

1 ARIN NORIJANIAN, ESQ. (SBN 260936)

2 *arin@arinjames.com*

3 JAMES H. DEMERJIAN, ESQ. (SBN 266525)

4 *james@arinjames.com*

5 **ARIN | JAMES LLP**

6 100 North Brand Blvd., Suite 620

7 Glendale, CA 91203

8 (818) 476-0133 | Fax: (818) 230-5243

9 Attorneys for Plaintiff,

10 MATTHEW CARROLL

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

13 MATTHEW CARROLL, individually and on
14 behalf all other aggrieved employees of
15 DEFENDANTS in the State of California,

16 Plaintiff,

17 vs.

18 AMERICAN RECLAMATION, INC. a
19 California Corporation; JOHN R.
20 GASPARIAN, an individual; DOES 1 through
21 50, inclusive,

22 Defendants.

Case No. **20STCV20699**

**COMPLAINT FOR DAMAGES, UNPAID
WAGES, INJUNCTIVE RELIEF AND
REPRESENTATIVE ACTION FOR PAGA
PENALTIES**

1. Violation of California Labor Code § 226.7 and 512 (Failure to Provide Meal Period)
2. Violation of California Labor Code § 226.7 (Failure to Provide Rest Periods)
3. Violation of California Labor Code §§ 201-204 (Wages Not Paid Upon Termination and By The Appropriate Pay Period)
4. Violation of California Labor Code §§ 558, 1194, 1197 and 1197.1 (Failure to Pay Minimum Wage)
5. Violation of California Labor Code §§ 510, 558, 1194, and 1197.1 (Failure to Pay Overtime)
6. Violation of California Labor Code § 226(a) (Improper Wage Statements)
7. Violation of California Labor Code § 2802 (Failure to Reimburse Business Expenses);
8. Violation of California Labor Code §§ 1174, 1174.5 and 1198 (Failure to Maintain Records)
9. Violation of California Business & Professions Code § 17200, et seq. (Unfair Competition)
10. Violation of California Labor Code §§ 2698, et seq. (PAGA)

DEMAND FOR JURY TRIAL

NATURE OF ACTION

1. Plaintiff MATTHEW CARROLL (“Plaintiff”) brings this individual and representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”), on behalf of himself and all other aggrieved current and former non-exempt employees of Defendants American Reclamation, Inc. (“ARI”), JOHN R. GASPARIAN (“GASPARIAN”) and DOES 1 through 50 (collectively, “Defendants”) for engaging in a pattern and practice of wage and hour violations under the California Labor Code.

2. Plaintiff brings this representative action against Defendants 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 Nos.1 and/or 4 are applicable to Defendants’ business and trade.

3. In addition to seeking individual relief, Plaintiff brings this action on behalf of all current and former non-exempt employees who were employed by Defendants in the State of California during the applicable PAGA time period (hereinafter referred to as “Aggrieved Employees”).

4. This complaint challenges systemic illegal employment practices resulting in violations of the California Labor Code against Defendants.

5. Plaintiff is informed and believes and based thereon alleges that Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees. Defendants’ systematic pattern of wage and hour and IWC Wage Order violations toward Plaintiff and other Aggrieved Employees include, *inter alia*:

- a. Failure to provide compliant meal and rest periods;
- b. Failure to pay all minimum, regular, and overtime wages;
- c. Failure to reimburse for all business expenses;
- d. Failure to maintain true and accurate records;
- e. Failure to provide accurate itemized wage statements; and
- f. Failure to timely pay wages due during and upon separation of employment.

6. Plaintiff brings this lawsuit against Defendants seeking restitution, declaratory judgment, injunctive relief, and monetary relief on behalf of himself and all other Aggrieved Employees of Defendants in California. Plaintiff seeks to recover, *inter alia*, unpaid wages, unreimbursed expenses, interest, attorney's fees, damages, liquidated damages, penalties, and costs pursuant to Labor Code sections 201, 202, 204, 210, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 98.6, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, California Business and Professions Code section 17200, *et seq.*, and the provisions of the applicable IWC Wage Order.

7. Plaintiff reserves the right to name additional representatives throughout the State of California.

PARTIES, THEIR AGENTS AND JOINT LIABILITY

8. Plaintiff was employed by Defendants as a non-exempt employee in the position of laborer from October 8, 2019 to November 27, 2019 and paid on an hourly basis. Plaintiff worked at various locations including Defendants' yard in located in Los Angeles, California and trash routes in and around the Los Angeles area.

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

10. At all relevant times herein, Plaintiff was a resident and now is an individual residing in the County of Los Angeles, State of California.

11. At all relevant times herein, Defendant ARI is a California corporation with its principal place of business within the State of California and was at all relevant times authorized and did do business in the State of California. Defendant ARI was and is an employer of Plaintiff and of other Aggrieved Employees within the meaning of the California Labor Code, the applicable Wage Order. Defendant ARI exercised control over the wages, hours and working conditions of Plaintiff and other Aggrieved Employees, and supervised their work. Defendant ARI suffered and permitted Plaintiff and other Aggrieved Employees to work. Defendant ARI knew or reasonably should have known that Plaintiff and other Aggrieved Employees were subjected to unlawful working conditions.

1 12. All relevant times herein, Defendant ARI was an employer whose employees were
2 and are engaged to work in the State of California.

3 13. Plaintiff is informed and believes, and based thereon alleges, that Defendant
4 GASPARIAN is a California resident who owns, operates, and/or manages Defendant ARI, the
5 company at issue in this lawsuit. On information and belief, and based thereon alleged, Defendant
6 GASPARIAN is a resident of the County of Los Angeles in the State of California.

7 14. The true names and capacities, whether corporate, associate, individual or
8 otherwise of defendants DOES 1 through 50, inclusive, are unknown to Plaintiff, who therefore
9 sues said defendants by such fictitious names pursuant to California Code of Civil Procedure §
10 474. Each of the defendants designated herein as a DOE is negligently or otherwise legally
11 responsible in some manner for the events and happenings herein referred to and caused injuries
12 and damages proximately thereby to Plaintiff and based on information and belief, and based
13 thereon alleged, to other Aggrieved Employees, as herein alleged. Plaintiff is informed and
14 believes and thereon alleges that each of said fictitious Defendants was responsible in some way
15 for the matters alleged herein and proximately caused Plaintiff and members of the general public
16 and other Aggrieved Employees to be subject to the illegal employment practices, wrongs and
17 injuries complained of herein. Plaintiff will ask leave of court to amend this Complaint to show
18 their names and capacities when the same have been ascertained.

19 15. Whenever and wherever reference is made in this complaint to any act or failure to
20 act by a defendant or defendants, such allegations and references shall also be deemed to mean the
21 acts and/or failures to act by each defendant acting individually, jointly, and severally.

22 16. Unless otherwise indicated herein, each Defendant herein sued is the agent, co-
23 conspirator, joint venture, partner, and/or employee of every other Defendant and, as alleged, has
24 been acting within the course and scope of said agency, conspiracy, joint venture, partnership,
25 and/or employment, with the knowledge and/or consent of co-Defendants, and each of them.
26 Moreover, Plaintiff is informed and believes and thereon alleges that each Defendant has
27 authorized and/or ratified the wrongful activities of each of the remaining Defendants and their
28 agents.

1 17. At all times herein mentioned, each of said Defendants participated in the doing of
2 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
3 Defendants, and each of them, were the agents, servants and employees of each of the other
4 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
5 within the course and scope of said agency and employment.

6 18. At all relevant times, Plaintiff and, on information and belief, other Aggrieved
7 Employees of Defendants in California were subject to the same policies, practices, and
8 procedures governing their employment and their payment of wages and hours worked.

9 19. Plaintiff is informed and believes and thereon alleges that at all times herein
10 mentioned Defendants and DOES 1 through 50, are and were corporations, business entities,
11 individuals, and partnerships, licensed to do business and actually doing business in the State of
12 California.

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

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

23 22. At all times herein mentioned, the acts and omissions of various Defendants, and
24 each of them, concurred and contributed to the various acts and omissions of each and all of the
25 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
26 herein mentioned, Defendants, and each of them, ratified each and every act or omission
27 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and
28

1 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
2 damages as herein alleged.

3 23. Plaintiff alleges on information and belief that the named and DOE Defendants
4 were: (1) acting as express agents, ostensible agents, servants, partners, and/or employees of each
5 other; (2) acting within the scope of and pursuant to such agency and employment, and with the
6 full knowledge, consent, permissions, approval and ratification, either express or implied, of each
7 of the other defendants and benefited from the actions of every other defendant, thereby adopting
8 such conduct and actions as their own; (3) acting as other's alter egos; and (4) aiding and abetting
9 and offering substantial assistance to each other in the commissions of the alleged wrongful acts.

10 24. Plaintiff is informed and believes, and based thereon alleges, that each and all of
11 the acts and omissions alleged herein were performed by, or are attributable to, Defendants, each
12 acting as the agent for the other, with legal authority to act on the other's behalf. The acts of any
13 and all Defendants were in accordance with, and represent the official policies of Defendant ARI.

14 25. Defendants, including DOES 1 THROUGH 50, were Plaintiff's employers or
15 persons acting on behalf of Plaintiff's employer, within the meaning of California Labor Code
16 section 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
17 Labor Code or any provision regulating hours and days of work in any order of the Industrial
18 Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as
19 set forth in Labor Code section 558, at all relevant times.

20 26. Defendants, including DOES 1 THROUGH 50, were Plaintiff's employers or
21 persons acting on behalf of Plaintiff's employer either individually or as an officer, agent, or
22 employee of another person, within the meaning of California Labor Code section 1197.1, who
23 paid or caused to be paid to any employee a wage less than the minimum fixed by California state
24 law, and as such, are subject to civil penalties for each underpaid employee.

25 **JURISDICTION AND VENUE**

26 27. The California Superior Court has jurisdiction over this action pursuant to
27 California Constitution Article VI, Section 10, which grants the Superior Court original
28 jurisdiction in all causes except those given by statute to other trial courts. The statutes under

1 which this action is brought do not specify any other basis for jurisdiction. The Superior Court of
2 California has jurisdiction over this matter pursuant to the California Labor Code and the
3 California Business & Professions Code. The Court also has subject-matter jurisdiction to hear
4 this case because Plaintiff is informed and believes that the monetary damages and restitution
5 sought herein for Defendants' conduct exceeds the minimum jurisdictional limits of the Superior
6 Court.

7 28. The California Superior Court has jurisdiction over Defendants because American
8 Reclamation, Inc. is a California corporation with its principal place of business within the State of
9 California and was at all relevant times authorized and did do business in the State of California.
10 Further, Plaintiff resides in the State of California and the illegal conduct herein took place within
11 the State of California.

12 29. Venue is proper in this Court pursuant to Code of Civil Procedure sections 395(a)
13 and 395.5 because Defendants reside, maintain their principal California offices, transact business,
14 and/or have an agent in Los Angeles County and Defendants are otherwise within this Court's
15 jurisdiction for purposes of service of process. On information and belief, Defendants employ
16 numerous individuals throughout Los Angeles County in the State of California.

17 **GENERAL ALLEGATIONS**

18 30. Defendants provide waste collection and recycling services to businesses in the Los
19 Angeles area. Defendants run a fleet of diesel and long-haul flatbed trucks. Defendants also own
20 and operate a major recycling facility in Los Angeles, California.

21 31. Defendants employed Plaintiff as a non-exempt employee in the position of a
22 laborer from October 8, 2019 to November 27, 2019 and paid on a hourly basis. Plaintiff and, on
23 information and belief, other Aggrieved Employees regularly worked more than eight hours a day
24 and/or more than forty hours a week.

25 32. Defendants employed Plaintiff in various non-exempt tasks throughout his
26 employment such as wood-chipper in the recycling yard and helper. In the helper role, Plaintiff
27 cleaned in and around the wood-chipping machine in the yard. Plaintiff was also assigned to trash
28 routes and paired with a driver on a garbage truck. When assigned to trash runs on the garbage

1 truck, a driver would drive the truck to various commercial locations and Plaintiff would act as the
2 laborer. When they would arrive at their desired location, Plaintiff would get out of the vehicle to
3 get the dumpsters to allow the driver to hook the dumpsters to the garbage truck to obtain the
4 waste and recycling materials. Plaintiff generally worked thirteen to fourteen hours a day and six
5 days a week at all times during his employment. Plaintiff worked at various locations including
6 Defendants' yard located in Los Angeles, California and trash routes in and around the Los
7 Angeles area.

8 33. Defendants denied Plaintiff and, on information and belief, other Aggrieved
9 Employees certain rights afforded to them under the California Labor Code and the Industrial
10 Welfare Commission Wage Orders. Specifically, Defendants failed to provide Plaintiff and, on
11 information and belief, other Aggrieved Employees with compliant meal and rest periods, did not
12 properly compensate Plaintiff and, on information and belief, other Aggrieved Employees for all
13 hours worked, failed to maintain accurate records, failed to provide Plaintiff and, on information
14 and belief, other Aggrieved Employees with accurate itemized wage statements, paid Plaintiff and,
15 on information and belief, other Aggrieved Employees in cash without issuing accurate itemized
16 wage statements, failed to reimburse Plaintiff and, on information and belief, other Aggrieved
17 Employees for all necessary expenses, and failed to pay Plaintiff and, on information and belief,
18 other Aggrieved Employees with all wages due and owing by the times set forth by law.
19 Defendants also did not pay Plaintiff and, on information and belief, other Aggrieved Employees
20 the requisite meal and/or rest period premium pay of an additional hour of wages for missed
21 and/or late meal and/or rest periods. On information and belief, Defendants have a company-wide
22 policy of never paying Plaintiff and on information and belief, other Aggrieved Employees for
23 missed and/or late meal and/or rest periods.

24 34. Plaintiff and, on information and belief, other Aggrieved Employees of Defendants
25 did not sign valid on-duty meal period agreements at any point during their employment with
26 Defendants, nor did they properly waive any of their meal periods.

27 35. Defendants had a pattern and practice of not providing Plaintiff and, on information
28 and belief, other Aggrieved Employees with legally compliant meal periods, even though Plaintiff

1 and other Aggrieved Employees worked more than six (6) hours during their workday, and also
2 had a pattern and practice of not providing Plaintiff and, on information and belief, other
3 Aggrieved Employees, with a second legally compliant meal periods, even though Plaintiff and
4 other Aggrieved Employees worked more than ten (10) hours during their workday.

5 36. Based on information and belief, and based thereon alleged, Defendants have a
6 company-wide policy and practice requiring Plaintiff and, on information and belief, other
7 Aggrieved Employees to remain on the garbage truck and keep working and did not provide
8 Plaintiff and, on information and belief, other Aggrieved Employees with the opportunity to take
9 compliant meal periods throughout their thirteen to fourteen-hour shift when Defendants assigned
10 Plaintiff and, on information and belief, other Aggrieved Employees to work on the garbage trucks
11 on trash routes. As such, when working on the garbage trucks, Plaintiff and, on information and
12 belief, other Aggrieved Employees remained on the garbage trucks and kept working and were not
13 provided with compliant meal periods.

14 37. Thus, as a result of Defendants' illegal policies, Plaintiff and, on information and
15 belief, other Aggrieved Employees were denied the opportunity to take legally compliant meal
16 periods and were not compensated separately for the missed meal periods, in violation of the
17 applicable Wage Order.

18 38. Defendants similarly have a pattern and practice of failing to authorize and permit
19 Plaintiff and, on information and belief, other Aggrieved Employees to take legally compliant rest
20 breaks of at least 10 minutes for every four-hour work period, or major fraction thereof. Based on
21 information and belief, and based thereon alleged, Defendants have a company-wide policy and
22 practice requiring Plaintiff and, on information and belief, other Aggrieved Employees to remain
23 on the garbage truck and keep working and were not authorized or permitted to take rest breaks
24 throughout their thirteen to fourteen-hour shift when Defendants assigned Plaintiff and, on
25 information and belief, other Aggrieved Employees to work on the garbage trucks on trash routes.
26 As such, when working on the garbage trucks, Plaintiff and, on information and belief, other
27 Aggrieved Employees remained on the garbage trucks and kept working and were not provided
28 with compliant rest breaks.

39. Based on information and belief, and based thereon alleged, Defendants have a company-wide policy and practice of providing Plaintiff and, on information and belief, other Aggrieved Employees with one 20-minute break at approximately 2:00 p.m. when Defendants assigned Plaintiff and information and belief, other Aggrieved Employees to work at Defendants' recycling yard but that break was not a legally compliant rest break because Plaintiff and on information and belief, other Aggrieved Employees, were not permitted or authorized to leave the Defendants' work premises during that alleged rest break. Moreover, the 2:00 p.m. minute rest break was untimely because Plaintiff and on information and belief, other Aggrieved Employees, started their shifts at 5:00 a.m. or 6:00 a.m. and were not authorized or permitted to a legally compliant off-duty rest break within the first four hours of work, or major fraction thereof. Additionally, based on information and belief, and based thereon alleged, Defendants have a company-wide policy and practice of combining two ten (10) minute rest breaks to create one unlawful twenty (20) minute allege rest break, which is also unlawful and violates the Labor Code.

40. Thus, as a result of Defendants' illegal policies, Plaintiff and, on information and belief, other Aggrieved Employees were not authorized or permitted to take legally compliant rest breaks and were not compensated separately for the missed rest breaks, in violation of the applicable Wage Order.

41. Although Plaintiff and, on information and belief, other Aggrieved Employees' meal and rest periods were regularly missed Defendants did not compensate Plaintiff and, on information and belief, other Aggrieved Employees an additional hour of pay at their regular rate of pay for the times that Plaintiff and other Aggrieved Employees were not authorized or permitted to take a compliant and timely meal or rest period, in violation of Labor Code § 226.7.

42. Defendants failed to properly pay Plaintiff and, on information and belief, other Aggrieved Employees at least minimum, regular and overtime wages owed for all time suffered or permitted to work, in violation of the Labor Code's overtime provisions. For example, Defendants had a company practice of not paying Plaintiff and, on information and belief, other Aggrieved Employees for work performed or paying employees with pay checks that would bounce due to insufficient funds or not pay them whatsoever. As a result, Plaintiff and, on information and

1 belief, Aggrieved Employees did not receive the statutory minimum wage for all time suffered or
2 permitted to work because they were not properly compensated, nor did they receive proper
3 overtime compensation for all hours worked after the eight hour of work in a workday and/or forty
4 hours in a workweek.

5 43. Defendants did not and are not keeping accurate records or work hours for Plaintiff
6 and, information and belief, other Aggrieved Employees. Moreover, Defendants failed to
7 accurately record Plaintiff's and, on information and belief, other Aggrieved Employees' hours
8 worked, including but not limited to, Defendants failure to record the proper beginning and end of
9 each work period, the total hours worked during the pay period, the applicable rates of pay, and
10 the wages paid. For example, meal breaks were not accurately recorded on time records in
11 violation of the Wage Order. As a direct consequence of Defendants' illegal policies, Defendants
12 did not keep accurate records of the actual hours that Plaintiff and, on information and belief, other
13 Aggrieved Employees were under the control of Defendants, including, but not limited to, time
14 suffered and permitted to work, as well as all wages earned.

15 44. Defendants similarly failed to provide Plaintiff and, upon information and belief,
16 other Aggrieved Employees with accurate itemized wage statements. For example, Defendants
17 would pay Plaintiff and, on information and belief, other Aggrieved Employees in cash without
18 the issuance of wage statements. Additionally, Defendants violated Labor Code § 226(a) by
19 issuing wage statements that did not include: (1) the correct total regular and overtime hours
20 worked, (2) the correct amount of gross and net wages earned, and (3) all applicable hourly rates
21 and the corresponding number of hours worked at each hourly rate, as required under Labor Code
22 section 226. As such, Defendants violated Labor Code section 226(a) by not providing accurate,
23 itemized wage statements to Plaintiff and, on information and belief, to other Similarly Situated
24 Employee, including by paying cash without providing wage statements, by not accurately
25 reflecting the hours worked, as well as by not including the premium pay for missed rest breaks
26 and meal periods on the paystubs. Defendants similarly failed to provide Plaintiff and, upon
27 information and belief, other Aggrieved Employees with accurate itemized wage statements.

1 45. Plaintiff and, on information and belief, other Aggrieved Employees of Defendants
2 incurred expenses in direct consequence of the discharge of their duties of employment with
3 Defendants, but Defendants failed to adequately reimburse them for such expenses. For example,
4 Plaintiff and, on information and belief, other Aggrieved Employees were required to purchase
5 work boots, gloves, protective eyewear, vests and helmets. Despite Defendants' knowledge that
6 Plaintiff and, on information and belief, other Aggrieved Employees, were required to and did
7 incur these expenses, Defendants failed to provide appropriate reimbursement for these expenses,
8 in violation of Labor Code § 2802.

9 46. To this date, Defendants have not paid Plaintiff and, on information and belief,
10 other Aggrieved Employees all wages owed, including all minimum, regular and overtime wages,
11 as well as all meal and rest period premium wages.

12 47. Defendants failed to pay Plaintiff and, on information and belief, other Aggrieved
13 Employees of Defendants all wages due during their employment because Defendants did not pay
14 Plaintiff and other Aggrieved Employees all minimum, regular, and overtime wages owed, as well
15 as all meal and rest period premium wages owed, within the time required by Labor Code § 204.

16 48. Based on the policies and practices set forth above, Defendants failed to provide
17 Plaintiff and, on information and belief, to other Aggrieved Employees with accurate wage
18 statements in violation of Labor Code § 226 and to pay all final wages owed to terminated
19 employees under Labor Code § 203.

20 49. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
21 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
22 advisors knowledgeable about: (1) California and federal labor and wage law; (2) employment and
23 personnel practices; and (3) the requirements of California and federal law.

24 50. Defendants knew or should have known that it had a duty to properly compensation
25 Plaintiff and other Aggrieved Employees, and it willfully, knowingly, and intentionally failed to
26 do so in order to increase its profits.

27
28

1 51. Defendants knew or should have known that Plaintiff and the other Aggrieved
2 Employees were entitled to immediate payment of their wages upon the termination of their
3 employment.

4 52. Defendants knew or should have known that it was required to keep accurate
5 payroll records showing the hours that Plaintiff and the other Aggrieved Employees worked.

6 53. Defendants knew or should have known that Plaintiff and the other Aggrieved
7 Employees were entitled to receive complete and accurate wage statements in accordance with
8 California law.

9 54. Defendants knew or should have known that it had an obligation to pay for all
10 hours worked by Plaintiff and the other Aggrieved Employees, without reduction or rounding, but
11 it willfully, knowingly, and intentionally failed to do so.

12 55. Defendants knew or should have known that it had an obligation to provide
13 Plaintiff and the other Aggrieved Employees with off duty rest breaks and meal periods in
14 accordance with California law, which it failed to do.

15 56. Defendants knew or should have known that it had an obligation to accurately track
16 time for meal period with respect to Plaintiff and the other Aggrieved Employees in accordance
17 with California law, which they failed to do.

18 57. Defendants knew or should have known that it had an obligation to reimburse
19 Plaintiff and other Aggrieved Employees for business expenditures, such as work boots, protective
20 eyewear, and other equipment and tools required for the performance of their jobs.

21 58. Based on the foregoing violations of the Labor Code and IWC Wage Order,
22 Defendants engaged in unfair business practices in California and willingly and knowingly
23 engaged in an employment pattern and practice that violated Business & Professions Code §
24 17200 *et seq.* Plaintiff and, on information and belief, other Aggrieved Employees suffered
25 damages due to Defendants' unfair, unlawful and/or fraudulent actions.

26 59. As a direct result of Defendants' violations alleged herein, Plaintiff and the other
27 Aggrieved Employees suffered and continue to suffer losses related to the use and enjoyment of
28

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.

FIRST CAUSE OF ACTION

Failure to Provide Meal Periods

(Violation of Labor Code §§ 226.7 and 512)

[Alleged by Plaintiff, Individually, Against all Defendants]

60. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

61. At all relevant times, Defendants failed in their affirmative obligation to ensure that Plaintiff and other Aggrieved Employees, had the opportunity to take and were provided with off-duty meal periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. At all relevant times, Plaintiff and other Aggrieved Employees were suffered and permitted to work through legally required meal breaks and were denied the opportunity to take their off-duty meal breaks. This included, without limitation, Defendants requiring Plaintiff and the Aggrieved Employees to remain on the garbage truck and keep working and did not provide Plaintiff and the Aggrieved Employees with the opportunity to take compliant meal periods throughout their thirteen to fourteen-hour shift. As such, Defendants are responsible for paying premium compensation for missed meal periods pursuant to Labor Code§ 226.7 and the applicable IWC Wage Order. Defendants, as a matter of corporate policy and procedure, regularly failed to pay such premium compensation for each meal period Plaintiff and the Aggrieved Employees missed.

62. At all relevant times, Plaintiff and other Aggrieved Employees regularly worked in excess of five (5) hours per day and accordingly had a right to take a 30-minute meal period each day worked in excess of five (5) hours. Furthermore, Plaintiff and other Aggrieved Employees who worked in excess often (10) hours per day had a right to take a second 30-minute meal period each day worked in excess of ten (10) hours. Defendants did not provide Plaintiff with compliant meal periods and Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide this compliant meal periods to the Aggrieved Employees.

63. As a pattern and practice, Defendants regularly required employees to work through their meal periods without proper compensation and denied Plaintiff and the Aggrieved Employees the right to take proper meal periods as required by law.

64. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiff, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order, including interest thereon, penalties, and costs of suit.

65. Plaintiff is informed and believes, and based thereon allege, that Defendants' willful failure to provide all meal period premium wages due and owing to Plaintiff upon his separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff is entitled to compensation pursuant to Labor Code § 203.

SECOND CAUSE OF ACTION

Failure to Provide Rest Breaks

(Violation of Labor Code §§ 226.7)

[Alleged by Plaintiff, Individually, Against all Defendants]

66. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

67. Plaintiff and the Aggrieved Employees regularly worked shifts of three and one-half hours (3.5) hours or more per day and accordingly had a right to take a 10-minute rest period each day. Furthermore, Plaintiff and the Aggrieved Employees who worked shifts of seven and one-half (7.5) hours or more per day had a right to take a second 10-minute rest period. Plaintiff and the Aggrieved Employees who worked shifts of ten hours or more per day had a right to take a third 10-minute rest period.

68. Defendants failed in their affirmative obligation to provide all of their employees, including Plaintiff and the Aggrieved Employees, the opportunity to take rest periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. Plaintiff and the Aggrieved Employees were suffered and permitted to work through legally

1 required rest breaks and were denied the opportunity to take their rest breaks. Again, Defendants
2 required Plaintiff and the Aggrieved Employees to remain on the garbage truck and keep working
3 and were not authorized or permitted to take rest breaks throughout their thirteen to fourteen-hour
4 shift. Furthermore, Defendants gave one 20-minute break at approximately 2:00 p.m. when
5 Defendants assigned Plaintiff and the Aggrieved Employees to work at Defendants' recycling yard
6 but that break was not a legally compliant rest break because Plaintiff and the Aggrieved
7 Employees were not permitted or authorized to leave the Defendants' work premises during that
8 alleged rest break. Moreover, the 2:00 p.m. minute rest break was untimely because Plaintiff and
9 the Aggrieved Employees started their shifts at 5:00 a.m. or 6:00 a.m. and were not authorized or
10 permitted to a legally compliant off-duty rest break within the first four hours of work, or major
11 fraction thereof. Additionally, based on information and belief, and based thereon alleged,
12 Defendants have a company-wide policy and practice of combining two ten (10) minute rest
13 breaks to create one unlawful twenty (20) minute allege rest break, which is also unlawful and
14 violates the Labor Code.

15 69. As a pattern and practice, Defendants regularly required employees to work
16 through their rest periods without proper compensation and denied Plaintiff and the Aggrieved
17 Employees the right to take proper rest periods as required by law.

18 70. Such a pattern, practice and uniform administration of corporate policy as described
19 herein is unlawful and creates an entitlement to recovery by the Plaintiff, in a civil action, for the
20 unpaid balance of the unpaid premium compensation pursuant to Labor Code § 226.7, including
21 interest thereon, penalties and costs of suit.

22 71. Plaintiff is informed and believes and based thereon alleges that Defendants
23 willfully failed to pay employees who were not provided the opportunity to take rest breaks the
24 premium compensation set out in Labor Code § 226.7 and that Plaintiff is owed wages for the rest
25 period violations set forth above. Plaintiff is informed and believes and based thereon alleges
26 Defendants' willful failure to provide Plaintiff the wages due and owing him upon separation from
27 employment results in a continued payment of wages up to thirty (30) days from the time the
28 wages were due. Therefore, Plaintiff is entitled to compensation pursuant to Labor Code § 203.

THIRD CAUSE OF ACTION

**Failure to Timely Pay All Wages Upon Separation of Employment and During Employment
(Violation of Labor Code §§ 201-204)**

[Alleged by Plaintiff, Individually, Against all Defendants]

72. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

73. Labor Code § 201 requires Defendants to immediately pay any wages, without abatement or reduction, to any employee who is discharged. Labor Code § 202 requires Defendants to pay any and all wages due and owing to an employee not having a written contract for a definite period, who quits his or her employment, within 72 hours of the employee quitting his or her employment, 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 § 204 requires Defendants to pay wages twice each calendar month and no later than the payday for the next regular payroll period.

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

75. As a result of Defendants' conduct during the applicable statutory period, Defendants willfully failed to pay Plaintiff, and the Aggrieved Employees all wages due and owing to them, including minimum wages, overtime wages, and regular wages for all the time they were suffered or permitted to work or were engaged in work under Defendants' control, as well as all meal period premiums and rest period premiums owed within the time required by Labor Code §§ 201, 202, and 204 as applicable.

76. To date, Plaintiff has not yet received all wages due and payable, including but not limited to, minimum wages, overtime wages, regular wages, and meal and rest period premium wages owing to him. On information and belief, members of the Aggrieved Employees have not yet received all minimum wages, overtime wages, regular wages, and meal and rest premium wages due and owing to them.

77. As a direct result of Defendants' violations alleged herein, Plaintiff 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.

FOURTH CAUSE OF ACTION

Failure to Pay Minimum Wages

(Violation of Labor Code §§ 558, 1194, 1197 and 1197.1)

[Alleged by Plaintiff, Individually, Against all Defendants]

78. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

79. This cause of action is brought pursuant to Labor Code §§ 558, 1194, 1197, and 1197.1, which require an employer to pay employees minimum wages for all hours worked less than eight hours in a day and/or less than 40 hours in a workweek.

80. As a pattern and practice, Defendants suffered and permitted employees to work without payment of minimum wages for all hours worked in a workday and workweek. For example, Defendants had a company practice of not paying Plaintiff and the Aggrieved Employees for work performed or paying them with pay checks that would bounce due to insufficient funds or not pay them whatsoever. As a result, Plaintiff and the Aggrieved Employees did not receive the statutory minimum wage for all time suffered or permitted to work because they were not properly compensated. Defendant had a uniform corporate pattern and practice and procedure regarding the above practices in violation of Labor Code §§ 558, 1194, 1197 and 1197.1.

81. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery by Plaintiff in a civil action, for the unpaid balance of the full amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 218.5, 558, 1194, 1197 and 1197.1.

82. Plaintiff is informed and believes, and based thereon allege, that Defendants' willful failure to provide all minimum wages due and owing Plaintiff upon separation from employment

1 results in a continued payment of wages up to thirty (30) days from the time the wages were due.
2 Therefore, Plaintiff is entitled to compensation pursuant to Labor Code § 203.

3 **FIFTH CAUSE OF ACTION**

4 **Failure to Pay Overtime**

5 **(Violation of Labor Code §§ 510, 558, 1194, and 1197.1)**

6 **[Alleged by Plaintiff, Individually, Against all Defendants]**

7 83. Plaintiff restates and incorporates by reference all above stated paragraphs as
8 though set forth herein.

9 84. This cause of action is brought pursuant to Labor Code §§ 510, 558, 1194, and
10 1197.1, which require an employer to pay employees overtime at a rate of one and one-half the
11 employee's regular rate of pay for any work in excess of eight hours in a workday or 40 hours in a
12 workweek.

13 85. As a pattern and practice, Defendant suffered and permitted employees to work in
14 excess of eight hours in a workday and/or over 40 hours in a workweek without overtime pay. For
15 example, Defendants had a company practice of not paying Plaintiff and the Aggrieved Employees
16 for work performed or paying them with pay checks that would bounce due to insufficient funds
17 or not pay them whatsoever. As a result, Plaintiff and the Aggrieved Employees did not receive
18 the statutory overtime wage for all time suffered or permitted to work because they were not
19 properly compensated. Defendants had a uniform corporate pattern and practice and procedure
20 regarding the above practices in violation of Labor Code §§ 510 and 1194.

21 86. Such a pattern, practice and uniform administration of corporate policy regarding
22 illegal employee compensation as described herein is unlawful and creates an entitlement to
23 recovery by Plaintiff in a civil action, for the unpaid balance of the full amount of damages owed,
24 including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of
25 California Labor Code §§ 218.5, 558, 1194, and 1197.1.

26 87. Plaintiff is informed and believes, and based thereon allege, that Defendants' willful
27 failure to provide all overtime wages due and owing Plaintiff upon separation from employment
28

1 results in a continued payment of wages up to thirty (30) days from the time the wages were due.
2 Therefore, Plaintiff is entitled to compensation pursuant to Labor Code § 203.

3 **SIXTH CAUSE OF ACTION**

4 **Improper Wage Statements**

5 **(Violation of Labor Code § 226)**

6 **[Alleged by Plaintiff, Individually, Against all Defendants]**

7 88. Plaintiff restates and incorporates by reference all above stated paragraphs as
8 though set forth herein.

9 89. Defendant failed in its affirmative obligation to provide accurate itemized wage
10 statements. Defendant, as a matter of policy and practice, did not provide accurate records in
11 violation of Labor Code § 226 by failing to provide accurate payroll records for Plaintiff and the
12 Class.

13 90. Here, Plaintiff and the Aggrieved Employees were paid hourly. As such, the wage
14 statements should have reflected the number of hours worked and the applicable hourly rates,
15 pursuant to Labor Code § 226(a)(9). Defendants similarly failed to provide Plaintiff and the
16 Aggrieved Employees with accurate itemized wage statements. For example, Defendants would
17 pay Plaintiff and the Aggrieved Employees in cash without the issuance of wage statements.
18 Additionally, Defendants violated Labor Code § 226(a) by issuing wage statements that did not
19 include: (1) the correct total regular and overtime hours worked, (2) the correct amount of gross
20 and net wages earned, and (3) all applicable hourly rates and the corresponding number of hours
21 worked at each hourly rate, as required under Labor Code section 226. As such, Defendants
22 violated Labor Code section 226(a) by not providing accurate, itemized wage statements to
23 Plaintiff and the Aggrieved Employees by paying cash without providing wage statements, by not
24 accurately reflecting the hours worked, as well as by not including the premium pay for missed
25 rest breaks and meal periods on the paystubs.

26 91. Such a pattern, practice and uniform administration of corporate policy as described
27 herein is unlawful and creates an entitlement to recovery by the Plaintiff, in a civil action, for all
28

1 damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys' fees, and
2 costs of suit according to the mandate of California Labor Code § 226.

3 **SEVENTH CAUSE OF ACTION**

4 **Failure To Reimburse Business Expenses**

5 **(Violation of Labor Code § 2802)**

6 **[Alleged by Plaintiff, Individually, Against all Defendants]**

7 92. Plaintiff restates and incorporates by reference all above stated paragraphs as
8 though set forth herein.

9 93. Labor Code § 2802 requires an employer to indemnify its employees for all
10 necessary expenditures or losses incurred by an employee in direct consequence of the discharge
11 of his or her duties of employment.

12 94. Labor Code § 2802(b) states, “[a]ll awards made by a court ... for reimbursement
13 of necessary expenditures” shall carry interest, at the same rate as judgments in civil actions, and
14 said interest will accrue from the date on which the employee incurred the necessary expenditure
15 including, but not limited to, reasonable costs and attorney’s fees incurred by the employee in
16 enforcing their rights granted pursuant to Labor Code § 2802. The exact amount of the necessary
17 expenditures or losses is in an amount to be proven at time of trial.

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

21 96. Plaintiff and the Aggrieved Employees incurred expenses in direct consequence of
22 the discharge of their duties of employment with Defendants, but Defendants failed to adequately
23 reimburse them for such expenses. For example, Plaintiff and the Aggrieved Employees were
24 required to purchase work boots, gloves, protective eyewear, vests and helmets. Despite
25 Defendants’ knowledge that Plaintiff and, on information and belief, that other the Aggrieved
26 Employees were required to and did incur these expenses, Defendants failed to provide
27 appropriate reimbursement for these expenses, in violation of Labor Code § 2802.

28

97. As a direct result of Defendants' violations alleged herein, Plaintiff suffered and continue to suffer, substantial losses related to Defendants' failure to indemnify them for the expenses and losses, including the use and enjoyment of such monies, lost interest on such monies and expenses, and attorney's fees and costs in seeking to compel Defendants to fully perform its 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 seek to recover in a civil action to the fullest extent permissible all available remedies including but not limited to the unpaid balance of the indemnification from Defendants' violations, interest thereon permitted by Labor Code § 2802(b), reasonable attorney's fees and costs of suit, declaratory relief, and any other permitted remedies including those permitted pursuant to Labor Code § 2802 and Code of Civil Procedure § 1021.5. The exact amount of reimbursements, interest, costs and attorney's fees will be in an amount to be proved at time of trial.

EIGHT CAUSE OF ACTION

Failure To Maintain Records

(Violation of Labor Code § 1174, 1174.5, and 1198.5)

[Alleged by Plaintiff, Individually, Against all Defendants]

99. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

100. Labor Code § 1174 required Defendants to "[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, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments."

101. Labor Code § 1174.5 provides that "[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500)."

102. Labor Code § 1198.5 required Defendants to maintain a copy of each employee's personnel records for a period of not less than three years after termination of employment.

103. Here, Defendants did not and are not keeping accurate records or work hours for Plaintiff and the Aggrieved Employees. Moreover, Defendants failed to accurately record Plaintiff's and the Aggrieved Employees' hours worked, including but not limited to, Defendants failure to record the proper beginning and end of each work period, the total hours worked during the pay period, the applicable rates of pay, and the wages paid. For example, meal breaks were not accurately recorded on time records in violation of the Wage Order. As a direct consequence of Defendants' illegal policies, Defendants did not keep accurate records of the actual hours that Plaintiff and the Aggrieved Employees were under the control of Defendants, including, but not limited to, time suffered and permitted to work, as well as all wages earned.

104. Such a pattern, practice and uniform administration of corporate policy regarding lack of maintaining of records as described herein is unlawful and creates an entitlement to recovery by Plaintiff in a civil action for penalties, attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 1174.5 and 1198.5.

NINTH CAUSE OF ACTION

For Violations of Business and Professions Code § 17200, et seq.

[Alleged by Plaintiff, Individually, Against all Defendants]

105. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

106. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair competition, which includes any "unlawful, unfair or fraudulent business act or practice..."

107. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing and utilizing the employment practices outlined above, include, to wit, by: (i) failure to provide proper meal periods and pay to Plaintiff and the Aggrieved Employees premium wages for failure to provide compliant meal periods; (ii) failure to provide proper rest periods and pay to Plaintiff and the Aggrieved Employees premium wages for failure to provide compliant rest periods; (iii) failure to pay

Plaintiff and the Aggrieved Employees all regular, minimum, and overtime wages for all hours suffered or permitted to work and under the control of Defendants; (iv) (vi) failure to indemnify Plaintiff and the Aggrieved Employees for necessary business expenses incurred in direct consequence of the discharge of their duties and under the direction of Defendants; (vii) failure to maintain accurate records of the hours that Plaintiff and the Aggrieved Employees worked while employed by Defendants; (viii) failure to provide Plaintiff and the Aggrieved Employees with accurate itemized wage statements; and (ix) failure to timely pay Plaintiff and members of the Waiting Time Penalties Subclass all wages owed upon separation of their employment with Defendants.

108. Defendants' utilization of such unfair and unlawful business practices constitutes unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

109. Plaintiff seeks, individually and on behalf of other members of the Class similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of herein.

110. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business and Professions Code § 17200, et seq., including those set forth herein above thereby depriving Plaintiff the minimum working condition standards and conditions due to them under the California laws and the applicable IWC Wage Orders as specifically described therein.

TENTH CAUSE OF ACTION

Violation of Labor Code § 2698, et seq.

[Alleged by Plaintiff, Individually, and On Behalf of the Aggrieved Employees Against all Defendants]

111. Plaintiff restates and incorporates by reference all above stated paragraphs as though set forth herein.

112. Pursuant to Labor Code section 2699(a), Plaintiff seeks civil penalties on behalf of himself and all other current and former employees of Defendants that worked as non-exempt employees in California from March 5, 2019 through the present.

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

114. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendant’s violations of Labor Code §§ 201-204, 223, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 and 2802.

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

116. The Cause of Action alleged herein is appropriately suited for a Labor Code Private Attorneys General Act of 2004 (“PAGA”) action because:

a. Pursuant to California Labor Code section 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of the California Labor Code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and all other current or former employees pursuant to the procedures specified in section 2699;

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

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

3 d. On or about March 5, 2020, Plaintiff satisfied the procedural requirements of
4 section 2699.3 by serving the LWDA electronically and Defendants via Certified Mail with his
5 notice for wage and hour violations and penalties, including the facts and theories to support each
6 violation. A true and correct of Plaintiff’s PAGA notice is attached hereto as **EXHIBIT 1**.

7 e. As of the date of the filing of this Complaint, the LWDA has not informed
8 Plaintiff whether the LWDA intends to investigate Plaintiff’s claims. More than 65 days have
9 passed since Plaintiff served notice via Certified Mail to the LWDA and his employers. Therefore,
10 Plaintiff satisfied all the administrative requirements to pursue civil penalties against Defendants
11 pursuant to Labor Code section 2698, *et seq.*

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

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

22 h. Defendants were Plaintiff’s employers or persons acting on behalf of
23 Plaintiff’s employer either individually or as an officer, agent, or employee of another person, within
24 the meaning of California Labor Code section 1197.1, who paid or caused to be paid to any
25 employee a wage less than the minimum fixed by California state law, and as such, are subject to
26 civil penalties for each underpaid employee, as well as liquidated damages pursuant to Labor Code
27 section 1194.2, and any applicable penalties imposed pursuant to Labor Code section 203.

28

i. Plaintiff seek to recover all applicable civil penalties under PAGA on behalf of themselves and all other aggrieved employees of Defendants in California including, but not limited to, all unpaid and/or underpaid wages pursuant to Labor Code sections 558 and 1197.1.

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

118. Plaintiff seek to recover civil penalties on behalf of himself and other aggrieved employees for Defendants' violations of the Labor Code, including but not limited to Defendants' violations of Labor Code sections §§ 201-204, 223, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 and 2802 pursuant to Labor Code section 2698, *et seq.* The exact amount of the applicable penalties is in an amount to be shown according to proof at trial and within the jurisdictional limitations of this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as an individual and on behalf of all others that this suit is brought against Defendants, jointly and severally, as follows:

1. On all causes of action, for attorneys' fees and costs as provided by California Labor Code §§ 218.5, 226, 510, 558, 1194, 1197.1, 2699 and Code of Civil Procedure § 1021.5 and for such other and further relief as the Court may deem just and proper;

As to the First and Second Causes of Action

(Failure to Provide Meal and Rest Periods)

2. For general unpaid wages and premium wages pursuant to California Labor Code § 226.7 and such general and special damages as may appropriate,

3. For pre-judgment interests on any unpaid wages, for statutory penalties pursuant to California Labor Code § 203;

4. For reasonable attorneys' fees and for costs or suit incurred herein; and

5. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

(Wages Not Paid Upon Termination and By The Appropriate Time Period)

6. For statutory penalties pursuant to California Labor Code §§ 203 and 210;

7. For reasonable attorneys' fees and for costs of suit incurred herein; and

8. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth and Fifth Causes of Action

(Failure to Pay Minimum and Overtime Wages)

9. For general unpaid wages, including overtime wages, pursuant to California Labor Code §§ 510 and 1194, and such general and special damages as may be appropriate;

10. For pre-judgment interest on any unpaid wage compensation from the date such amounts were due;

11. For liquidated damages in an amount equal to the wages unlawfully unpaid with the interest thereon pursuant to California Labor Code § 1194.2;

12. For reasonable attorney's fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and

13. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

(Improper Wage Statements)

14. For all actual, consequential, and incidental losses and damages, according to proof;

15. For statutory penalties pursuant to California Labor Code § 226(a);

16. For reasonable costs and attorneys' fees pursuant to California Labor Code § 226(e); and

17. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

(Failure to Reimburse Business Expense)

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For pre-judgment interest on the business expenditures under California Labor Code § 2802(b);

20. For reasonable costs and attorneys' fees pursuant to California Labor Code § 2802(c); and

21. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eight Cause of Action

(Failure to Maintain Records)

22. For statutory penalties pursuant to California Labor Code §§ 1174.5 and 1198.5

23. For reasonable costs and attorneys' fees pursuant to California Labor Code § 1198.5(l);

24. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

(Unfair Competition)

25. The disgorgement of any and all "unpaid wages" and incidental losses, according to proof;

26. For restitution of "unpaid wages" to Plaintiff and prejudgment interest from the day such amounts were due and payable;

27. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code § 17200, *et seq.*;

28. For reasonable attorneys' fees that Plaintiff and other Aggrieved Employees are entitled to recover under California Civil Procedure § 1021.5;

29. For costs of suit incurred herein; and

30. For such other and further relief as the Court may deem equitable and appropriate;

As to the Tenth Cause of Action

(PAGA)

31. For reasonable attorneys' fees and costs of suit to the extent permitted by law pursuant to Labor Code sections 2698, *et seq.*

32. For civil penalties to the extent permitted by law pursuant to the Labor Code under the PAGA;

33. For civil penalties for each initial and subsequent violation for each underpaid employee for each pay period for which the employee was underpaid, in addition to an amount sufficient to recover the underpaid wages pursuant to Labor Code section 558 and, pursuant to Labor Code 1197.1, in addition to an amount sufficient to recover underpaid wages, as well as liquidated damages pursuant to section 1194.2, and any applicable penalties imposed pursuant to Labor Code section 203; and

34. For such other relief as the Court deems just and proper.

Dated: June 1, 2020

ARIN | JAMES LLP

By:

ARIN NORIJANIAN
JAMES H. DEMERJIAN
Attorneys for MATTHEW CARROLL

PLAINTIFF MATTHEW CARROLL DEMANDS A JURY TRIAL

Dated: June 1, 2020

ARIN | JAMES LLP

By:

ARIN NORIJANIAN
JAMES H. DEMERJIAN
Attorneys for MATTHEW CARROLL



Arin | James LLP

On behalf of the employee.

arin@arinjames.com
james@arinjames.com

March 5, 2020

Via Online Electronic Filing

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

Via Certified Mail / Return Receipt Requested

John R. Gasparian
American Reclamation, Inc.
4560 Doran Street
Los Angeles, CA 90039

American Reclamation, Inc.
4560 Doran Street
Los Angeles, CA 90039

Re: **Matthew James Carroll's Wage and Hour Claims Against American Reclamation, Inc. and John R. Gasparian**

Dear Labor and Workforce Development Agency, American Reclamation, Inc. and Mr. Gasparian:

Please be advised that Matthew James Carroll ("Mr. Carroll") has retained our firm to represent him for claims against his former employer American Reclamation, Inc. and Mr. Gasparian (collectively "American Reclamation"). This correspondence shall serve as Mr. Carroll's written notice under Labor Code § 2699.3 of the claims asserted on behalf of Mr. Carroll and all other aggrieved employees against American Reclamation. Mr. Carroll provides this notice in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3.

Mr. Carroll 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, Mr. Carroll also intends to represent all other non-exempt employees who performed work for American Reclamation in California and have suffered at least one of the wage and hour violations described herein during their employment as well as any other violations suffered by the aggrieved employees.



Mr. Carrol alleges that American Reclamation committed the following against him and all other non-exempt employees in California:

Factual Background:

American Reclamation is a California corporation providing waste collection and recycling services to business in the Los Angeles area. Mr. Gasparian is the owner and/or president of American Reclamation, Inc. American Reclamation runs a fleet of diesel and CNG powered collection and long-haul flatbed trucks. In addition, American Reclamation owns and operates a major recycling facility in Los Angeles, California. American Reclamation employed Mr. Carrol as a non-exempt employee from approximately late 2018 through end of 2019.

American Reclamation employed Mr. Carrol in various non-exempt positions throughout his time there such as wood-chipper in the recycling yard and helper. In the helper role, he cleaned in and around the wood-chipping machine in the yard. He was also assigned to trash routes and paired with a driver on a garbage truck. When assigned to trash runs on the garbage truck, the driver would drive the truck to various commercial locations and Mr. Carrol would act as the helper. When they would arrive at their desired location, Mr. Carrol would get out of the vehicle to get the dumpsters to allow the driver to hook the dumpsters to the garbage truck to obtain the waste and recycling materials. Mr. Carrol generally worked thirteen to fourteen hours a day and six days a week at all times during his employment.

Mr. Carrol worked at various locations including American Reclamation's yard located in Los Angeles, California and trash routes in and around the Los Angeles area.

American Reclamation's Labor Code and IWC Wage Order Violations:

American Reclamation denied Mr. Carrol and other non-exempt employees in California specific rights afforded to them under the California Labor Code and the applicable Industrial Welfare Commission Wage Order ("IWC Wage Order"). For example, American Reclamation failed to provide them with legally compliant meal and rest breaks or pay them meal and rest break premiums, failed to timely pay Mr. Carrol and other non-exempt employees all minimum, regular, and overtime wages owed, failed to reimburse them for all business expenses, failed to maintain accurate records and issue accurate itemized wage statements, paid employees in cash without issuing of wage statements, and failed to timely pay all wages due during and upon separation of employment. Specifically, American Reclamation committed the following Labor Code violations against Mr. Carrol and other non-exempt employees:



1. American Reclamation violated Labor Code § 226.7, 512 and the “Meal Period” section of the applicable IWC Wage Order by not providing Mr. Carrol and other non-exempt employees the opportunity to take compliant 30-minute, off-duty meal periods within the first 5 hours of work for shifts in excess of 5 hours and by also not providing Mr. Carrol and other non-exempt employees the opportunity to take a second compliant 30-minute, off-duty meal periods within the first 10 hours of work for shifts in excess of 10 hours. American Reclamation’s policy required Mr. Carrol and other non-exempt employees to remain on the garbage truck and keep working and did not provide Mr. Carrol with off-duty meal periods. In addition, American Reclamation did not pay the requisite meal period premium pay of an additional hour of wages.

2. Additionally, American Reclamation violated Labor Code § 226.7 and the “Rest Period” section of the applicable IWC Wage Order by not authorizing or permitting Mr. Carrol and other non-exempt employees to take legally compliant duty-free rest breaks for every 4 hours worked, or major fraction thereof. When American Reclamation assigned Mr. Carrol and other non-exempt employees to garbage trucks to on trash routes, Mr. Carrol and other non-exempt employees were required to remain on the garbage truck and keep working and were not authorized or permitted to take rest breaks throughout their thirteen to fourteen-hour shift. When American Reclamation assigned Mr. Carrol and other non-exempt employees to work in the yard, it also did not authorize or permit Mr. Carrol and other non-exempt employees to take legally compliant rest breaks throughout their thirteen to fourteen-hour shift. When assigned to work in the yard, Mr. Carrol and other non-exempt employees received one 20-minute break at approximately 2:00 p.m. but that break was not legally compliant because Mr. Carrol and other non-exempt employees were not permitted or authorized to leave the American Reclamation’s premises during that break. Moreover, the 2:00 p.m. minute break was untimely because Mr. Carrol and other non-exempt employees started their shifts at 5:00 a.m. or 6:00 a.m. and were not authorized or permitted to a legally compliant off-duty break within the first fours of work, or major fraction thereof. Furthermore, the 2:00 p.m. twenty-minute break itself is not a legally compliant off-duty rest break because American Reclamation required Mr. Carrol and other non-exempt employees to remain on the work premises. Additionally, to the extent American Reclamation combined rest breaks, this is also unlawful and violates the Labor Code. Finally, American Reclamation failed to pay the requisite rest period premium pay of an additional hour of wages.

3. American Reclamation violated Labor Code §§ 558, 1194, 1197, 1197.1 and the “Hours and Days of Work” sections of the applicable Wage Order by not paying Mr. Carrol and other non-exempt employees their minimum wage for all hours worked. Specifically, American Reclamation would either provide Mr. Carrol and other non-exempt employees with pay checks that would bounce due to insufficient funds or not pay them whatsoever. As a result, Mr. Carrol and other nonexempt employees did not



receive the statutory minimum wage for all time suffered or permitted to work because they were not properly compensated, nor did they receive proper overtime compensation for all hours worked after the eighth hour in a workday and forty hours in a workweek.

4. American Reclamation violated Labor Code §§ 510, 558, 1194, 1197.1 and the “Hours and Days of Work” sections of the applicable Wage Order by not paying Mr. Carrol and other non-exempt employees any applicable overtime wages for time spent over 8 hours in a day or 40 hours in a workweek. Moreover, American Reclamation would either provide Mr. Carrol and other non-exempt employees with pay checks that would bounce due to insufficient funds or not pay them whatsoever.

5. American Reclamation violated Labor Code § 226(a) and the “Records” section of the applicable Wage Order by paying employees in cash without the issuance of wages statements. In addition, American Reclamation violated Labor Code § 226(a) by issuing wage statements that did not include the correct total regular and overtime hours worked, the correct amount of gross and net wages earned, and all applicable hourly rates and the corresponding number of hours worked at each hourly rate, as required under Labor Code section 226. As such, American Reclamation violated Labor Code section 226(a) by not providing accurate, itemized wage statements to Mr. Carrol and other non-exempt employees, including by paying cash without providing wage statements, by not accurately reflecting the hours worked, as well as by not including the premium pay for missed rest breaks and meal periods on the paystubs.

6. American Reclamation violated Labor Code sections 201-204, 210, 1194, 1194.2, 1198 and the “Minimum Wage” section of the applicable Wage Order by failing to pay all wages during employment and upon separation of employee to Mr. Carrol and other non-exempt employees, including without limitation, by not paying employees for all hours worked, by not paying employees on a timely basis, by failing to pay premium pay for missed meal and rest periods, as well as minimum and overtime wages for all hours worked.

7. American Reclamation violated Labor Code §§ 1174, 1174.5, 1198 and the “Records” section of the applicable Wage Order by failing to accurately record employee hours worked including, but not limited to, American Reclamation’s failure to record the proper beginning and end of each work period, the total hours worked during the pay period, the applicable rates of pay, and the wages paid. For example, meal breaks were not accurately on time records in violation of the applicable Wage Order.

8. American Reclamation violated Labor Code § 2802 by failing to reimburse for necessary business expenditures including but not limited to: work boots, gloves, protective eyewear, vests, and helmets.



Mr. Carrol will pursue all available remedies, including those provided by PAGA, for the violations identified herein on behalf of themselves and other non-exempt employees.

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, Mr. Carrol becomes aware of additional compensation owed to him or other losses incurred by him or by any other non-exempt employee of American Reclamation, 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,

Arin | James LLP

Arin Norijanian
James Demerjian

Enclosures
an/jd