

GRAHAMHOLLIS APC
Graham S.P. Hollis (SBN 120577)
ghollis@grahamhollis.com
Vilmarie Cordero (SBN 268860)
vcordero@grahamhollis.com
Hali M. Anderson (SBN 261816)
handerson@grahamhollis.com
3555 Fifth Avenue Suite 200
San Diego, California 92103
Telephone: 619.692.0800
Facsimile: 619.692.0822

Attorneys for Plaintiff BRYAN EDWARDS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

BRYAN EDWARDS, individually, and on
behalf of all other similarly situated employees
of Defendants in the State of California,

Plaintiff,

v.

XTERMITE, INC.; and DOES 1 THROUGH
50, inclusive,

Defendants.

Case No.: 37-2020-00018243-CU-OE-CTL

*Unlimited Civil - Amount Demanded
Exceeds \$25,000.00*

CLASS ACTION [Cal. Code Civ. Proc. § 382] and
REPRESENTATIVE ACTION [Labor Code §
2698 *et seq.*] **COMPLAINT**

1. Failure to Provide Meal Periods;
2. Failure to Provide Rest Periods;
3. Failure to Pay Minimum and Regular Wages;
4. Failure to Pay All Overtime Wages;
5. Failure to Indemnify Necessary Business Expenses;
6. Failure to Maintain Accurate Records;
7. Failure to Provide Accurate Itemized Wage Statements and Written Notice of Sick Leave;
8. Failure to Timely Pay All Wages Due Upon Separation of Employment
9. Violation of Business & Professions Code § 17200, *et seq.*
10. Violation of the Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.*

– JURY TRIAL DEMANDED –

Plaintiff BRYAN EDWARDS (“Plaintiff” or “EDWARDS”), individually and on behalf of all other current and former other similarly situated and/or aggrieved employees of XTERMITE, INC., and DOES 1 through 50, inclusive, (collectively “Defendants”) alleges as follows:

I.

INTRODUCTION

1. Plaintiff BRYAN EDWARDS brings this individual and putative class action against Defendant XTERMITE, INC., and DOES 1 THROUGH 50, for engaging in a pattern of wage and hour violations under the California Labor Code and the Industrial Welfare Commission (“IWC”) Wage Orders; on information and belief, IWC Wage Order No. 5.

2. Plaintiff also brings this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq. (“PAGA”) against Defendant XTERMITE, INC., and DOES 1 THROUGH 50, for engaging in a pattern of wage and hour violations under the California Labor Code and the applicable IWC Wage Order.

3. Defendants have engaged in a systematic pattern of wage and hour abuse toward Plaintiff and other current and former employees by denying them specific rights afforded to them under California law, including the California Labor Code and the IWC Wage Orders. Plaintiff is informed and believes, and thereon alleges, that Defendants decreased their employment-related costs at their facilities in order to increase their level of productivity and profits by systematically violating both state wage and hour laws and IWC Wage Orders including, *inter alia*:

- a. Failure to provide compliant meal periods;
- b. Failure to authorize and permit off-duty paid rest periods;
- c. Failure to pay all minimum and regular wages;
- d. Failure to pay all overtime wages;
- e. Failure to indemnify all business expenses;
- f. Failure to maintain accurate records;
- g. Failure to provide accurate itemized wage statements and written notice of sick leave;
- h. Failure to timely pay all wages due during and upon separation of employment.

4. Plaintiff brings this representative action against Defendants on behalf of himself and all other aggrieved employees of Defendants in California seeking only the recovery of civil penalties permitted pursuant to California Labor Code section 2698, *et seq.* and PAGA civil penalties that are required to be shared with the LWDA and no individual relief or underpaid wages, pursuant to California

Labor Code Sections 201, 202, 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, *et seq.*

5. Plaintiff reserves the right to name additional representatives throughout the state of California.

II.

PARTIES, JURISDICTION AND VENUE

A. Plaintiffs

6. Plaintiff BRYAN EDWARDS resides in San Diego County and is a former non-exempt employee of Defendants, who, at all relevant times, was employed as a technician at Defendants' Santee, California location from approximately January 2019 to January 2020.

7. Plaintiff is an "aggrieved employee" within the meaning of Labor Code section 2699(c) because he was employed by Defendants and suffered one or more of the violations committed by Defendants.

8. At all relevant times, Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees of Defendants in California were subject to the same policies, practices, and procedures governing their employment and their payment of wages and hours worked.

B. Defendants

9. Defendant XTERMITE, INC., a California corporation, specializes in pest control and does business throughout the state of California, including in San Diego County.

10. Defendants' wrongful conduct, as alleged herein, occurred throughout the state of California, including San Diego County.

11. Plaintiff is informed and believes, and thereon alleges, that each Defendant, whether named or fictitious, is and, at all relevant times, was authorized to do business and did business in the State of California and was Plaintiff's and other aggrieved employees' "employer" as defined in and subject to the California Labor Code and the applicable IWC Wage Order.

12. Each of the fictitiously named Defendants participated in the acts alleged in this Complaint. The true names and capacities of the Defendants named as DOES 1 through 50, inclusive, are presently unknown to Plaintiff. Plaintiff will amend this Complaint, setting forth the true names and capacities of

1 the fictitious Defendants, if and when their true names and capacities are ascertained. Plaintiff is informed
2 and believes, and on that basis alleges, that each of the fictitious Defendants participated in the acts alleged
3 in this Complaint.

4 13. Plaintiff and all other similarly situated and/or aggrieved employees are, and at all relevant
5 times were, non-exempt employees of each Defendant, including DOES 1 through 50, within the meanings
6 set forth in the California Labor Code and applicable IWC Wage Order.

7 14. Plaintiff is informed and believes that at all relevant times, each Defendant, whether named
8 or fictitious, was the agent, employee or other person acting on behalf of every other Defendant, and, in
9 participating in the acts alleged in this Complaint, acted within the scope of such agency or employment
10 and ratified the acts of each other Defendant.

11 15. Plaintiff is informed and believes that at all relevant times, each Defendant, whether named
12 or fictitious, exercised control over Plaintiff's and other similarly situated and/or aggrieved employees'
13 wages, hours and/or working conditions.

14 16. Plaintiff is further informed and believes that at all relevant times, each Defendant, whether
15 named or fictitious, acted as the agent for the other Defendants, carried out a joint scheme, business plan
16 or policy, and the acts of each Defendant are legally attributable to the other Defendants.

17 17. Each Defendant, whether named or fictitious, was the alter ego of each of the other
18 Defendants at all relevant times herein.

19 18. A unity of interest and ownership between each Defendant, whether named or fictitious,
20 exists such that all Defendants acted as a single employer of Plaintiff and all other similarly situated and/or
21 aggrieved employees.

22 19. This Court has subject-matter jurisdiction to hear this case because Plaintiff is informed
23 and believes that the monetary damages and restitution sought herein for Defendants' conduct exceeds the
24 minimum jurisdictional limits of the Superior Court.

25 20. Venue is proper in this Court pursuant to Code of Civil Procedure sections 395(a) and
26 395.5 because Defendants resides, maintains its principal California offices, transacts business, and/or has
27 an agent in San Diego County and Defendants are otherwise within this Court's jurisdiction for purposes
28 of service of process. The unlawful acts alleged herein arose in San Diego County and have a direct effect

1 on Plaintiff and other similarly situated and aggrieved employees within the State of California and within
2 San Diego County. On information and belief, Defendants employ numerous individuals throughout San
3 Diego County and other counties throughout the State of California.

4 **III.**

5 **GENERAL ALLEGATIONS**

6 21. Plaintiff BRYAN EDWARDS is a former non-exempt employee of Defendants who
7 worked as a technician for the Defendants' company from approximately January 2019 to January 2020.
8 Defendants are a California corporation that specializes in pest control throughout California. At all
9 relevant times, Defendants compensated Plaintiff an hourly rate of \$20.00 per hour. During the course of
10 his employment, Plaintiff typically worked 8 hours per shift and 40-60 hours per week.

11 22. Defendants denied Plaintiff and, on information and belief, other aggrieved employees,
12 certain rights afforded to them under the California Labor Code and the IWC Wage Order. Specifically,
13 Defendants did not properly compensate Plaintiff and other similarly situated and/or aggrieved employees
14 for all hours worked, failed to provide compliant meal and rest periods, failed to indemnify all necessary
15 business expenses, failed to maintain accurate records, failed to provide accurate itemized wage statements
16 and written notice of sick leave, and failed to pay all wages due and owing by the times set forth by law.

17 23. Plaintiff and, on information and belief, other similarly situated and/or aggrieved
18 employees of Defendants did not sign a valid on-duty meal period agreement at any point during their
19 employment with Defendants, nor did they properly waive any of their meal periods.

20 24. Defendants had a pattern and practice of not providing Plaintiff and, on information and
21 belief, other similarly situated and/or aggrieved employees with legally compliant meal periods, even
22 though Plaintiff and other aggrieved employees worked more than six (6) hours during their workday. In
23 fact, Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees were
24 never permitted to clock in and out for their meal periods. Instead, employees were required to combine
25 their two 15-minute rest periods with their 30-minute meal period to create a 1-hour combined break. In
26 addition, Defendants automatically deducted 1-hour for every shift, regardless of whether Plaintiff and
27 other similarly situated and/or aggrieved employees took a legally compliant meal period or rest period.

28 25. Moreover, Plaintiff and, on information and belief, other similarly situated and/or

1 aggrieved employees were regularly required to take their meal period during the final hour of their shift.
2 In fact, Defendants often berated Plaintiff and other similarly situated and/or aggrieved employees if they
3 took their meal period near the jobsite, as opposed to taking it closer to the office, even if that meant that
4 the employees would miss their meal period because it was time to clock out by the time they arrived.

5 26. Thus, as a result of Defendants' illegal policies, Plaintiff and, on information and belief,
6 other similarly situated and/or aggrieved employees were denied the opportunity to take legally compliant
7 thirty-minute meal periods, in violation of the applicable Wage Order.

8 27. Defendants also have a pattern and practice of failing to authorize and permit Plaintiff and,
9 on information and belief, other similarly situated and/or aggrieved employees to take legally compliant
10 rest periods of at least ten minutes for every four-hour work period, or major fraction thereof, in violation
11 of the applicable Wage Order.

12 28. Defendants' rest period scheduling practices do not authorize an off-duty rest period when
13 employees work more than 3.5 hours but less than four hours; a second rest period when an employee
14 works more than six hours, but than eight hours, and a third rest period when employees work more than
15 10 hours but less than 12 hours.

16 29. Although Plaintiff and, on information and belief, other similarly situated and/or aggrieved
17 employees' meal and rest periods were regularly late, short, interrupted, or not provided at all, Defendants
18 did not compensate Plaintiff and, on information and belief, other similarly situated and/or aggrieved
19 employees an additional hour of pay at their regular rate of pay for the times that other similarly situated
20 and/or aggrieved employees were not authorized or permitted to take a compliant and timely meal or rest
21 period, in violation of Labor Code Sections 226.7.

22 30. Defendants failed to properly pay Plaintiff and, on information and belief, other similarly
23 situated and/or aggrieved employees all minimum, regular, and/or overtime wages that they were owed
24 for all of the time that they were suffered or permitted to work or remained subject to Defendants' control.
25 Defendants improperly considered the work Plaintiff and other similarly situated and/or aggrieved
26 employees performed during their meal and rest periods to be non-compensable time and failed to provide
27 any remuneration. As a result, Plaintiff and, on information and belief, other non-exempt employees did
28 not receive minimum wage for all time suffered and permitted to work because they were not properly

1 compensated for the time they spent working through and during their meal break, nor did they receive
2 proper overtime compensation when they would have worked more than eight hours a day or forty hours
3 a week, but for the improper deduction of 30 minutes for meal breaks that they were not able to take.

4 31. Moreover, Defendants also failed to pay Plaintiff and, on information and belief, other
5 similarly situated and/or aggrieved employees all minimum, regular, and overtime wages because
6 Defendants required Plaintiff and other similarly situated and/or aggrieved employees to perform work
7 prior to clocking in and after clocking out of their scheduled shifts. For example, Plaintiff and, on
8 information and belief, other similarly situated and/or aggrieved employees were required to perform
9 opening and closing tasks such as, preparing the work trucks, cleaning the work trucks, cleaning the main
10 office area, and taking out the trash. These opening and closing tasks typically took between 10-30 minutes
11 and Plaintiff and other similarly situated and/or aggrieved employees were not compensated for the time
12 spent performing these required off-the-clock tasks. Additionally, Plaintiff and, on information and belief,
13 other similarly situated and/or aggrieved employees were required to monitor their personal cell phones
14 and text messages at all times and regularly received phone calls and text messages from the Company
15 and co-workers while they were off-the-clock regarding work-related issues such as scheduling and
16 dispatch times.

17 32. As a result of Defendants policies and practices, Plaintiff and, on information and belief,
18 other similarly situated and/or aggrieved employees were not paid all minimum, regular, and overtime
19 wages because they were required to remain on duty at all times and were not properly compensated for
20 this time.

21 33. Plaintiff and, on information and belief, other similarly situated and/or aggrieved
22 employees of Defendants incurred expenses in direct consequence of the discharge of their duties of
23 employment with Defendants, but Defendants failed to adequately reimburse them for such expenses. For
24 example, Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees
25 regularly received phone calls and text messages on their personal cell phones from Defendants and other
26 co-workers regarding work-related issues such as scheduling, shift coverage, customer and client
27 complaints, and dispatch timeframes. Defendants also required Plaintiff and other similarly situated and/or
28 aggrieved employees of Defendants to use a work-only group chat on their personal cell phones for work-

1 related communications. Despite Defendants' knowledge that Plaintiff and other similarly situated and/or
2 aggrieved employees were using their personal cell phones for work related purposes, Defendants failed
3 to provide appropriate reimbursement for these expenses, in violation of Labor Code Section 2802.

4 34. As a direct consequence of Defendants' illegal policies, Defendants did not keep accurate
5 records of the actual hours that Plaintiff and, on information and belief, other similarly situated and/or
6 aggrieved employees were under the control of Defendants, including, but not limited to, time suffered
7 and permitted to work while off-the-clock, as well as all wages earned. On information and belief,
8 Defendants failed to keep accurate records of Plaintiff and other similarly situated and/or aggrieved
9 employees' hours worked when Defendants failed to record the proper beginning and ending of each work
10 and meal period, including work performed off-the-clock, in addition to the total hours worked during the
11 pay period, among others.

12 35. Defendants similarly failed to provide Plaintiff and, on information and belief, other
13 similarly situated and/or aggrieved employees with accurate itemized wage statements and written notice
14 of sick leave. For example, during the applicable statutory period, Defendants failed to furnish Plaintiff
15 and, on information and belief, other similarly situated and/or aggrieved employees with itemized wage
16 statements that included the total regular and overtime hours worked, the applicable hourly rates and
17 corresponding number of hours worked at each hourly rate, or the correct amount of gross and net wages
18 earned, as required under Labor Code § 226. The wage statements also failed to provide written notice of
19 accrued sick leave hours.

20 36. Defendants also intentionally and knowingly failed to provide Plaintiff and, on information
21 and belief, other similarly situated and/or aggrieved employees with accurate itemized wage statements
22 as required by Labor Code section 226 and the Records section of the applicable IWC Wage Order, as
23 Plaintiff and other similarly situated and/or aggrieved employees were not properly compensated by
24 Defendants for all hours worked and were not paid all compensation due and owing, including all meal
25 period premium wages and all minimum, regular, and overtime wages owed. As a result, the wage
26 statements issued by Defendants did not include the correct total regular and overtime hours worked, the
27 correct amount of gross and net wages earned, the correct amount of hourly wages earned, and all
28 applicable hourly rates and the corresponding number of hours worked at each hourly rate, as required

1 under Labor Code section 226. As a result of Defendants' failure to include the correct information on
2 the wage statements that were issued, Plaintiff and other similarly situated and/or aggrieved employees
3 were unable to promptly and easily determine from their wage statement alone the correct amount of the
4 total hours worked and/or the gross and net wages earned and owed during the pay period nor their accrued
5 sick hours.

6 37. Defendants willfully failed to pay Plaintiff and other similarly situated and/or aggrieved
7 employees in California by the times set forth by Labor Code sections 201, 202, 203, and 204 all
8 minimum, regular, and overtime wages, and all meal and rest period premium wages earned and owed
9 during their employment and/or upon separation of their employment. To date, Defendants have not paid
10 Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees all wages
11 owed, including all minimum, regular and overtime wages, and meal and rest period premium wages.

12 38. Defendants maintained a pattern and practice of failing to pay Plaintiff and other similarly
13 situated and/or aggrieved employees all wages due and owing at the time of their separation of
14 employment within the time specified by Labor Code §§ 201 and 202 because Defendants failed to pay
15 Plaintiff and, on information and belief, other similarly situated and/or aggrieved employees all wages
16 due and owing at the time of termination of their employment.

17 39. On information and belief, Defendants committed the wage and hour violations alleged in
18 this Complaint against other similarly situated and/or aggrieved employees of Defendants in California.

19 40. Based on Defendants' violations of the Labor Code and IWC Wage Order, Plaintiff also
20 alleges a claim under California Business and Professions Code Section 17200, *et seq.*

21 **IV.**

22 **THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**

23 **REPRESENTATIVE ACTION DESIGNATION**

24 41. Plaintiff re-alleges and incorporates by reference the allegations contained in the
25 paragraphs above, as though fully set forth herein.

26 42. The Tenth Cause of Action alleged herein is appropriately suited for a PAGA action
27 because:

28 a. Pursuant to Labor Code section 2699(a), any provision of the Labor Code that

1 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,
2 commissions, boards, agencies, or employees, for a violation of the Labor Code, may, as an alternative,
3 be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and
4 all other current or former employees pursuant to the procedures specified in section 2699;

5 b. This action involves allegations of violations of provisions of the Labor Code that
6 provide or do not provide for a civil penalty to be assessed and collected by the LWDA or any departments,
7 divisions, commissions, boards, agencies or employees;

8 c. Plaintiff is an “aggrieved employee” because he was employed by the alleged
9 violators and had one or more of the alleged violations committed against him;

10 d. On March 25, 2020, Plaintiff satisfied the procedural requirements of Labor Code
11 section 2699.3 by serving the LWDA electronically and Defendant XTERMITE, INC., via Certified Mail
12 with his notice for wage and hour violations and penalties, including the facts and theories to support each
13 violation. A true and correct copy of Plaintiff’s notice and proof of service is attached as **Exhibit A**;

14 e. More than 65 days have passed since Plaintiff served his amended notice via
15 Certified Mail to the LWDA and his employers. Therefore, Plaintiff satisfied all the administrative
16 requirements to pursue civil penalties against Defendants pursuant to Labor Code sections 2698, *et seq.*;

17 f. Plaintiff filed this action pursuant to Labor Code section 2699(a) and (f), on behalf
18 of himself and all other aggrieved employees of Defendants to recover civil penalties, including unpaid
19 wages, which are to be paid to the affected employees pursuant to Labor Code sections 558 and 1197.1.

20 g. Defendants were Plaintiff’s employer or person acting on behalf of Plaintiff’s
21 employer, within the meaning of California Labor Code section 558, who violated or caused to be violated,
22 a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of
23 work in any order of the Industrial Welfare Commission and, as such, is subject to civil penalties for each
24 underpaid employee, as set forth in Labor Code section 558, at all relevant times.

25 h. Defendants were Plaintiff’s employer or person acting on behalf of Plaintiff’s
26 employer either individually or as an officer, agent, or employee of another person, within the meaning of
27 California Labor Code section 1197.1, who paid or caused to be paid to any employee a wage less than
28 the minimum fixed by California state law, and as such, is subject to civil penalties for each underpaid

1 employee, as well as liquidated damages pursuant to Labor Code section 1194.2, and any applicable
2 penalties imposed pursuant to Labor Code section 203.

3 i. Plaintiff filed this action pursuant to Labor Code section 2699(a) and (f), on behalf
4 of himself and all other aggrieved employees of Defendants to recover civil penalties, to the extent that
5 those civil penalties will be shared with the LWDA. Plaintiff expressly disclaims the recovery of any
6 individual/victim specific relief or underpaid wages.

7 **V.**

8 **CLASS ACTION DESIGNATION**

9 43. Plaintiff re-alleges and incorporates by reference the allegations contained in the
10 paragraphs above, as though fully set forth herein.

11 44. Plaintiff brings Causes of Action One through Ten as a Class Action pursuant to California
12 Code of Civil Procedure § 382 on behalf of himself and all current and former non-exempt employees of
13 Defendants, who were affected by Defendants' Labor Code, Business and Professions Code, and IWC
14 Wage Order violations, as alleged herein.

15 45. The putative classes that Plaintiff seeks to represent are defined as follows:

16 **The Non-Exempt Class:** "All current and former non-exempt employees
17 who worked for Defendants in the State of California at any time from April
18 6, 2016 through the present."

19 **The Waiting Time Penalties Subclass:**

20 "All members of the Non-Exempt Class, whose employment with
21 Defendants ended at any time from April 6, 2017, through the present."

22 46. Plaintiff reserves the right under Rule 3.765(b), California Rules of Court, to modify the
23 Class descriptions with greater specificity or further division into subclasses or limitation to particular
24 issues.

25 47. Plaintiff seeks to recover on behalf of the Classes all remedies available to the extent
26 permitted by law including, but not limited to, wages, damages, penalties, interest, attorney's fees, costs,
27 other monies due and owing and injunctive relief.

28 48. This case is appropriately suited for a class action pursuant to section 382 of the California

Code of Civil Procedure because the following requirements are met:

- i) Numerosity. The potential Classes as defined are significant in size because Plaintiff is informed and believes and thereon alleges that at all relevant times Defendants employed numerous similarly situated current and former non-exempt employees who were subject to Defendants' uniform and common wage and hour policies and practices and unlawful employment policies and practices alleged herein. Based on the size of the potential Classes, joinder of all employees individually would be impractical.
- ii) Commonality. This action involves questions of law and fact common to the potential Classes because the action involves Defendants' systematic course of illegal conduct with respect to violating the California Labor Code and IWC Wage Order 5-2001 and implementing company-wide policies and practices uniformly applied to all members within the Classes as defined above. These questions include, but are not limited to:
 - (a) Whether Defendants failed to permit Non-Exempt Class members to take a duty-free, thirty-minute meal period before the commencement of the sixth hour of work;
 - (b) Whether Defendants failed to permit Non-Exempt Class members to take a second duty-free, thirty-minute meal period before the commencement of the eleventh hour of work;
 - (c) Whether Defendants failed to permit Non-Exempt Class members to take off-duty rest periods of at least 10 minutes for every four hours worked, or major fraction thereof;
 - (d) Whether Defendants failed to pay one additional hour of pay at the employees' regular rate of compensation to Non-Exempt Class members when class members were not provided with compliant and timely meal and rest periods;
 - (e) Whether Defendants failed to pay Non-Exempt Class members at least minimum wages and/or all regular wages owed for all hours or fractions of an hour worked and under the control of Defendants;
 - (f) Whether Defendants failed to pay Non-Exempt Class members all overtime wages for all hours, or fraction of hours, worked and under the control of Defendants;
 - (g) Whether Defendants failed to provide Non-Exempt Class members and Wage

Statement Class members with accurate itemized wage statements showing, among other things, the correct total number of regular and overtime hours worked, the correct amount of gross and net wages earned, the correct applicable hourly rates and corresponding number of hours worked at each hourly rate, the employee's identification number or the last four digits of the employee's social security number, the inclusive dates of the pay period, the amount of sick leave available, and the applicable rates of pay for hours worked other than regular hours, including overtime, double time, and second shift differential; and

(h) Whether Defendant's failed to provide sick leave and written notice thereof;

(i) Whether Defendants failed to pay Waiting Time Penalties Subclass members all of their wages owed within the required time frames upon separation of employment.

iii) Typicality. Plaintiff's claims are typical of the claims of the Classes because Plaintiff was subjected to the same violations of his rights under California law and seek the same type of damages, restitution, and other relief on the same theories and legal grounds as those of the members of the Classes he seeks to represent. Plaintiff is a member of the Classes he seeks to represent.

iv) Adequacy of Representation. Plaintiff able to fairly and adequately represent the interests of all members of the potential Classes because it is in their best interest to prosecute the claims alleged herein to obtain full compensation due to them for all back pay, benefits and other relief afforded under the Labor Code and IWC Wage Orders. Plaintiff's interests are not in conflict with those of the putative Class Members. Plaintiff's counsel are competent and experienced in litigating employment law class actions and other complex litigation matters, including wage and hour cases such as this case.

v) Superiority of Class Action. Class treatment is appropriate because a class action is superior to other available means for the fair and efficient adjudication of these claims. Each putative class member has been damaged and is entitled to recover by reason of Defendants' illegal policies and practices as alleged herein. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for

the parties and the judicial system.

VI.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Violation of Labor Code sections 226.7, 512, and 1198

and the “Meal Periods” Section of IWC Wage Order 5-2001)

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against Defendants)

49. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

52. Plaintiff and Non-Exempt Class members were and are non-exempt employees of Defendants in the State of California within the meaning of the Labor Code and IWC Wage Order 5-2001.

53. Labor Code section 226.7(a) provides: “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

54. Labor Code section 512(a) provides: “An employer may not employ an employee for a work period of more than five hours per day without providing an employee with a meal period of not less than 30 minutes” and “may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

55. Labor Code section 1198 states: “The maximum hours of work and standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

56. IWC Wage Order 5-2001 section 11 provides, in part, that “[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

57. Subsection B of IWC Wage Order 5-2001 section 11 further provides that if an employer fails to provide an employee with a meal period in accordance with the applicable provisions of this order,

1 the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation
2 for each workday that the meal period is not provided.

3 58. The "Meal Periods" section of the applicable IWC Wage Order also states, "[u]nless the
4 employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an
5 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only
6 when the nature of the work prevents an employee from being relieved of all duty and when by written
7 agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state
8 that the employee may, in writing, revoke the agreement at any time."

9 59. Plaintiff and similarly situated Non-Exempt Class members regularly worked in excess of
10 five (5) hours a day without being provided a meal period before the end of the fifth hour of work as
11 required by Labor Code sections 226.7(a) and 512(a) and IWC Wage Order 5-2001 section 11.

12 60. Plaintiff and, on information and belief, Non-Exempt Class Members were unable to take
13 compliant meal periods because they were regularly required to remain on-duty at all times. In fact,
14 Plaintiff and, on information and belief, Non-Exempt Class Members were never permitted to clock in
15 and out for their meal periods. Instead, they required to combine their two 15-minute rest periods with
16 their 30-minute meal period to create a 1-hour combined break and Defendants automatically deducted 1-
17 hour for every shift. Moreover, Plaintiff and, on information and belief, other Non-Exempt Class Members
18 were regularly required to take their meal period during the final hour of their shift. Thus, as a result of
19 Defendants' policies, Plaintiff's and other non-exempt employees' meal periods were often late, short,
20 interrupted, or not provided at all.

21 61. Due to Defendants' illegal policies and practices, Defendants failed to provide Plaintiff
22 and, on information and belief, Non-Exempt Class Members with the opportunity to take uninterrupted,
23 timely, off-duty meal breaks of at least 30 minutes within the legal limits.

24 62. Because Defendants failed to provide proper and timely meal periods, they are liable to
25 Plaintiff and Non-Exempt Class members for one hour of additional premium pay at the regular rate of
26 compensation for each workday that the proper and timely meal periods were not provided, pursuant to
27 Labor Code section 226.7 and IWC Wage Order 5-2001 section 11(B).

28 63. Defendants have failed thus far to pay Plaintiff and Non-Exempt Class members all the

premium compensation mandated by Labor Code section 226.7 and IWC Wage Order 5-2001 section 11(B) for untimely, missed, and non-compliant meal periods.

64. As a direct result of Defendants' violations alleged herein, Plaintiff and Non-Exempt Class members suffered and continue to suffer substantial losses related to the use and enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court.

65. Plaintiff seeks to recover in a civil action the unpaid balance of the full amount of unpaid wages resulting from Defendants' meal period violations including interest thereon, reasonable attorney's fees and costs of suit, and penalties to the fullest extent permissible including those permitted pursuant to Labor Code sections 218.6, 226.7, 512, 1198 and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(Violation of Labor Code sections 226.7 and 1198 and

the "Rest Periods" Section of the IWC Wage Order 5-2001)

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against Defendants)

66. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

67. Plaintiff and similarly situated Non-Exempt Class members were and are non-exempt employees of Defendants in the State of California within the meaning of the Labor Code and IWC Wage Order 5-2001.

68. Labor Code section 226.7 requires employers, including Defendant, to provide to their employees, including Plaintiff, paid rest periods as mandated by the IWC Wage Orders.

69. Labor Code section 1198 states: "The maximum hours of work and standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

70. IWC Wage Order 5-2001 section 12(A) states that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked, for which there shall be no deduction from wages.

71. IWC Wage Order 5-2001 section 12(B) states that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

72. Plaintiff and similarly situated Non-Exempt Class members were not authorized and permitted to take compliant rest periods because their work schedule did not allow them to take duty-free rest periods of at least ten consecutive minutes. Defendants required Plaintiff and Non-Exempt Class members to work through their rest periods or were interrupted by the demands of their job during their rest periods.

73. Additionally, Defendants' rest period policy does not authorize an off-duty rest period when employees work more than 3.5 hours but less than four hours; a second rest period when an employee works more than six hours, but than eight hours.

74. Pursuant to Labor Code section 226.7(b) and the applicable IWC Wage Order, Defendants shall pay Plaintiff and Non-Exempt Class members one additional hour of pay at Plaintiff's and Non-Exempt Class members' regular rate of compensation for each day that rest periods were not authorized and permitted.

75. Through Defendants' conduct during the applicable statutory period, including the conduct alleged herein, Defendants violated Labor Code sections 226.7 and 1198 and the IWC Wage Order when they failed to authorize and permit full 10-minute, uninterrupted, duty-free rest periods for every four hours worked (or major fraction thereof), including during work periods in excess of three and a half consecutive hours, to Plaintiff and the Non-Exempt Class.

76. Defendants failed to pay to Plaintiff and Non-Exempt Class members the rest period premium wages under Labor Code section 226.7.

77. As a direct result, Plaintiff and the Non-Exempt Class have suffered substantial losses related to the use and enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court.

78. Pursuant to the Labor Code, Plaintiff seeks to recover in a civil action the unpaid balance of the full amount of the unpaid wages including interest thereon, reasonable attorney's fees and costs of suit to the fullest extent permissible including those permitted pursuant to Labor Code sections 218.6, 226.7, 1198, and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

THIRD CAUSE OF ACTION

FAILURE TO PAY MINIMUM AND REGULAR WAGES

(Violation of Labor Code sections 1194, 1197, and 1198 and
the "Minimum Wages" Section of IWC Wage Order 5-2001)

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against Defendants)

79. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

80. Plaintiff and similarly situated Non-Exempt Class members were and are non-exempt employees of Defendants in the State of California within the meaning of the Labor Code and IWC Wage Order 5-2001.

81. Labor Code section 1197 states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum wage so fixed is unlawful."

82. Labor Code section 1198 states: "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or

1 under conditions of labor prohibited by the order is unlawful.”

2 83. IWC Wage Order 5-2001 section 4 provides that an employer may not pay employees less
3 than the applicable minimum wage for all hours worked.

4 84. The applicable IWC Wage Order defines the term “hours worked” as “the time during
5 which an employee is subject to the control of an employer, and includes all the time the employee is
6 suffered or permitted to work, whether or not required to do so.”

7 85. Through Defendants’ conduct during the applicable statutory period including, but not
8 limited to, pressuring Plaintiff and Non-Exempt Class members to work off the clock during interrupted
9 meal and rest periods, Defendants violated Labor Code section 1197 and 1198 and the applicable Wage
10 Order when they paid Plaintiff and Non-Exempt Class members less than minimum wage through their
11 failure to pay wages for all hours worked.

12 86. Labor Code section 1194 states: “Notwithstanding any agreement to work for lesser wage,
13 any employee receiving less than the legal minimum wage or the legal overtime compensation applicable
14 to the employee is entitled to recover in a civil action the unpaid balance of the full amount of his minimum
15 wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

16 87. Labor Code section 1194.2 states: “In any action under Section 98, 1193.6, 1194, or 1197.1
17 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the
18 commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal
19 to the wages unlawfully unpaid and interest thereon.”

20 88. As a direct result of Defendants’ violations alleged herein, Plaintiff and the Non-Exempt
21 Class have suffered substantial losses related to the use and enjoyment of such wages, including lost
22 interest on such monies and expenses and attorney’s fees in seeking to compel Defendants to fully perform
23 their obligations under state law, all to their respective damage in amounts according to proof at trial and
24 within the jurisdictional limitations of this Court.

25 89. Plaintiff seek to recover in a civil action the unpaid balance of the full amount of the unpaid
26 wages resulting from Defendants’ minimum wage violations including interest thereon, reasonable
27 attorney’s fees and costs of suit, penalties, and liquidated damages to the fullest extent permissible
28 including those permitted pursuant to Labor Code sections 218.6, 1194, 1194.2, 1197, 1198 and Code of

Civil Procedure section 1021.5.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

FOURTH CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

(Violation of Labor Code sections 510, 1194, and 1198 and
the “Hours and Days of Work” Section of IWC Wage Order 5-2001)

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against Defendants)

90. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

91. Plaintiff and similarly situated Non-Exempt Class members were and are non-exempt employees of Defendants in the State of California within the meaning of the Labor Code and IWC Wage Order 5-2001.

92. Labor Code section 510 provides in pertinent part: “Eight hours of labor constitutes a day’s work. Any work in excess of 8 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 the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

93. Labor Code section 1194 states in pertinent part: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.”

94. Labor Code section 1198 states in pertinent part: “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

95. IWC Wage Order 5-2001 section 3 provides that an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

96. In California, overtime is computed based on the regular rate of pay. The regular rate of pay includes all different types of remuneration, including hourly earnings, salary, piecework earnings, commissions, non-discretionary bonuses, and the value of meals and lodging.

50. Defendants required Plaintiff and, on information and belief, Non-Exempt Class Members to perform work tasks while off-the-clock, including, but not limited to, preparing the work trucks, cleaning the work trucks, cleaning the main office area, and taking out the trash. Plaintiff and, on information and belief, Non-Exempt Class Members were required to monitor their personal cell phones and text messages at all times and regularly received phone calls and text messages from Defendants and co-workers while they were off-the-clock regarding work-related issues such as scheduling and dispatch times without remuneration. Plaintiff and Non-Exempt Class Members were not compensated for the time spent performing these required off-the-clock tasks.

97. As a direct result of Defendants' violations alleged herein, Plaintiff and Non-Exempt Class members have suffered and continue to suffer substantial losses related to the use and enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court.

98. Plaintiff seeks to recover in a civil action the unpaid balance of the full amount of the unpaid wages resulting from Defendants' overtime wage violations including interest thereon, reasonable attorney's fees and costs of suit, and penalties, to the fullest extent permissible including those permitted pursuant to Labor Code sections 218.6, 510, 1194, 1198, and Code of Civil Procedure section 1021.5.

WHEREFORE, Plaintiffs pray for relief as hereinafter requested.

FIFTH CAUSE OF ACTION

FAILURE TO IDEMNIFY NECESSARY BUSINESS EXPENSES

(Violation of Labor Code Section 2802)

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against All Defendants)

99. Plaintiff re-alleges and incorporates by reference the allegations contained in the

1 paragraphs above, as though fully set forth herein.

2 100. Labor Code Section 2802 requires an employer to indemnify its employees for all
3 necessary expenditures or losses incurred by an employee in direct consequence of the discharge of his or
4 her duties of employment.

5 101. Labor Code Section 2802(b) states, “[a]ll awards made by a Court for reimbursement of
6 necessary expenditures” shall carry interest, at the same rate as judgments in civil actions, and said interest
7 will accrue from the date on which the employee incurred the necessary expenditure or loss including, but
8 not limited to, reasonable costs and attorney’s fees incurred by the employee enforcing their rights granted
9 pursuant to Labor Code Section 2802. The exact amount of the necessary expenditures or losses is in an
10 amount to be proven at time of trial.

11 102. Furthermore, Labor Code Section 2802(c) states, “[f]or the purposes of this section, the
12 term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to,
13 attorney’s fees incurred by the employee in enforcing the rights granted by this section.”

14 103. Plaintiff and, on information and belief, members of the Non-Exempt Class incurred
15 business expenses in direct consequence of their job duties through the use of their personal cell phones.
16 On information and belief, Plaintiff and Non-Exempt Class members regularly received phone calls and
17 text messages on their personal cell phones from Defendants and other co-workers regarding work-related
18 issues such as scheduling, shift coverage, customer and client complaints, and dispatch timeframes.
19 Defendants also required Plaintiff and Non-Exempt Class members to use a “work-only group chat” on
20 their personal cell phones for work-related communications. Despite Defendants’ knowledge that Plaintiff
21 and members of the Non-Exempt Class were using their personal cell phones for work related purposes,
22 Defendants failed to provide appropriate reimbursement for these expenses, in violation of Labor Code
23 Section 2802.

24 104. As a direct result of Defendants’ violations alleged herein, Plaintiff and members of the
25 Non-Exempt Class suffered and continue to suffer, substantial losses related to Defendants’ failure to
26 indemnify them for the expenses and losses, including the use and enjoyment of such monies, lost interest
27 on such monies and expenses and attorney’s fees and costs in seeking to compel Defendants to fully
28 perform their obligations under state law, all to their respective damage in amounts according to proof at

1 trial and within the jurisdictional limitations of this Court.

2 105. Plaintiff seeks to recover in a civil action to the fullest extent permissible all available
3 remedies including but not limited to the unpaid balance of the indemnification from Defendants'
4 violations, interest thereon permitted by Labor Code Section 2802(b), reasonable attorney's fees and costs
5 of suit, declaratory relief, and any other permitted remedies including those permitted pursuant to Labor
6 Code Sections 2802 and Code of Civil Procedure Section 1021.5. The exact amount of reimbursements,
7 interest, costs and attorney's fees will be in an amount to be proved at time of trial.

8 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

9 **SIXTH CAUSE OF ACTION**

10 **FAILURE TO MAINTAIN ACCURATE RECORDS**

11 (Violation of Labor Code §§ 1174 and 1198 and the "Records" section of the
12 Applicable IWC Wage Order)

13 (Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against All Defendants)

14 106. Plaintiff re-alleges and incorporate by reference the allegations contained in the paragraphs
15 above, as though fully set forth herein.

16 107. Plaintiff and Non-Exempt Class members were and are non-exempt employees of
17 Defendants in California within the meaning of the Labor Code and the applicable IWC Wage Order.

18 108. Labor Code section 1174 states, "[e]very person employing labor in this state shall...
19 [k]eep, at a central location in the state or at the plants or establishments at which employees are employed,
20 payroll records showing the hours worked daily by and the wages paid to, ..., employees employed at the
21 respective plants or establishments."

22 109. The "Records" section of the applicable IWC Wage Order states that every employer shall
23 keep accurate information with respect to each one of its employees, including time records showing when
24 the employee begins and ends each work period and meal period, total hours worked in the payroll period
25 and applicable rates of pay, and total wages paid each payroll period.

26 110. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to
27 maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per
28 pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a

violation of Labor Code section 1174(d).

111. Defendants failed to keep accurate information with respect to Plaintiff and Non-Exempt Class members, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period as required by the “Records” section of the applicable IWC Wage Order. Therefore, Defendants knowingly and intentionally failed to keep and maintain accurate records as required by Labor Code §1174.

112. Defendants’ failure to maintain accurate and complete records constitutes an injury as defined under Labor Code § 1174. Therefore, Plaintiff and members of the Non-Exempt Class have suffered an injury for purposes of Labor Code §§ 1174.5 and 2699 and are entitled to recover the greater of all actual damages or the amount specified in §§ 1174.5 and 2699 per violation.

113. Moreover, Defendants’ failure to maintain accurate records left Plaintiff and Non-Exempt Class members without the ability to know, understand, and question the rate of pay and hours used to calculate the wages paid by Defendants. Therefore, Plaintiff and Non-Exempt Class members suffered actual damages as a result of Defendants’ failure to maintain accurate records.

114. Plaintiffs and Non-Exempt Class members suffered and continue to suffer injuries, losses and actual damages as a direct result of Defendants’ Labor Code violations, including lost interest on such wages, and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations, in an amount to be shown according to proof at trial.

115. Plaintiff seeks to recover all available remedies including, but not limited to damages, penalties, attorney's fees, costs, and injunctive relief to the fullest extent permitted by law.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

SEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

AND WRITTEN NOTICE OF SICK LEAVE

(Violation of Labor Code sections 226, 246, and 1198 and

the “Records” Section of IWC Wage Order 5-2001)

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against Defendants)

1 116. Plaintiff re-alleges and incorporate by reference the allegations contained in the paragraphs
2 above, as though fully set forth herein.

3 117. Plaintiff and similarly situated Non-Exempt Class members were and are non-exempt
4 employees of Defendants in the State of California within the meaning of the Labor Code and IWC Wage
5 Order 5-2001.

6 51. Labor Code § 226(a) requires that employers, including Defendants, furnish their
7 employees with each wage payment an accurate and itemized writing that shows gross wages earned, total
8 hours worked, all deductions, net wages earned, the inclusive dates of the period for which the employee
9 is paid, the name of the employee and the portion of his or her social security number, the name and
10 address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay
11 period and the corresponding number of hours worked at each hourly rate by the employee.

12 118. Labor Code section 246(i) states that “[a]n employer shall provide an employee with
13 written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer
14 provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in
15 Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of
16 wages.”

17 119. Labor Code section 1198 states: “The maximum hours of work and the standard conditions
18 of labor fixed by the commission shall be the maximum hours of work and the standard conditions of
19 labor for employees. The employment of any employee for longer hours than those fixed by the order or
20 under conditions of labor prohibited by the order is unlawful.”

21 120. IWC Wage Order 5-2001 section 7(A) states in relevant part that the employer shall keep
22 accurate information regarding, “(4) Total wages paid each payroll period, including value of board,
23 lodging, or other compensation actually furnished to the employee; (5) Total hours worked in the payroll
24 period and applicable rates of pay.”

25 121. Labor Code § 226(e), in part, permits employees suffering injury to collect the greater of
26 all actual damages or the amount specified in Labor Code § 226 per violation.

27 122. Labor Code § 226(e)(2)(B) states, in pertinent part, "an employee is deemed to suffer injury
28 for purposes of this subdivision if the employer fails to provide accurate and complete information as

1 required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot
2 promptly and easily determine from the wage statement alone one or more of the following: (i) The amount
3 of the gross wages or net wages paid to the employee during the pay period or any of the other information
4 required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9)
5 of subdivision (a)."

6 123. Labor Code § 226(h) states "An employee may also bring an action for injunctive relief to
7 ensure compliance with this section and is entitled to an award of costs and reasonable attorney's fees."

8 124. Through Defendants' conduct during the applicable statutory period including, but not
9 limited to, the conduct alleged herein, including that alleged on information and belief, Defendants failed
10 to provide accurate wage statements including, but not limited to, the recording of all time worked, all
11 wages earned, and the applicable rates of pay for time worked. Furthermore, Defendants failed to provide
12 Plaintiff and Non-Exempt Class Members with accurate itemized wage statements because the wage
13 statements issued did not include the correct total regular and overtime hours worked, the correct amount
14 of gross and net wages earned, the applicable hourly rates of pay, corresponding number of hours worked
15 at each hourly rate, and any and/or all remaining accrued sick leave hours.

16 125. Plaintiff and members of the Non-Exempt Class suffered injuries as a result of Defendants'
17 intentional and knowing failure to provide accurate wage statements to Plaintiff and members of the Non-
18 Exempt Class and maintain the writings required by Labor Code section 226(a). Defendants' failure to
19 provide and maintain accurate wage statements left Plaintiff and members of the Non-Exempt Class
20 without the ability to know, understand and question the hours worked and wages earned and due. As a
21 direct result, Plaintiff and members of the Non-Exempt Class have suffered and continue to suffer
22 substantial injuries, losses and actual damages related to Defendants' violations, including lost wages, lost
23 interest on such wages, and expenses and attorney's fees in seeking to compel Defendants to fully perform
24 their obligations.

25 126. As a direct result of Defendants' violations alleged herein, Plaintiff and Non-Exempt Class
26 members have suffered and continue to suffer substantial losses related to the use and enjoyment of such
27 wages, including lost interest on such monies and expenses and attorney's fees in seeking to compel
28 Defendants to fully perform their obligations under state law, all to their respective damage in amounts

1 according to proof at trial and within the jurisdictional limitations of this Court.

2 127. Plaintiff seeks to recover all available remedies including, but not limited to damages,
3 penalties, attorney's fees, costs, and injunctive relief to the fullest extent permitted by law.

4 WHEREFORE, Plaintiffs pray for relief as hereinafter requested.

5 **EIGHTH CAUSE OF ACTION**

6 **FAILURE TO TIMELY PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

7 (Violations of Labor Code §§ 201, 202 and 203)

8 (Alleged By Plaintiff Individually and On Behalf of the Waiting Time Penalties Subclass Against All
9 Defendants)

10 128. Plaintiff re-alleges and incorporates by reference the allegations contained in the
11 paragraphs above, as though fully set forth herein.

12 129. Labor Code § 201 requires Defendants to immediately pay any wages, without abatement
13 or reduction, to any employee who is discharged. Labor Code § 202 requires Defendants to pay any and
14 all wages due and owing to an employee not having a written contract for a definite period, who quits his
15 or her employment, within 72 hours of the employee quitting his or her employment, unless the employee
16 has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
17 to his or her wages at the time of quitting.

18 130. For violation of Labor Code §§ 201 and 202, Labor Code § 203 causes the unpaid wages
19 of an employee to continue as a penalty from the due date thereof, at the same rate until paid or until an
20 action is commenced, but the wages shall not continue for more than 30 days.

21 131. As a result of Defendants' conduct during the applicable statutory period, Defendants
22 willfully failed to pay Plaintiff and, on information and belief, the Waiting Time Penalties Subclass all
23 wages due and owing to them, including minimum wages, overtime wages, and regular wages for all the
24 time they were suffered or permitted to work or were engaged in work under Defendants' control, as well
25 as all meal period premiums and rest period premiums owed within the time required by Labor Code §§
26 201 and 202, as applicable.

27 132. To date, Plaintiff has not yet received all wages due and payable, including but not limited
28 to, minimum wages, overtime wages, regular wages, and meal, rest, and recovery period premium wages

owing to him. On information and belief, members of the Waiting Time Penalties Subclass have not yet received all minimum wages, overtime wages, regular wages, and meal, rest, and recovery premium wages due and owing to them.

133. As a direct result of Defendants' violations alleged herein, Plaintiff and the Waiting Time Penalties Subclass members suffered and continue to suffer losses related to the use and enjoyment of wages due and owing to them, all to their respective damage in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

134. Plaintiff seeks all available remedies for Defendants' violations to the fullest extent permissible.

WHEREFORE, Plaintiff prays for relief as hereinafter requested.

NINTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, et seq.

(Alleged By Plaintiff Individually and On Behalf of the Non-Exempt Class Against Defendants)

135. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above, as though fully set forth herein.

136. California Business and Professions Code section 17200 states "As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code."

137. Through Defendants' conduct during the applicable statutory period including, but not limited to, the conduct alleged herein, including that alleged on information and belief, Defendants have engaged in unlawful, unfair, or fraudulent business practices in California by practicing, employing, and utilizing the employment practices outlined in the preceding paragraphs all in violation of California law and the IWC Wage Orders. Defendants' use of such practices constitutes an unfair business practice, unfair competition, and provides an unfair advantage over Defendants' competitors doing business in the State of California that comply with their obligations to properly provide employment conditions in compliance with the law and pay employees for all earned wages and compensation as required by law.

138. Defendants' violations of the Labor Code and the IWC Wage Orders and their scheme to

1 lower payroll costs as alleged herein constitute unlawful and unfair business practices because these
2 actions were done in a systematic manner over a period of time to the detriment of Plaintiffs and, upon
3 information and belief, similarly situated employees. The acts complained of herein occurred within the
4 last four (4) years preceding the filing of this complaint and include, but are not limited to, failure to (i)
5 provide timely and compliant meal and rest periods; (ii) pay all wages, as well as meal and rest break
6 premiums; (iii) maintain accurate records; and (iv) provide and maintain accurate itemized wage
7 statements and written notice of sick leave.

8 139. Plaintiff is informed and believes, and on that basis alleges, that, at all times herein
9 mentioned, Defendants have engaged in the above-mentioned acts of unlawful, deceptive, and unfair
10 business practices prohibited by California Business and Professions Code section 17200 *et seq.*, including
11 those set forth in the preceding paragraph, thereby depriving Plaintiff of the minimum working conditions
12 and standards due, including those under the California Labor Code and applicable Wage Order of the
13 IWC.

14 140. As a result of Defendants' unfair competition as alleged herein, Plaintiff has suffered injury
15 in fact and lost money or property. Plaintiff has been deprived of the rights to wages and benefits due as
16 alleged herein.

17 141. Plaintiff is entitled to an injunction and other declaratory and equitable relief against such
18 practices to prevent future damage for which there is no adequate remedy at law, and to avoid a multiplicity
19 of lawsuits.

20 142. Plaintiff is informed and believes, and on that basis alleges, that the illegal conduct alleged
21 herein is continuing and there is no indication that Defendants will not continue such activity into the
22 future. Plaintiff alleges that if Defendants are not enjoined from the conduct set forth in this Complaint,
23 they will continue to fail to pay the wages and compensation required to be paid and will fail to comply
24 with other requirements of the California Labor Code and IWC Wage Order 5-2001.

25 143. As a direct and proximate result of Defendants' conduct, Defendants have received and
26 will continue to receive monies that rightfully belong to members of the general public who have been
27 adversely affected by Defendants' conduct, as well as to Plaintiff by virtue of unpaid wages and other
28 monies.

1 144. Plaintiff is entitled to and seeks any and all available remedies including restitution and
2 recovery of reasonable attorney's fees pursuant to California Code of Civil Procedure section 1021.5,
3 Business and Professions Code section 17200 *et seq.*, the substantial benefit doctrine, and/or the common
4 fund doctrine.

5 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

6 **TENTH CAUSE OF ACTION**

7 **REPRESENTATIVE CLAIMS UNDER THE CALIFORNIA LABOR CODE**

8 **PRIVATE ATTORNEYS GENERAL ACT (PAGA)**

9 (Labor Code section 2698, *et seq.*)

10 145. Plaintiff re-alleges and incorporate by reference the allegations contained in the paragraphs
11 above, as though fully set forth herein.

12 146. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a
13 civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions,
14 boards, agencies or employees for violation of the code may, as an alternative, be recovered through a
15 civil action brought by an aggrieved employee on behalf of himself or herself and other current or former
16 employees pursuant to the procedures specified in Labor Code § 2699.3.

17 147. This cause of action involves allegations of violations of the Labor Code sections 201, 202,
18 203, 204, 210, 221, 223, 225.5, 226, 226.3, 226.7, 227.3, 246, 248.5, 510, 512, 558, 1174, 1174.5, 1194,
19 1194.2, 1197, 1197.1, 1198, and 2802 which, pursuant to Labor Code section 2699.5, provides for a civil
20 penalty to be assessed and collected by the LWDA or recovered through a civil action brought by an
21 aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the
22 procedures specified in Labor Code section 2699.3.

23 148. Plaintiff exhausted his obligation to provide administrative notice and now seeks the
24 recovery of all available civil penalties under Labor Code section 2699(a), but only those civil penalties
25 that are required to be shared with the LWDA. Plaintiff expressly disclaim the recovery of any
26 individual/victim specific relief or underpaid wages.

27 149. Pursuant to Labor Code § 2699(a), Plaintiff seeks civil penalties, on behalf of himself and
28 all other current and former employees of Defendants that worked in non-exempt positions in California

1 (collectively referred to as the “aggrieved employees”).

2 150. Defendants employed Plaintiff and Plaintiff had one or more of the alleged violations
3 committed against him. Therefore, Plaintiff is an “aggrieved employee” under PAGA because the alleged
4 violators employed him, and he had one or more of the alleged violations committed against him. As such,
5 Plaintiff is properly suited to represent the interests of other aggrieved employees in a PAGA
6 Representative action.

7 151. Plaintiff seeks the recovery of all available civil penalties under Labor Code section
8 2699(a), but only those civil penalties that are required to be shared with the LWDA. Plaintiff expressly
9 disclaims the recovery of any individual/victim specific relief or underpaid wages.

10 152. For all provisions of the Labor Code for which a civil penalty is not specifically provided,
11 Labor Code § 2699(f) imposes upon Defendants, and each of them, a penalty of one hundred dollars
12 (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars
13 (\$200.00) for each aggrieved employee per pay period for each subsequent violation.

14 153. Defendants violated Labor Code §§ 226.7, 512, and 1198 by failing to provide Plaintiff
15 and aggrieved employees lawfully compliant meal periods and by failing to pay them meal period
16 premium wages for each day a meal period was not provided. Under Labor Code § 2699(f)(2), Defendants
17 are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation
18 of Labor Code §§ 226.7 and 1198, and \$200 for each aggrieved employee per pay period for each
19 subsequent violation.

20 154. Defendants violated Labor Code §§ 226.7 and 1198 by failing to authorize and permit
21 Plaintiff and aggrieved employees to take duty-free rest periods and by failing to pay them rest period
22 premium wages for each day a rest period was not provided. Under Labor Code § 2699(f)(2), Defendants
23 are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation
24 of Labor Code §§ 226.7 and 1198, and \$200 for each aggrieved employee per pay period for each
25 subsequent violation.

26 155. Defendants violated Labor Code sections 223, 510, 1194, and 1198 by not paying Plaintiff
27 and other aggrieved employees all overtime wages earned for all the time they were suffered or permitted
28 to work, engaged in work and/or under Defendants’ control, as alleged herein. At all relevant times,

1 Plaintiff and, on information and belief, other aggrieved employees were not paid all overtime at the proper
2 rate of pay when they worked in excess of eight hours a workday or forty hours in a workweek. Thus,
3 under Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved
4 employee per pay period for the initial violation of Labor Code sections 223, 1194, and 1198, and \$200
5 for each aggrieved employee per pay period for each subsequent violation.

6 156. Defendants violated Labor Code sections 223, 1194, and 1198 by not paying Plaintiff and
7 other aggrieved employees at least minimum and regular wages for all the time they were suffered or
8 permitted to work, engaged in work and/or under Defendants' control, as alleged herein. Thus, under
9 Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved
10 employee per pay period for the initial violation of Labor Code sections 223, 1194, and 1198, and \$200
11 for each aggrieved employee per pay period for each subsequent violation.

12 157. Labor Code sections 246(a), 246(b)(1), 246(c), 248.5(e), and 246(j) require Defendants to
13 provide Plaintiff and aggrieved employees with sick leave. Defendants failed to provide Plaintiff and, on
14 information and belief, other aggrieved employees, with required sick leave, entitling Plaintiff and, on
15 information and belief, aggrieved employees to equitable, injunctive, or restitutionary relief and
16 reasonable attorney's fees and costs.

17 158. Under Labor Code section 225.5, Defendants, in addition to, and entirely independent and
18 apart from, any other penalty, are subject to a civil penalty for unlawfully withholding wages due Plaintiff
19 and other aggrieved employees in violation of Labor Code §§ 221 and 223 as follows: (1) For an initial
20 violation, one hundred dollars (\$100.00) for each failure to pay each employee. (2) For each subsequent
21 violation, or any willful or intentional violation, two hundred dollars (\$200.00) for each failure to pay
22 each employee, plus 25 percent of the amount unlawfully withheld. This amount shall be recovered on
23 behalf of the Labor Commissioner.

24 159. Defendants violated Labor Code §§ 201, 202, and 1198 by not paying Plaintiff and
25 aggrieved employees all minimum, regular, overtime, commission, and meal and rest premium wages
26 owed by the time set forth by law upon their separation of employment, as alleged herein. Thus, under
27 Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee
28 per pay period for the initial violation of Labor Code §§ 201, 202, and 1198, and \$200 for each aggrieved

1 employee per pay period for each subsequent violation.

2 160. Defendants violated Labor Code §§ 204 and 1198 by not paying Plaintiff and aggrieved
3 employees all minimum, regular, and overtime wages owed, and meal and rest premium wages owed by
4 the time set forth by law during their employment, as alleged herein. Thus, under Labor Code § 2699(f)(2),
5 Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial
6 violation of Labor Code §§ 204 and 1198, and \$200 for each aggrieved employee per pay period for each
7 subsequent violation.

8 161. Under Labor Code § 210(a), Defendants, in addition to, and entirely independent and apart
9 from any other penalty, are subject to a civil penalty for failing to pay the wages of each aggrieved
10 employee as provided in Labor Code § 204, as follows: (1) For any initial violation, one hundred dollars
11 (\$100) for each failure to pay each aggrieved employee. (2) For each subsequent violation, or any willful
12 or intentional violation, two hundred dollars (\$200) for each failure to pay each aggrieved employee, plus
13 25 percent of the amount unlawfully withheld. This amount shall be recovered on behalf of the Labor
14 Commissioner.

15 162. Defendants violated Labor Code §§ 226(a), 1174(d), and 1198 by failing to maintain
16 records detailing the start and end times of work shifts and meal periods, and knowingly and intentionally
17 failing to maintain and provide Plaintiff and other aggrieved employees of Defendants with wage
18 statements itemizing accurately all information required by Labor Code § 226(a), as alleged herein,
19 including the total hours worked, all regular hours worked, all overtime hours worked, the applicable
20 hourly rate per hour worked, and the total wages earned. Thus, under Labor Code § 2699(f)(2), Defendants
21 are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation
22 of Labor Code §§ 226(a) and 1198, and \$200 for each aggrieved employee per pay period for each
23 subsequent violation.

24 163. Alternatively, Labor Code § 226.3 provides for a civil penalty in the amount of \$250 per
25 violation in an initial citation and \$1,000 for each violation in a subsequent citation, for which the
26 employer fails to provide the employee a wage deduction statement or fails to keep the records required
27 in subdivision (a) of section 226.

28 164. Labor Code § 1174.5 provides for a civil penalty of \$500 for any person employing labor

1 who willfully fails to maintain accurate and complete records required by subdivision (d) of section 1174.

2 165. For bringing this action, Plaintiff is additionally entitled to attorney's fees and costs
3 incurred herein.

4 166. Plaintiff seeks to recover civil penalties on behalf of himself and other aggrieved
5 employees for Defendants' violations of the Labor Code, including but not limited to Defendants'
6 violations of Labor Code §§ 201, 202, 204, 223, 226(a), 226.7, 510, 512, 1174(d), 1194, and 2802 pursuant
7 to Labor Code section 2698, *et seq.* The exact amount of the applicable penalties is in an amount to be
8 shown according to proof at trial and within the jurisdictional limitations of this Court.

9 WHEREFORE, Plaintiff prays for relief as hereinafter requested.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 12 a. For general damages;
- 13 b. For an award of liquidated damages to the extent permissible by Labor Code § 1194.2;
- 14 c. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law,
15 including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 218.5, 218.6, 226,
16 and 1194;
- 17 d. For statutory penalties to the extent permitted by law, including those pursuant to the Labor
18 Code and the Orders of the Industrial Welfare Commission;
- 19 e. For restitution as provided by Business and Professions Code § 17200, *et seq.*;
- 20 f. For an order requiring Defendants to restore and disgorge all funds to each affected person
21 acquired by means of any act or practice declared by this Court to be unlawful, unfair, or
22 fraudulent and, therefore, constituting unfair competition under Business and Professions
23 Code § 17200, *et seq.*;
- 24 g. For an award of damages in the amount of unpaid compensation and monies including, but
25 not limited to actual damages, unpaid wages, minimum wages, regular wages, overtime
26 wages, liquidated damages, waiting time penalties and other penalties according to proof,
27 including interest thereon, to the extent permissible by law;
- 28 h. For an award of an additional hour of pay at the regular rate of compensation for each

noncompliant meal and rest period, pursuant to Labor Code § 226.7 and the applicable Order of the Industrial Welfare Commission;

- i. For an award of the greater of actual damages or the liquidated damage amounts provided by Labor Code § 226(e) for Defendants' failure to provide accurate itemized wage statements, pursuant to Labor Code § 226(a);
- j. For injunctive relief as provided by the Labor Code including but not limited to Labor Code § 226(h), and Business and Professions Code § 17200, *et seq.*
- k. For pre- and post-judgement interest to the extent permitted by law including, but not limited to, Labor Code §§ 218.6 and 1194;
- l. For an order imposing a constructive trust upon Defendants to compel it to transfer wages that have been wrongfully obtained and held by Defendants to unpaid employees;
- m. For an accounting to determine all money wrongfully obtained and held by Defendants;
- n. For a declaratory judgment that Defendants violated Labor Code §§ 201, 202, 203, 226(a), 226.7, 227.3, 246, 510, 512, 1197, and 1198, as well as the "Hours and Days of Work," "Minimum Wages," "Records," "Meal Periods," and "Rest Periods" sections of the Wage Order of the Industrial Welfare Commission;
- o. For civil penalties to the extent permitted by law pursuant to the Labor Code under the Private Attorneys General Act;
- p. For civil penalties for each initial and subsequent violation for each underpaid employee for each pay period for which the employee was underpaid;
- q. For all other applicable civil penalties under PAGA on behalf of themselves and all other aggrieved employees of Defendants in California including, all unpaid and/or underpaid wages pursuant to Labor Code sections 558 and 1197.1, and
- r. An award of such other and further relief as this Court deems proper and just.

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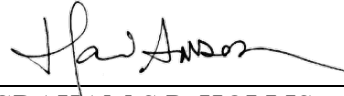
JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all Causes of Action to the extent authorized by law.

Dated: June 2, 2020

GRAHAMHOLLIS APC

By: _____



GRAHAM S.P. HOLLIS
VILMARIE CORDERO
HALI M. ANDERSON
Attorneys for Plaintiff BRYAN EDWARDS

EXHIBIT A

March 25, 2020

Attorneys at Law

3555 Fifth Avenue Suite 200
San Diego, California 92103
619.692.0800 voice
619.692.0822 fax

www.grahamhollis.com

Hali Anderson
handerson@grahamhollis.com
619.274.8225 direct

VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

Xtermite, Inc.
10107 Prospect Avenue
Suite B
Santee, CA 92071

Xtermite, Inc.
c/o Anna Marie Folkins, Agent for Service of Process
10107 Prospect Avenue, Suite B
Santee, CA 92071

Re: Bryan Edwards's Wage and Hour Claims Against Xtermite, Inc.

Dear Labor and Workforce Development Agency and Xtermite, Inc.:

Please be advised that Bryan Edwards ("Claimant") has retained our firm to represent him for claims against his former employer Xtermite, Inc. ("the Company").

This letter shall serve as Claimant's written notice to the Labor and Workforce Development Agency ("LWDA") and the Company of the alleged Labor Code violations Claimant claims that the Company committed against him and all other aggrieved employees in California. Claimant provides this notice in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3. Claimant desires to file a civil action to enforce his rights under the Labor Code and seek compensation accordingly.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant also intends to represent all other current and former aggrieved employees who performed work for the Company in California and who have suffered at least one of the wage and hour violations described herein during the relevant time period (collectively, the "aggrieved employees").

Graham S.P. Hollis
Vilmarie Cordero
Nathan Reese
Hali Anderson
David Lin
Erick Dos Santos
Alex Kuner
Monique Rodriguez

FACTUAL BACKGROUND

Xtermite, Inc. is a California corporation that specializes in pest control throughout California. Claimant worked for the Company at the Santee, California location from January 2019 to January 2020 as a technician. At the time of his termination, Claimant was paid an hourly rate of \$20.00 per hour. Claimant typically worked eight hours per shift and 40-60 hours per week. At all times, Claimant was a non-exempt employee and was compensated on an hourly basis.

The Company denied Claimant and other aggrieved employees in California specific rights afforded to them under the California Labor Code and the IWC Wage Order. Specifically, the Company failed to provide them with legally compliant meal and rest periods or pay them meal and rest period premiums, failed to timely pay all minimum, regular, and overtime wages owed, failed to indemnify for necessary business expenses, failed to maintain accurate records, failed to issue accurate itemized wage statements, failed to provide written notice of sick leave, and failed to timely pay all wages due during and upon separation of employment.

The Company did not provide Claimant and, on information and belief, other aggrieved employees the opportunity to take compliant 30-minute, off-duty meal periods. Rather, the Company required Claimant and other aggrieved employees to work through their meal periods, receive less than 30-minute meal periods, take interrupted meal periods, did not allow them to take meal periods before the end of their fifth hour of work, and/or did not allow them to take meal periods at all. For example, Claimant and, on information and belief, other aggrieved employees' were never permitted to clock in and out for their meal periods. Instead, Claimant and, on information and belief, other aggrieved employees were required to combine their two 15-minute rest periods with their 30-minute meal period to create a 1-hour combined break. The Company then automatically deducted 1-hour for every shift, regardless of whether the employee took a compliant meal period or rest period. Moreover, Claimant and, on information and belief, other aggrieved employees were regularly required to take their meal period during the final hour of their shift. The Company berated Claimant and, on information and belief other aggrieved employees for taking their meal period near their jobsite, rather than to take it closer to the office, even if that meant they would miss their meal period because it would be time to clock out by the time they arrived.

Although Claimant and, on information and belief, other aggrieved employees did not receive legally compliant meal periods, the Company did not pay Claimant and, on information and belief, other aggrieved employees the additional one hour of pay at the employee's regular rate of pay as required under Labor Code section 226.7 and the applicable IWC Wage Order. As such, the Company owes Claimant and, on information and belief, other aggrieved employees a meal period premium for each work day that Claimant and other aggrieved employees were not provided with a compliant meal period.

For these same reasons, the Company also did not authorize or permit Claimant and, on information and belief, other aggrieved employees to take ten-minute, uninterrupted rest periods every four hours worked or major fraction thereof. Despite the fact that Claimant and, on information and belief, other aggrieved employees did not receive off-duty rest periods, the Company did not pay Claimant the additional one hour pay at the employee's regular rate of pay as required under Labor Code section 226.7 and the applicable IWC Wage Order.

Furthermore, Claimant and, on information and belief, other aggrieved employees were not paid all minimum, regular, and overtime wages because the Company failed to pay them for the time they spent working through their meal and rest periods and were under the control of the Company. The Company improperly considered the work Claimant and other aggrieved employees performed during their meal and rest periods to be non-compensable time, and failed to provide any remuneration. In addition, the Company required Claimant and, on information and belief, other aggrieved employees to perform work prior to clocking in and after clocking out of their scheduled shifts. For example, Claimant and, on information and belief, other aggrieved employees were required to perform opening and closing tasks such as, preparing the work trucks, cleaning the work trucks, cleaning the main office area, and taking out the trash. These opening and closing tasks typically took between 10-30 minutes and Claimant and, on information and belief, other aggrieved employees were not compensated for the time spent performing these required off-the-clock tasks. Furthermore, Claimant and, on information and belief, other aggrieved employees were required to monitor their personal cell phones and text messages at all times and regularly received phone calls and text messages from the Company and co-workers while they were off the clock regarding work-related issues such as scheduling and dispatch times. As a result, Claimant and other aggrieved employees did not receive the statutory minimum wage for all time suffered or permitted to work because they were not properly compensated at their regular rate of pay, nor did they receive proper overtime compensation for all hours worked after the eighth hour in a workday and forty hours in a workweek.

The Company also failed to reimburse Claimant and, on information and belief, other aggrieved employees for all necessary expenses that were incurred in the discharge of their job duties. Claimant and, on information and belief, other aggrieved employees regularly received phone calls and text messages on their personal cell phones from the Company and other co-workers regarding work-related issues such as scheduling, shift coverage, customer and client complaints, and dispatch timeframes. The Company also required Claimant and, on information and belief, other aggrieved employees to use a work-only group chat on their personal cell phones for work-related communications. Claimant and, on information and belief, other aggrieved employees did not receive any reimbursement for the use of their personal cell phones, as required by California law.

As a direct result of the Company's illegal policies and procedures, the Company further failed to maintain accurate records reflecting all of Claimant's and other aggrieved employees' time worked and wages paid, in violation of California law. For example, the Company failed to record the actual start and end time of Claimant's and, on information and belief, other aggrieved employees' work periods and meal periods. In addition, the wage statements issued by the Company do not include the accrued sick hours on Claimant and, on information and belief, other aggrieved employees' wage statements.

Lastly, as a direct result of the aforementioned Labor Code violations, the Company failed to timely pay Claimant and, on information and belief, other aggrieved employees all wages due and payable during and upon separation of employment, including minimum, regular, and overtime wages for all hours worked, and meal and rest period premium wages, as required pursuant to Labor Code sections 201, 202 and 204.

Due to the foregoing Labor Code violations, the Company denied Claimant and other aggrieved employees certain rights afforded them under the California Labor Code and IWC Wage Orders.

Claimant makes these claims against the Company on behalf of himself and all other aggrieved current and former employees of the Company in California.

**FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND
AUTHORIZE AND PERMIT REST PERIODS**

(Labor Code sections 226.7, 512, 558, 1198 and the “Meal Periods” and
“Rest Periods” sections of the Applicable IWC Wage Order)

Labor Code section 226.7(b) states, “[a]n employer shall not require an employee to work during a meal or rest . . . period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission...” Labor Code section 226.7(c) states, “[i]f an employer fails to provide an employee a meal or rest . . . period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest . . . period is not provided.”

Labor Code section 512(a) states, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes” and “[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

The “Meal Periods” section of the applicable IWC Wage Order states, “[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.” It further states, “[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived.” Furthermore, “[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.”

The “Meal Periods” section of the applicable IWC Wage Order also states, “[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”

The “Rest Periods” section of the applicable IWC Wage Order states, “[e]very employer shall authorize and permit employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” Furthermore, “[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this

order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

As set forth above, the Company failed to provide Claimant and, on information and belief, other aggrieved employees with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the start of their sixth hour of work and did not authorize and permit Claimant and, on information and belief, other aggrieved employees to take legally compliant rest periods, as required by California law. Consequently, Claimant and other aggrieved employees are entitled to receive one hour of premium wages for each day a compliant meal period was not provided and one hour of premium wages for each day a compliant rest period was not authorized or permitted. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code sections 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, the "Minimum Wages" and "Hours and Days of Work" sections of the Applicable IWC Wage Order)

Labor Code section 1197 states, "[t]he minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful." Labor Code section 1197.1 provides that, "Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203..." Section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 510 states, "[e]ight hours of labor constitutes a day's work. 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 the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." The "Hours and Days of Work" and "Minimum Wages" sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code section 1194(a) states, "...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

Labor Code section 223 states, "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract." Labor Code section 225.5 provides that, "...every person who unlawfully withholds wages due any employee in violation of Section ...223 shall be subject to a civil penalty" of \$100 for each initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Company failed to pay Claimant and, on information and belief, other aggrieved employees all minimum, regular, and overtime wages, as required by law. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO REIMBURSE FOR BUSINESS EXPENSES

(Labor Code section 2802)

Labor Code section 2802(a) provides in pertinent part, "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

Labor Code section 2802(b) states, "[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss." Accordingly, Claimant will request that he receive interest on the applicable amount.

Furthermore, Labor Code section 2802(c) states, "[f]or purposes of this section, the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section." Consequently, Claimants will also request reimbursement of the attorney's fees incurred in pursuing this matter.

As set forth above, the Company required Claimant and, on information and belief, other aggrieved employees to utilize their personal cell phones in the discharge of their duties. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code sections 1174, 1174.5, 1198, and the “Records” section of the Applicable IWC Wage Order)

Labor Code section 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.”

The “Records” section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period.

Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d).

As set forth above, the Company violated these requirements by failing to accurately record employee hours worked including, but not limited to, the Company’s failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages paid. Claimant will pursue all available remedies for the Company’s violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS AND
WRITTEN NOTICE OF SICK LEAVE**

(Labor Code sections 226, 226.3, 246, 248.5 and 1198, and the “Records” section of the Applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (5) net wages earned, ..., 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.”

Labor Code section 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code section 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code section 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code section 246(i) states that “[a]n employer shall provide an employee with written notice that sets for the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Labor Code section 248.5(e) provides that “any person or entity enforcing this article on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only equitable, injunctive, or restitutionary relief, and reasonable attorneys’ fees and costs.”

The “Records” section of the applicable IWC Wage Order states in pertinent part, “[e]very employer shall keep accurate information with respect to each employee including the following: . . . [t]otal wages paid each payroll period, . . . [t]otal hours worked in the payroll period and applicable rates of pay.

As set forth above, the Company failed to provide Claimant and, on information and belief, other aggrieved employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements issued did not include the accurate total regular and overtime hours worked, the accurate hourly rates and corresponding number of hours worked at each hourly rate, the correct amount of gross and net wages earned, or the accrued sick hours. Claimant will pursue all available remedies for the Company’s violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT

(Labor Code sections 201, 202, 203, 204, 210, 1194, 1194.2, 1198, and the
“Minimum Wages” section of the Applicable IWC Wage Order)

Labor Code section 204(a) states in pertinent part, “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Furthermore, Labor Code section 204(b)(1) states, “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” Labor Code section 210 provides that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation. The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code section 201 states, in pertinent part, “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202 states, in pertinent part, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203(a) states, in pertinent part, “[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.”

As set forth above, the Company violated these Labor Code sections by not paying to Claimant and, on information and belief, other aggrieved employees all minimum, regular, and overtime wages, and meal and rest break premium wages, within the required time during their employment. As a result of the Company’s failure to comply with the aforementioned Labor Code provisions, the Company owes waiting time penalties. Claimant will pursue all available remedies for the Company’s violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer or any person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558.1) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: “[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Labor Code section 558.1(a) states that “[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.” This includes the owners, officers, directors, or managing agents of the employer. Labor Code section 558.1(b).

Similarly, Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: “(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable

penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

As set forth above, the Company underpaid Claimant and, on information and belief, aggrieved employees and violated the Labor Code and the applicable IWC Wage Order by failing to pay them all regular, minimum, and overtime wages, and meal and rest break premium wages, as required under Labor Code sections 203, 226, 226.7, 510, 512, 1194, 1197, 1198, 2802, and the applicable sections of the applicable IWC Wage Order. As a result, the Company is liable for civil penalties under Labor Code sections 558, 558.1, and 1197.1. Claimant will pursue all available remedies for the Company’s violations on behalf of himself and other aggrieved current and former employees to the extent allowed by law.

ATTORNEY’S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES, AND PENALTIES

(Labor Code sections 210, 218.5, 218.6, 225.5, 226(e),
558, 1194, 1194.2, 1197.1, and 2699, *et seq.*)

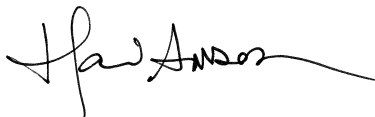
Labor Code sections 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, and 2699, *et seq.*, among others, give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney’s fees and costs.

Pursuant to Labor Code section 2699, *et seq.*, an aggrieved employee is entitled to 25% of the penalty assessment, which is \$100 for the first violation and \$200 for each subsequent violation, and 100% of the underpaid wages. Accordingly, the Company is liable for these items in addition to the unpaid wages. Claimant has already incurred actual damages, costs and attorney’s fees and he will continue to incur costs as a result of the Company’s unlawful actions. Claimant will pursue all available remedies, including those provided by PAGA, for these violations on behalf of himself and other aggrieved employees.

CONCLUSION

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional compensation owed to him or other losses incurred by him or by any other aggrieved employee of the Company, he reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action in his complaint.

Very truly yours,



Hali Anderson

Rachel Bray

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, March 25, 2020 12:34 PM
To: Rachel Bray
Subject: Thank you for submission of your PAGA Case.

3/25/2020

LWDA Case No. LWDA-CM-780191-20
Law Firm : GrahamHollis, APC
Plaintiff Name : Bryan Edwards
Employer: Xtermite, Inc

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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



March 28, 2020

Dear Reference 34916 00001EDWARDS XTERMITE REB:

The following is in response to your request for proof of delivery on your item with the tracking number:
9414 8108 9876 5056 7261 61.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	March 27, 2020, 11:45 am
Location:	SANTEE, CA 92071
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	co Anna Marie Folkins Agent for Serv of Process

Shipment Details

Weight:	3.0oz
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Recipient Signature

Signature of Recipient:

Address of Recipient:

DK 1017
DK 1017 37 6110,
187 Prospect

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



April 11, 2020

Dear Reference 34916 00001EDWARDS XTERMITE REB:

The following is in response to your request for proof of delivery on your item with the tracking number:
9414 8108 9876 5056 7260 31.

Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	April 10, 2020, 11:36 am
Location:	SANTEE, CA 92071
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	Xtermite Inc

Shipment Details

Weight:	3.0oz
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Recipient Signature

Signature of Recipient:

Address of Recipient:

DI 6 MNA
DI 6 MNA 37 C19
107 1/2 Street
B

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

XTERMITE, INC., and DOES 1 THROUGH 50, inclusive.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

BRYAN EDWARDS, individually, and on behalf of all other similarly situated employees of Defendants in the State of California.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/02/2020 at 10:29:15 AM

Clerk of the Superior Court
By Jessica Pascual, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of San Diego
330 West Broadway
San Diego, CA 92101

CASE NUMBER:
(Número del Caso):

37-2020-00018243-CU-OE-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Graham S.P. Hollis (SBN 120577)/Vilmarie Cordero (SBN 268860)/Hali M. Anderson (SBN 261816) (619)692-0800
3555 Fifth Avenue, Suite 200, San Diego, CA 92103

DATE: 06/03/2020
(Fecha)

Clerk, by
(Secretario)

J. Pascual
J. Pascual

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

[SEAL]



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): GRAHAMHOLLIS, APC Graham S.P. Hollis (SBN 120577)/Vilmarie Cordero (SBN268860) Hali M. Anderson (SBN 261816) 3555 Fifth Avenue, Ste 200, San Diego, CA 92103 TELEPHONE NO.: 619-692-0800 FAX NO.: 619-692-0822 ATTORNEY FOR (Name): Plaintiff Bryan Edwards		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 06/02/2020 at 10:29:15 AM Clerk of the Superior Court By Jessica Pascual, Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Justice Center			
CASE NAME: Bryan Edwards v. Xtermite, Inc., et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 37-2020-00018243-CU-0E-CTL JUDGE: Judge Richard E. L. Strauss DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|---|
| a. ☐ Large number of separately represented parties
b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☒ Substantial amount of documentary evidence | d. ☒ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|---|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 10
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 2, 2020
 Hali M. Anderson

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7075	
PLAINTIFF(S) / PETITIONER(S): Bryan Edwards	
DEFENDANT(S) / RESPONDENT(S): Xtermite Inc	
EDWARDS VS XTERMITE INC [E-FILED]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE	CASE NUMBER: 37-2020-00018243-CU-OE-CTL

CASE ASSIGNED FOR ALL PURPOSES TO:

Judge: Richard E. L. Strauss

Department: C-75

COMPLAINT/PETITION FILED: 06/02/2020

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	05/14/2021	10:15 am	C-75	Richard E. L. Strauss

Due to the COVID-19 pandemic, all hearings will be conducted remotely until further notice. Absent an order of the court, personal appearances at the hearing will not be allowed. For information on arranging telephonic or video appearances, contact CourtCall at (888)882-6878, or at www.courtcall.com. Please make arrangements with CourtCall as soon as possible.

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

MANDATORY eFILE: Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at www.onelegal.com. Refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases or guidelines and procedures.

COURT REPORTERS: Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at www.sdcourt.ca.gov.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2020-00018243-CU-OE-CTL

CASE TITLE: Edwards vs Xtermite Inc [E-FILED]

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central	FOR COURT USE ONLY
PLAINTIFF(S): Bryan Edwards	
DEFENDANT(S): Xtermite Inc	
SHORT TITLE: EDWARDS VS XTERMITE INC [E-FILED]	
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)	CASE NUMBER: 37-2020-00018243-CU-OE-CTL

Judge: Richard E. L. Strauss

Department: C-75

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- | | |
|---|--|
| ☐ Mediation (court-connected) | ☐ Non-binding private arbitration |
| ☐ Mediation (private) | ☐ Binding private arbitration |
| ☐ Voluntary settlement conference (private) | ☐ Non-binding judicial arbitration (discovery until 15 days before trial) |
| ☐ Neutral evaluation (private) | ☐ Non-binding judicial arbitration (discovery until 30 days before trial) |
| ☐ Other (specify e.g., private mini-trial, private judge, etc.): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 06/03/2020

JUDGE OF THE SUPERIOR COURT