONS

9 1. Plaintiffs are informed and believe and, on that basis, allege that NU LINE is, and
10 at all relevant times was, a California limited liability company which operates as an industrial
11 general contractor doing repairs and maintenance in and near north San Diego County,
12 California.

13 2. Plaintiffs do not know the true names or capacities of the persons or entities sued
14 here as DOES 1-10, inclusive, and therefore sue said Defendants by such fictitious names. Each
15 of the DOE Defendants was in some manner legally responsible for the damages suffered by
16 Plaintiffs. Plaintiffs will amend this Complaint to set forth the true names and capacities of these
17 Defendants when they have been ascertained, together with appropriate charging allegations, as
18 may be necessary.

19 3. At all times relevant to this action, in the course and scope of its business activities,
20 NU LINE employed individuals who were tasked with driving vehicles to and from job sites and
21 providing collateral services in connection with NU LINE’s work.

22 4. Throughout the time period involved in this action, Defendants wrongfully failed
23 to compensate Plaintiffs for the time necessary to drive to and from job sites at which they were
24 required by Defendants to be, and to work.

25 5. At all times relevant to this action, NU LINE and DOE Defendants (sometimes
26 referred to, collectively as “Defendants”) failed to provide Plaintiffs with timely and duty-free
27 meal periods. Defendants regularly required Plaintiffs to work in excess of five (5) consecutive
28 hours a day without providing a thirty-minute, continuous and uninterrupted, duty-free meal

1 period for every five (5) hours of work, or without compensating Plaintiffs for meal periods that
2 were not provided by the end of the fifth (5th) hour of work or tenth (10th) hour of work.
3 Defendants did not adequately inform Plaintiffs of their right to take a meal period by the end of
4 the fifth (5th) hour of work, or, for shifts greater than ten (10) hours, by the end of the tenth (10th)
5 hour of work. Moreover, Defendants did not have adequate written policies or practices providing
6 meal periods for Plaintiffs nor did Defendants have adequate policies or practices regarding the
7 timing of meal periods. Defendants also did not have adequate policies or practices to verify
8 whether Plaintiffs were taking their required meal periods. Instead, Defendants' policy and
9 practice was to not provide meal periods in compliance with California law.

10 6. At all times relevant to this action, Defendants engaged in non-neutral time-
11 rounding policies and practices that resulted in the systematic underpayment of wages to
12 Plaintiffs. As a result, Defendants have failed to pay all minimum wages and overtime
13 compensation owed to Plaintiffs.

14 7. At all times relevant to this action, Defendants failed to maintain accurate records
15 of meal periods taken or missed by Plaintiffs. Plaintiffs were not allowed to record their work
16 hours by clocking in and out. Defendants controlled the recordation and retention of time records
17 for Plaintiffs.

18 8. At all times relevant to this action, Defendants willfully failed and refused to
19 timely pay Plaintiffs at the conclusion of their employment all wages for: (1) actual time worked;
20 (2) missed meal periods, and (3) unpaid minimum wages and overtime compensation resulting
21 from Defendants' policies and practices.

22 9. At all times relevant to this action, Defendants failed to furnish Plaintiffs with
23 accurate, itemized wage statements showing all gross and net wages earned, including wages for
24 meal periods that were not provided in accordance with California law and unpaid minimum
25 wages and overtime compensation resulting from Defendants' policies and practices.

26 10. Labor Code § 226.7 ("Section 226.7") provides that "an employer shall not require
27 an employee to work during a meal or rest or recovery period mandated pursuant to an applicable
28

1 statute, or applicable regulation, standard, or order of the California Industrial Welfare
2 Commission (“IWC”).”

3 11. Notwithstanding Section 226.7 and IWC Wage Order 4-2001 (“Order 4-2001”),
4 Defendants failed to provide Plaintiffs with a duty-free rest period of not less than ten (10)
5 minutes for every major transaction of four (4) hours worked.

6 Defendants failed to have a lawful rest policy in place that informed Plaintiffs of their right
7 to take rest periods for shifts that were a major fraction of a four (4) hour work period and to make
8 rest breaks available to the employees.

9 12. In addition to failing to authorize and permit compliant rest periods, Plaintiffs were
10 not compensated with one (1) hour worth of pay at their regular rate of compensation when they
11 were not provided with a compliant rest period in accordance with Section 226.7(b).

12 13. Labor Code § 512 requires employers to provide employees with a thirty (30)
13 minute uninterrupted and duty-free meal period within the first five hours of work. Moreover, an
14 employee who works more than ten (10) hours per day is entitled to receive a second thirty (30)
15 minute uninterrupted and duty-free meal period.

16 14. Defendants required Plaintiffs to remain onsite and work through their meal period
17 without receiving meal period premiums pursuant to Section 226.7.

18 15. Section 226.7 also provides “an employer shall not require an employee to work
19 during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
20 regulation, standard, or order of the IWC. IWC Wage Order 4-2001 further obligates employers
21 to “pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each
22 workday that the meal period is not provided.”

23 16. Labor Code § 1197 states that employees must be paid at least the minimum wage
24 fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly,
25 Labor Code § 1194 provides that any employee receiving less than the legal minimum wage may
26 recover in a civil action the unpaid balance of the full amount of this minimum wage. IWC Wage
27 order 4-2001 obligates employers to pay each employee minimum wages for all hours worked.
28

17. Labor Code § 510 requires an employer to compensate an employee who worked more than eight (8) hours in one workday, forty hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee. As a result of Defendants' practices, Plaintiffs did not receive overtime wages as required by statute.

18. Labor Code § 226 obligates employers to furnish an itemized wage statement in writing showing the (1) gross wages earned, (2) total amount worked by employee, (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece rate, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

THE PARTIES TO EACH CAUSE OF ACTION

A. Plaintiffs

19. Named Plaintiff is informed and believes that, at all times relevant to this action, he and the similarly situated current and former employees of Defendants were residents of the State of California.

20. Named Plaintiff reserves the right to seek leave to amend this complaint to add one or more new Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association*, 5 Cal.3d 864, 872 (1971), and other applicable law.

B. Defendants

21. Plaintiffs are informed and believe and, based upon that information and belief, allege that NU LINE is, and at all times herein mentioned was:

1 (a) A business entity qualified to conduct business, and actually conducting
2 business, in numerous counties throughout the State of California, and that has not filed a
3 statement designating a principal office in California; and,

4 (b) The employer of Plaintiff, and the current and/or former employer of the
5 similarly situated employees.

6 22. Plaintiffs do not know the true names or capacities of the persons or entities sued
7 herein as DOES 1-10, inclusive, and therefore sues said Defendants by such fictitious names.
8 Each of the DOE Defendants was in some manner legally responsible for the damages suffered by
9 Plaintiffs. Plaintiffs will amend this complaint to set forth the true names and capacities of these
10 Defendants when they have been ascertained, together with appropriate charging allegations, as
11 may be necessary.

12 23. Plaintiffs is informed and believes and thereon alleges that at all times mentioned
13 here, Defendants named as DOES 1-10, inclusive, and each of them, were residents of, doing
14 business in, and availed themselves of the jurisdiction of the State of California, and/or injured a
15 significant number of employees in the State.

16 24. Plaintiffs are informed and believes and thereon alleges that at all relevant time
17 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and
18 exercised control over their wages, hours, and working conditions. Plaintiffs are informed and
19 believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent,
20 partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent
21 corporation, successor in interest and/or predecessor in interest of some or all of the other
22 Defendant, and was engaged with some or all of the other Defendants in a joint enterprise for
23 profit, and bore such other relationship to some or all of the other Defendants so as to be liable for
24 their conduct with respect to the matters alleged below. Plaintiffs are informed and believe and
25 thereon allege that each Defendant acted pursuant to and within the scope of the relationships
26 alleged above, that each Defendants knew or should have known about, and authorized, ratified,
27 adopted, approved, controlled, aided and abetted the conduct of all other Defendants.
28

1 **CLASS ACTION ALLEGATIONS**

2 25. Named Plaintiffs bring the First through Eighth Causes of Action on behalf of
3 himself as well as each and every other person similarly situated and thus seeks class certification
4 under California Code of Civil Procedure § 382 (“Section 382”).

5 26. Named Plaintiff brings the Ninth Cause of Action as a representative action under
6 PAGA to recover civil penalties that are owed to the State of California and past and present
7 employees of Defendants.

8 27. All claims alleged herein arise under California law for which Plaintiffs seek relief
9 authorized by California law.

10 28. Named Plaintiff seeks to represent the proposed Class (as hereinafter defined) that
11 consists of and is defined as:

12 “All persons employed by Defendants to work in any hourly-paid job position in
13 California at any time during the period beginning one (1) year before the filing of the initial
14 complaint in this action and ending on February 9, 2021.” (the “Class”)

15 29. At all material times, Named Plaintiff was a member of the Class.

16 30. Named Plaintiff undertakes this concerted action to improve the wages and
17 working conditions of all Class members.

18 31. Pursuant to Section 382, this action has been brought
19 appropriately as a class action. This is because there is a well-defined community of interest in
20 the litigation and the Class is readily ascertainable:

21 a. Ascertainability: The identity of membership of the Class, including those
22 currently employed and those that are no longer employed, is readily ascertainable by inspection
23 of Defendants’ records.

24 b. Numerosity: The members and potential members of the Class (and each
25 subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical.
26 Even though the membership of the entire Class has not been determined at this time, the Class is
27 estimated to be greater than 100 individuals, including those currently employed and those that are
28 no longer employed.

1 c. Commonality: Named Plaintiff and the Class have common questions of
2 law and fact that predominate over any questions affecting members of the Class individually.

3 d. Typicality: Named Plaintiff's claims are typical of the claims of each Class
4 member because there is a shared, well-defined community of interest whereby both Named
5 Plaintiff and Class members suffered similar injuries and damages, arising from Defendants'
6 illegal common course of conduct as alleged herein.

7 e. Adequacy: Named Plaintiff is qualified to, and will, fairly and adequately
8 protect the interests of each Class member. Named Plaintiff has no conflicts with or interests
9 antagonistic to any Class member. Named Plaintiff's attorneys, Rastegar Law Group, APC (the
10 proposed Class Counsel), are competent in litigating large wage and hour class actions because
11 they are well-versed in the rules governing class action discovery, certification, and settlement.
12 Named Plaintiff's attorneys will also devote ample time and resources to this case. Named
13 Plaintiff has incurred and, throughout the duration of this action, will continue to incur costs and
14 attorney's fees that have been, are, and will be necessarily expended for the prosecution of this
15 action for the substantial benefit of each Class member.

16 f. Superiority: A class action is superior to other available methods for the fair
17 and efficient adjudication of the controversy.

18 g. Public Policy Considerations: The public policy of the State of California is
19 to resolve the Labor Code claims of many employees through a class action. A main reason
20 behind this policy is because current employees are often afraid to assert their rights out of fear of
21 direct or indirect retaliation. Former employees are also fearful of bringing actions because they
22 believe their former employers might damage their future endeavors through negative references
23 and/or other means. Class actions provide the Class members who are not named in the complaint
24 with a type of anonymity that allows for the vindication of their rights at the same time
25 as their privacy is protected.

26 32. This Court should permit this action to be maintained as a class action pursuant to
27 Section 382 because:

28 a. the questions of law and fact common to the Class predominate over any

1 questions affecting only individual members;

2 b. a class action is superior to any other available methods for the fair and
3 efficient adjudication of the claims of the members of the Class;

4 c. the members of the Class are so numerous that it is impractical to bring all
5 members of the Class before the Court; and

6 d. Named Plaintiff, and the other members of the Class, will not be able to
7 obtain proposed members of the Class that would set forth the subject and nature of the instant
8 action. The Defendants' own business records may be utilized for assistance in the preparation
9 and issuance of the contemplated notices. To the extent that any further notices may be required,

10 Named Plaintiff would contemplate the use of additional techniques and forms commonly
11 used in class actions such as published notice, e-mail notice, website notice, first-class mail, or
12 combinations thereof, or by other methods suitable to the Class and deemed necessary and/or
13 appropriate by the Court.

14 **FIRST CAUSE OF ACTION**

15 **Failure to Provide Meal Periods**

16 **(Against All Defendants for Violation of Cal. Lab. Code §§ 204, 226.7 and 558)**

17 33. Plaintiffs re-allege and incorporate by reference the allegations contained in the
18 paragraphs above as if fully set forth herein.

19 34. Under California law, Defendants have an affirmative obligation to relieve
20 employees of all duty in order to take their first daily meal periods no later than the start of the
21 sixth (6th) hour of work in a workday, and to allow employees to take their second (2nd) meal
22 periods no later than the start of the eleventh (11th) hour of work in the workday.

23 35. Despite these legal requirements, Defendants regularly failed to provide Plaintiffs
24 with both meal periods as required by California law.

25 36. Under California law, Plaintiffs are entitled to be paid one hour of additional wages
26 for each instance he or she was not provided with all required meal period(s).
27
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1 37. Defendants regularly failed to pay Plaintiffs the additional wages to which they
2 were entitled for meal periods that were not provided.

3 38. As a result, Defendants are liable to Plaintiffs for the civil penalties provided for in
4 Labor Code §§ 204, 226.7 and 558 for failing to provide meal periods.

5
6 **SECOND CAUSE OF ACTION**

7 **Failure to Provide Required Rest Breaks**

8 **(Against All Defendants for Violation of Cal. Lab. Code §226.7)**

9 39. Plaintiffs re-allege and incorporate by reference the allegations contained in the
10 paragraphs above as if fully set forth herein.

11 40. At all times relevant herein, as part of its illegal payroll policies and practices to
12 deprive Plaintiffs of all wages earned and due, Defendants required these employees to take less
13 than the required ten-minute rest breaks or to work through them, failed to provide employees
14 with a rest break for every four-hour work period or major fraction thereof, and failed to otherwise
15 provide the required rest breaks to its employees as required under California Labor Code § 226.7
16 and the IWC Wage Order(s). The foregoing was the result of a policy and/or practice of failing to
17 authorize and permit compliant rest breaks to Plaintiffs in accordance with California law.

18 41. Defendants further violated California Labor Code § 226.7 and the IWC Wage
19 Order(s) by failing to pay each of their employees who was not provided with a legally compliant
20 rest break as required an additional one (1) hour of compensation at each employee's regular rate
21 of pay.

22 42. As a proximate result of the aforementioned violations, Plaintiffs have been
23 damaged in an amount according to proof at trial, and seek all wages earned and due, interest,
24 penalties, attorney's fees, expenses and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **Failure to Provide Accurate Records of Meal Periods**

3 **(Against All Defendants for Violation of Cal. Lab. Code §1174 and IWC Order § 7(A)(3))**

4 43. Plaintiffs re-allege and incorporate by reference the allegations contained in the
5 paragraphs above as if fully set forth herein.

6 44. Plaintiffs seek penalties under Labor Code § 1174(d). Pursuant to Labor Code §
7 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate
8 and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5.
9 Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing
10 when the employee begins and ends each work period. Meal periods and total hours worked daily
11 shall also be recorded.

12 45. During the time period of employment for Plaintiffs, Defendants failed to maintain
13 records pursuant to the Labor Code and IWC Orders by failing to maintain accurate records
14 showing meal periods. Defendants' failure to provide and maintain records required by the Labor
15 Code and IWC Wage Orders deprived Plaintiffs of the ability to know, understand and question
16 the accuracy and frequency of meal periods, and the accuracy of their hours worked as stated in
17 Defendants' records. Therefore, Plaintiffs had no way to dispute the resulting failure to pay
18 wages, all of which resulted in an unjustified economic enrichment to Defendants.

19 46. As a direct result, Plaintiffs have suffered and continue to suffer, substantial losses
20 related to the use and enjoyment of such wages, lost interest on such wages and expenses and
21 attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all
22 to their respective damage in amounts according to proof at trial.

23
24 **FOURTH CAUSE OF ACTION**

25 **Failure to Pay Minimum Wage**

26 **(Against All Defendants for Violation of Cal. Lab. Code §§ 558 and 1197.1)**

27 47. Plaintiffs re-allege and incorporate by reference the allegations contained in the
28 paragraphs above as if fully set forth herein.

48. Under California law, it is unlawful for an employer to pay employees a lower wage than the minimum wage fixed by the commission or by any applicable state or local law.

49. Despite this legal requirement, as a result of its timekeeping policies and practices, Defendants regularly failed to pay Plaintiffs minimum wages for all hours worked.

50. As a result, Defendants are liable to Plaintiffs for the civil penalties provided for in Labor Code §§ 558 and 1197.1.

FIFTH CAUSE OF ACTION

Failure to Pay Overtime Compensation

(Against All Defendants for Violation of Cal. Lab. Code § 558)

51. Plaintiffs re-allege and incorporate by reference the allegations contained in the paragraphs above as if fully set forth herein.

52. Under California law, any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at a rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one day any work in excess of eight hours on any seventh day of a workweek shall be compensate at the rate of no less than twice the regular rate of pay of an employee.

53. Despite these legal requirements, as a result of its time-rounding policies and practices, Defendants regularly failed to pay Plaintiffs proper overtime compensation for all hours worked.

54. As a result, Defendants are liable to Plaintiffs for the civil penalties provided for in Labor Code § 558.

SIXTH CAUSE OF ACTION

Failure to Timely Pay All Wages at Termination

(Against All Defendants for Violation of Cal. Lab. Code §§ 201, 202 and 203)

1 55. Plaintiffs re-allege and incorporate by reference the allegations contained in the
2 paragraphs above as if fully set forth herein.

3 56. At all times relevant to this action, California Labor Code §§ 201 and 202 provide
4 that if an employer discharges an employee, the wages earned and unpaid at the time of discharge
5 are due and payable immediately, and that if an employee voluntarily leaves his or her
6 employment, his or her wages shall become due and payable not later than seventy-two (72) hours
7 thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her
8 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

9 57. Within the applicable statute of limitations, the employment of Plaintiffs ended,
10 i.e., was terminated by quitting or discharge, and the employment of others will be. However,
11 during the relevant time period, Defendants failed, and continue to fail to pay Plaintiffs and
12 terminated Aggrieved Employees, without abatement, all wages required to be paid by California
13 Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours
14 of their leaving Defendants' employ.

15 58. Defendants' failure to pay Plaintiffs and those Aggrieved Employees who are no
16 longer employed by Defendants their wages earned and unpaid at the time of discharge, or within
17 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
18 Code §§ 201 and 202.

19 59. California Labor Code § 203 provides that if an employer willfully fails to pay
20 wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
21 continue as a penalty wage from the due date, and at the same rate until paid or until an action is
22 commenced; but the wages shall not continue for more than thirty (30) days.

23 60. Plaintiffs and similarly Aggrieved Employees are entitled to recover from
24 Defendants their additionally accruing wages for each day they were not paid, at their regular
25 hourly rate of pay, up to 30 days maximum, pursuant to California Labor Code § 203.

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1 **SEVENTH CAUSE OF ACTION**

2 **Failure to Furnish Accurate Itemized Wage Statements**

3 **(Against All Defendants for Violation of Cal. Lab. Code § 226(a))**

4 61. Plaintiffs re-allege and incorporate by reference the allegations contained in the
5 paragraphs above as if fully set forth herein.

6 62. California Labor Code § 226(a) provides that every employer shall furnish each of
7 his or her employees an accurate itemized wage statement in writing showing nine pieces of
8 information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the
9 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
10 rate basis, (4) all deductions, provided that all deductions made on written orders of the employee
11 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
12 period for which the employee is paid, (7) the name of the employee and the last four digits of his
13 or her social security number or an employee identification number other than a social security
14 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
15 hourly rates in effect during the pay period and the corresponding number of hours worked at each
16 hourly rate by the employee.

17 63. Defendants have intentionally and willfully failed to provide employees with
18 complete and accurate wage statements. The deficiencies include, among other things, the failure
19 to correctly identify the gross wages earned by Plaintiffs, and the failure to list the true net wages
20 earned.

21 64. As a result of Defendants' violations of California Labor Code § 226(a), Plaintiffs
22 have suffered injury and damage to their statutorily protected rights.

23 65. Specifically, Plaintiffs have been injured by Defendants' intentional violation of
24 California Labor Code § 226(a) because they were denied both their legal right to receive, and
25 their protected interest in receiving, accurate, itemized wage statements under California Labor
26 Code § 226(a).

27 66. Calculation of the true wage entitlement for Plaintiffs is difficult and time
28 consuming. As a result of this unlawful burden, Plaintiffs were also injured as a result of having to

1 bring this action to attempt to obtain correct wage information following Defendants' refusal to
2 comply with many of the mandates of California's Labor Code and related laws and regulations.

3 67. Plaintiffs are entitled to recover from Defendants the greater of their actual
4 damages caused by Defendants' failure to comply with California Labor Code § 226(a), or an
5 aggregate penalty not exceeding four thousand dollars per employee.

7 **EIGHTH CAUSE OF ACTION**

8 **Unfair Business Practices**

9 **(Against All Defendants for Violation of Cal. Bus. & Prof. Code §§ 17200, et seq.)**

10 68. Plaintiffs re-allege and incorporate by reference the allegations contained in the
11 paragraphs above as if fully set forth herein.

12 69. Plaintiffs re-allege and incorporate by reference the allegations contained in the
13 paragraphs above as if fully set forth herein.

14 70. By violating the foregoing statutes, DEFENDANT's acts constitute unfair
15 and unlawful business practices under California Business and Professions Code § 17200, et seq.

16 71. DEFENDANT's violation of California wage and hour laws constitutes a business
17 practice because it was done repeatedly over a significant period of time, and in a systematic
18 manner to the detriment of Plaintiffs.

19 72. Plaintiffs have suffered damages and request damages and/or restitution of all
20 monies to be disgorged from Defendants in an amount according to proof at the time of trial, and
21 within the jurisdiction of this Court.

23 **NINTH CAUSE OF ACTION**

24 **(Against All Defendants for Violation of the Private Attorneys General Act of 2004 Cal. Lab.**
25 **Code §§ 2698 et seq.)**

26 73. Plaintiffs re-allege and incorporate by reference the allegations contained in the
27 paragraphs above as if fully set forth herein.

1 74. Plaintiffs incorporate by reference and re-allege as if fully stated here, paragraphs 1
2 through 24 of this Complaint.

3 75. Plaintiffs and all Aggrieved Employees are and were at all times relevant to this
4 action, non-exempt employees for the purpose of rest periods. Plaintiffs were employed by
5 Defendants during the statutory PAGA period.

6 76. At all times relevant to this action, Defendants were subject to the Labor Code of
7 the State of California and the applicable IWC Orders.

8 77. Labor Code § 2699(a) specifically provides for a private right of action to recover
9 penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any
10 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
11 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
12 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
13 civil action brought by an aggrieved employee on behalf of himself or herself and other current
14 and former employees.”

15 78. Labor Code § 2699.3(a) states, “A civil action by an aggrieved employee pursuant
16 to subdivision (a) or (f) of Section 2699 alleging a violation of a provision listed in Section 2699.5
17 shall commence only after the following requirements have been met: (1) The aggrieved
18 employee or representative shall give written notice by certified mail to the Labor and Workforce
19 Development Agency and the employer of the specific provisions of this code alleged to have
20 been violated, including the facts and theories to support the alleged violation. (2)(A) The agency
21 shall notify the employer and the aggrieved employee or the representative by certified mail that it
22 does not intend to investigate the alleged violation within 30 calendar days of the postmark date of
23 the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is
24 provided within 65 calendar days of the postmark date the notice given pursuant to paragraph (1),
25 the aggrieved employee may commence a civil action pursuant to Section 2699.” Named Plaintiff
26 has exhausted his administrative remedies pursuant to Labor Code § 2699.3. On October 28,
27 2019, Named Plaintiff’s counsel made a written demand on NU LINE for all of Named Plaintiff’s
28 employment records.

79. On December 19, 2019, written notice by certified mail to the Labor and Workforce Development Agency and Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiffs and all Aggrieved Employees, including the facts and theories to support the violations. By April 3, 2020, more than sixty-five (65) days had elapsed, and the Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the amended notice. Accordingly, Plaintiffs may commence a civil action to recover penalties for himself and other current and former employees under Labor Code § 2699 pursuant to § 2699.3.

80. By way of this cause of action, pursuant to Labor Code § 2699.3, Plaintiffs seeks penalties for himself and for similarly situated aggrieved employees of Defendants for violations of the Labor Code. Labor Code §§ 2699 and 2699.5 set forth penalties to be awarded against Defendants for violating the California Labor Code, including but not limited to Labor Code §§ 201, 202, 203, 204, 226, 226.7, 226(a), 512, 558, 1174.5, 1197.1 and 2699. Plaintiffs is entitled to an award of civil penalties as set forth in Labor Code § 2699 on behalf of themselves and similarly aggrieved employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial. These penalties are in addition to all other remedies permitted by law.

81. In addition, Plaintiffs seek an award of reasonable attorney’s fees and costs pursuant to Labor Code § 2699(g)(1), which states, “[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.”

PRAYER FOR RELIEF

Named Plaintiff, individually, and on behalf of all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

As to the First Cause of Action

1 82. That the Court declare, adjudge and decree that Defendants violated the California
2 Labor Code and applicable IWC Wage Order as alleged above;

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4 83. For compensatory damages, including without limitation special damages, general
5 damages, incidental damages, and consequential damages, to the extent allowed by law;

6 84. For liquidated damages to the extent allowed by law;

7 85. For nominal damages to the extent allowed by law and to the extent not subsumed
8 in or superseded by compensatory damages or liquidated damages;

9 86. For restitution and/or disgorgement to the extent allowed by law;

10 87. For statutory penalties to the extent allowed by law, including without limitation
11 any section, subsection, or provision of the Labor Code, the Business and Professions Code and/or
12 any IWC Wage Order;

13 88. For civil penalties to the extent allowed by law, including without limitation any
14 section, subsection, or provision of the California Labor Code and/or any IWC Wage Order;

15 89. For prejudgment interest at the statutory rate of ten percent (10 %) per annum to
16 the fullest extent allowable or required by law;

17 90. For costs and disbursements to the fullest extent allowable or required by law;

18 91. For reasonable attorney's fees to the fullest extent allowable or required by law;
19 and,

20 72. For such other, further, or different relief as the Court may appear proper.
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1 Dated: March 5, 2021

Respectfully submitted,

2 RASTEGAR LAW GROUP, APC

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5 By:



Farzad Rastegar

Danielle Sherrod

Attorneys for Named Plaintiff Guillermo
Valenzuela individually, and on behalf of all
other similarly situated current and former
employees of Defendant

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to this action. My business address is 22760 Hawthorne Boulevard, Suite 200, Torrance, California 90505.

On March 8, 2021, I served the following document or documents:

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

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☒ **By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Service List

10 Matthew C. Sgnilek, Esq.
11 Andrea Rosenkranz, Esq.
12 **O'HAGAN MEYER**
13 4695 MacArthur Court
14 Suite 210
15 Newport Beach, California 92660
16 Telephone: (949) 942-8502
17 Facsimile: (949) 942-8510
18 msgnilek@ohaganmeyer.com
19 arosenkranz@ohaganmeyer.com

Attorneys for Defendant, Nu Line Technologies, LLC

16 I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 8, 2021, at Torrance, California.

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Marina Godinez