

AEGIS LAW FIRM, PC

SAMUEL A. WONG, State Bar No. 217104
KASHIF HAQUE, State Bar No. 218672
JESSICA L. CAMPBELL, State Bar No. 280626
ALEXANDER G.L. DAVIES, State Bar No. 328125
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
Email: jcampbell@aegislawfirm.com
adavies@aegislawfirm.com

Attorneys for Plaintiff Victor Flores,
individually and on behalf of all others similarly situated

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/22/2021 1:15 PM
Reviewed By: R. Walker
Case #20CV365252
Envelope: 6082537**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

VICTOR FLORES, individually and on
behalf of all others similarly situated

Plaintiff,

vs.

ACCO ENGINEERED SYSTEMS, INC.;
and DOES 1 through 20, inclusive,

Defendants.

Case No. 20CV365252

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods, or Pay Premiums in lieu thereof;
4. Failure to Permit Rest Breaks, or Pay Premiums in lieu thereof;
5. Failure to Reimburse Necessary Business Expenses;
6. Failure to Provide Accurate Itemized Wage Statements;
7. Failure to Timely Pay Wages;
8. Failure to Pay All Wages Due Upon Separation of Employment;
9. Violation of Business and Professions Code §§ 17200, *et seq.*; and
10. Enforcement of Labor Code § 2698 *et seq.* (“PAGA”)

1 Plaintiff Victor Flores, individually and on behalf of others similarly situated, alleges as
2 follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Victor Flores (“Plaintiff”) brings this putative class action, pursuant to
5 California Code of Civil Procedure § 382, and representative action pursuant to the Private
6 Attorneys General Act of 2004, California Labor Code. § 2698, *et seq.* (“PAGA”), against
7 defendants ACCO Engineered Systems, Inc. and DOES 1 through 20, inclusive (collectively,
8 “Defendants”), on behalf of himself individually, other aggrieved employees, and a putative
9 class of non-exempt employees employed by Defendants throughout California.

10 2. Defendants are in the business of mechanical design and construction services.

11 3. Through this action, Plaintiff alleges that Defendants have engaged in a
12 systematic pattern of wage and hour violations under the California Labor Code and Industrial
13 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
14 unfair competition.

15 4. Plaintiff is informed and believes, and thereon alleges, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) Failing to pay all wages owed (including minimum, double-time, and
18 overtime wages);
- 19 (b) Failing to pay overtime wages at the proper rates;
- 20 (c) Failing to pay employees for required off-the-clock work;
- 21 (d) Failing to compensate employees for time traveling between service
22 locations;
- 23 (e) Failing to provide meal periods, or provide premium compensation in
24 lieu thereof;
- 25 (f) Failing to authorize or permit rest breaks, or provide premium
26 compensation in lieu thereof;
- 27 (g) Failing to reimburse employees for necessary business expenses;
- 28 (h) Failing to compensate employees at twice the minimum wage, despite

1 requiring employees to provide and maintain tools, typically provided by
2 the employer and necessary to the trade;

3 (i) Failing to maintain accurate payroll records;

4 (j) Failing to provide accurate itemized wage statements;

5 (k) Failing to timely pay all wages owed; and

6 (l) Failing to pay all wages due upon separation of employment.

7 5. Plaintiff brings this lawsuit seeking monetary relief against Defendants on
8 behalf of himself and all others similarly situated in California to recover, among other things,
9 unpaid wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant
10 to Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5,
11 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and 2698, *et seq.*

12 **JURISDICTION AND VENUE**

13 6. This is a class action, pursuant to California Code of Civil Procedure § 382. The
14 monetary damages, penalties, and restitution sought by Plaintiff exceeds the minimal
15 jurisdictional limits of the Superior Court and will be established according to proof at trial.

16 7. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
18 causes except those given by statutes to other courts. The statutes under which this action is
19 brought do not specify any other basis for jurisdiction.

20 8. This Court has jurisdiction over all Defendants because, upon information and
21 belief, they are citizens of California, have sufficient minimum contacts in California or
22 otherwise intentionally avail themselves of the California market so as to render the exercise of
23 jurisdiction over them by the California courts consistent with traditional notions of fair play
24 and substantial justice.

25 9. Venue is proper in this Court because, upon information and belief, Defendants
26 reside, transact business or have offices in this county and the acts and omissions alleged herein
27 took place in this county.

28 **THE PARTIES**

1 10. Plaintiff is a citizen of California. Plaintiff was employed by Defendants during
2 the Class Period in California.

3 11. Plaintiff is informed and believes, and thereon alleges, that Defendants at all
4 times hereinafter mentioned, were and are employers as defined in and subject to the Labor
5 Code and IWC Wage Orders, whose employees were and are engaged throughout this county
6 and the State of California.

7 12. Plaintiff is unaware of the true names or capacities of the defendants sued herein
8 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
9 First Amended Complaint and serve such fictitiously named defendants once their names and
10 capacities become known.

11 13. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
12 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
13 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
14 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
15 the employer and/or joint employer of Plaintiff and the class members.

16 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the
17 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
18 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
19 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
20 the official policy of Defendants.

21 15. At all relevant times, Defendants, and each of them, acted within the scope of
22 such agency or employment, or ratified each and every act or omission complained of herein.
23 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
24 each and all the other Defendants in proximately causing the damages herein alleged.

25 16. Plaintiff is informed and believes, and thereon alleges, that each of said
26 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,
27 omissions, occurrences and transactions alleged herein.

28 ///

CLASS ACTION ALLEGATIONS

17. Plaintiff brings this action under Code of Civil Procedure § 382 on behalf of himself and all others similarly situated who were affected by Defendants' Labor Code, Business and Professions Code §§ 17200 and IWC Wage Order violations.

18. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

19. Plaintiff's proposed Class consists of and is defined as follows:

Class

All California citizens currently or formerly employed as non-exempt employees by Defendants in the State of California within four years prior to the filing of this action to the date of class certification.

20. Plaintiff also seeks to certify the following Subclass of employees:

Waiting Time Subclass

All members of the Class who separated their employment from Defendants within three years prior to the filing of this action to the date of class certification.

21. Members of the Class and Subclass described above will be collectively referred to as "class members." Plaintiff reserves the right to establish other or additional subclasses, or modify any Class or Subclass definition, as appropriate based on investigation, discovery and specific theories of liability.

22. This action has been brought and may properly be maintained as a class action under the California Code of Civil Procedure § 382 because there are common questions of law and fact as to the Class that predominate over questions affecting only individual members including, but not limited to:

- (a) Whether Defendants paid Plaintiff and class members all wages owed (including minimum, double-time, and overtime wages);
- (b) Whether Defendants paid Plaintiff and class members overtime compensation at the proper rates;
- (c) Whether Defendants failed to pay Plaintiff and class members for required off-the-clock work;
- (d) Whether Defendants deprived Plaintiff and class members of timely meal

periods;

- (e) Whether Defendants deprived Plaintiff and class members of rest breaks;
- (f) Whether Defendants failed to reimburse Plaintiff and class members for necessary business expenses;
- (g) Whether Defendants failed to timely pay Plaintiff and other class members for all hours worked;
- (h) Whether Defendants failed to timely pay Plaintiff and former class members all wages due upon termination or within 72 hours of resignation;
- (i) Whether Defendants failed to maintain accurate payroll records for Plaintiff and other class members;
- (j) Whether Defendants failed to furnish Plaintiff and class members with accurate, itemized wage statements; and
- (k) Whether Defendants engaged in unfair business practices in violation of Business & Professions Code §§ 17200, *et seq.*

23. There is a well-defined community of interest in this litigation and the Class is readily ascertainable:

- (a) Numerosity: The members of the Class are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiff at this time, on information and belief, the Class is estimated to be greater than 100 individuals. The identity of the class members are readily ascertainable by inspection of Defendants' employment and payroll records.
- (b) Typicality: The claims (or defenses, if any) of Plaintiff are typical of the claims (or defenses, if any) of the Class because Defendants' failure to comply with the provisions of California wage and hour laws entitled each class member to similar pay, benefits and other relief. The injuries sustained by Plaintiff are also typical of the injuries sustained by the Class because they arise out of and are caused by Defendants' common course of

conduct as alleged herein.

- (c) Adequacy: Plaintiff is qualified to, and will fairly and adequately represent and protect the interests of all members of the Class because it is in his best interest to prosecute the claims alleged herein to obtain full compensation and penalties due to him and the Class. Plaintiff's attorneys, as proposed class counsel, are competent and experienced in litigating large employment class actions and are versed in the rules governing class action discovery, certification and settlement. Plaintiff has incurred and, throughout the duration of this action, will continue to incur attorneys' fees and costs that have been and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- (d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for each Class. If appropriate this Court can, and is empowered to, fashion methods to efficiently manage this case as a class action.
- (e) Public Policy Considerations: Employers in the State of California and other states violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights at the same time as affording them privacy protections.

GENERAL ALLEGATIONS

1 24. At all relevant times mentioned herein, Defendants employed Plaintiff and other
2 persons as non-exempt employees within the State of California.

3 25. Plaintiff was employed in a non-exempt position at Defendants' California
4 business location(s).

5 26. Defendants continue to employ non-exempt employees within California.

6 27. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned, Defendants were advised by skilled lawyers, employees and other professionals
8 who were knowledgeable about California's wage and hour laws, employment and personnel
9 practices and the requirements of California law.

10 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and Class Members were entitled to receive wages for all time
12 worked (including minimum, double-time, and overtime wages) and that they were not
13 receiving all wages earned for work that was required to be performed. In violation of the
14 Labor Code and IWC Wage Orders, Plaintiff and class members were not paid for all hours
15 worked due to Defendants illegal employment practices, including, but not limited to: requiring
16 unpaid off-the clock work; failing to compensate employees for time spent travelling to and
17 between service locations; failing to pay at least two (2) times the applicable minimum wage
18 rate to employees who were required to provide and maintain hand tools and equipment
19 customarily provided by the employer and required for the employees' trade (including general
20 laborers tools and specialized equipment for ACCO's projects on commercial buildings);
21 maintaining an improper "on call" system; and failing to pay for time rounded to Defendants'
22 advantage, among other reasons.

23 29. Plaintiff is informed and believes, and thereon alleges, that Defendants
24 improperly calculated the overtime rate of pay for Plaintiff and Class Members because the
25 rates did not include non-discretionary wages, including, but not limited to, bonuses, shift
26 premiums, and/or other incentive pay into the computation of their regular rate of pay for
27 purposes of calculating the overtime rate of pay.

28 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive all required meal
2 periods or payment of one (1) additional hour of pay at Plaintiff and class members' regular
3 rate of pay when they did not receive a timely meal period. In violation of the Labor Code and
4 IWC Wage Orders, Plaintiff and class members did not receive all timely meal periods or
5 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
6 when they did not receive a timely meal period.

7 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to receive all rest breaks or
9 payment of one (1) additional hour of pay at Plaintiff and class members' regular rate of pay
10 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiff
11 and class members did not receive all rest breaks or payment of one (1) additional hour of pay
12 at Plaintiff and class members' regular rate of pay when a rest break was missed.

13 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and class members were entitled to reimbursement for
15 necessary expenditures incurred in connection with the performance and execution of their job
16 duties. In violation of the California Labor Code, Plaintiff and class members did not receive
17 adequate reimbursement for necessary business expenses, including, but not limited to,
18 reimbursement for: the purchase and maintenance of tools, typically provided by the employer
19 and necessary for the trade; travel expenses; and expenses related to the maintenance, storage,
20 and upkeep of Defendants 'company vehicles.

21 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Defendants were required to keep accurate records with respect to each
23 employee including payroll records showing the hours worked daily and the wages paid to their
24 employees, time records showing when meal periods begin and end, total hours worked in the
25 payroll period and applicable rates of pay. In violation of the Labor Code and IWC Wage
26 Orders, Defendants did not keep accurate records related to Plaintiff and class members.

27 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to receive itemized wage

1 statements that accurately showed their gross and net wages earned, inclusive dates of pay
2 periods, total hours worked and all applicable hourly rates in effect and the number of hours
3 worked at each hourly rate in accordance with California law. In violation of the Labor Code,
4 Plaintiff and class members were not provided with accurate itemized wage statements.

5 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and Waiting Time Subclass members were entitled to timely
7 payment of wages due upon separation of employment. In violation of the Labor Code,
8 Plaintiff and Waiting Time Subclass members did not receive payment of all wages within
9 permissible time periods.

10 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known they had a duty to compensate Plaintiff and class members, and Defendants
12 had the financial ability to pay such compensation but willfully, knowingly and intentionally
13 failed to do so all in order to increase Defendants' profits.

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

16 (Violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197; Violation of IWC Wage Order §§3-4)

17 37. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
18 though fully set forth herein.

19 38. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
20 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
21 wage than the minimum so fixed is unlawful.

22 39. During the relevant time period, Defendants paid Plaintiff and Class Members
23 less than the minimum wage when they failed to pay proper compensation for all hours worked.
24 To the extent these hours do not qualify for the payment of overtime, Plaintiff and Class
25 Members were not being paid at least the minimum wage for their work.

26 40. During the relevant time period, Defendants regularly failed to pay at least the
27 minimum wage to Plaintiff and Class Members for all hours worked pursuant to Labor Code
28 §§ 1194 and 1197.

41. Defendants' failure to pay Plaintiff and Class Members the required minimum wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees.

42. Pursuant to Labor Code § 1194.2, Plaintiff and Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of Labor Code §§ 510, 1194 and 1198; Violation of IWC Wage Order § 3)

43. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

44. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half or two times the person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

45. Pursuant to California Labor Code §§ 510 and 1194, during the relevant time period, Defendants were required to compensate Plaintiff and class members for all overtime hours worked, calculated at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours of the seventh consecutive work day, with double time after eight (8) hours on the seventh day of any work week, or after twelve (12) hours in any work day.

46. Plaintiff and class members were non-exempt employees entitled to the protections of California Labor Code §§ 510 and 1194.

47. During the relevant time period, Defendants failed to pay Plaintiff and class members overtime wages at the correct rate because they failed to include non-discretionary wages, including, but not limited to, bonuses, shift premiums, and/or other incentive pay in the computation of their overtime rate of pay, which caused Plaintiff and Class Members to not be

1 paid all overtime wages owed.

2 48. In violation of state law, Defendants have knowingly and willfully refused to
3 perform their obligations and compensate Plaintiff and class members for all wages earned as
4 alleged above.

5 49. Defendants' failure to pay Plaintiff and class members the unpaid balance of
6 overtime compensation, as required by California law, violates the provisions of Labor Code
7 §§ 510 and 1198, and is therefore unlawful.

8 50. Pursuant to Labor Code § 1194, Plaintiff and class members are entitled to
9 recover their unpaid overtime compensation as well as interest, costs and attorneys' fees.

10 **THIRD CAUSE OF ACTION**

11 **FAILURE TO PROVIDE MEAL PERIODS**

12 **(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)**

13 51. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
14 though fully set forth herein.

15 52. Labor Code § 226.7 provides that no employer shall require an employee to work
16 during any meal period mandated by the IWC Wage Orders.

17 53. Section 11 of the applicable IWC Wage Order states, "no employer shall employ
18 any person for a work period of more than five (5) hours without a meal period of not less than
19 30 minutes, except that when a work period of not more than six (6) hours will complete the
20 day's work the meal period may be waived by mutual consent of the employer and the
21 employee."

22 54. Labor Code § 512(a) provides that an employer may not require, cause or permit
23 an employee to work for a period of more than five (5) hours per day without providing the
24 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
25 the total work period per day of the employee is not more than six (6) hours, the meal period
26 may be waived by mutual consent of both the employer and the employee.

27 55. Labor Code § 512(a) also provides that an employer may not employ an
28 employee for a work period of more than ten (10) hours per day without providing the employee

1 with a second meal period of not less than thirty (30) minutes, except that if the total hours
2 worked is no more than twelve (12) hours, the second meal period may be waived by mutual
3 consent of the employer and the employee only if the first meal period was not waived.

4 56. During the relevant time period, Plaintiff and class members did not receive
5 compliant meal periods for each five hours worked per day.

6 57. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order require
7 an employer to pay an employee one additional hour of pay at the employee's regular rate of
8 compensation for each work day that a meal period is not provided.

9 58. At all relevant times, Defendants failed to pay Plaintiff and class members meal
10 period premiums for meal period violations pursuant to Labor Code § 226.7(b) and section 11
11 of the applicable IWC Wage Order.

12 59. As a result of Defendants' failure to pay Plaintiff and class members an
13 additional hour of pay for each day a meal period was not provided, Plaintiff and class members
14 suffered and continue to suffer a loss of wages and compensation.

15 **FOURTH CAUSE OF ACTION**

16 **FAILURE TO PERMIT REST BREAKS**

17 **(Violation of Labor Code §§ 226.7; Violation of IWC Wage Order § 12)**

18 60. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
19 though fully set forth herein.

20 61. Labor Code § 226.7(a) provides that no employer shall require an employee to
21 work during any rest period mandated by the IWC Wage Orders.

22 62. Section 12 of the applicable IWC Wage Order states "every employer shall
23 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
24 the middle of each work period" and the "authorized rest period time shall be based on the total
25 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
26 fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

27 63. During the relevant time period, Plaintiff and class members did not receive a ten
28 (10) minute rest period for every four (4) hours or major fraction thereof worked.

64. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires an employer to pay an employee one additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

65. At all relevant times, Defendants failed to pay Plaintiff and class members rest period premiums for rest period violations pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order.

66. As a result of Defendants' failure to pay Plaintiff and class members an additional hour of pay for each day a rest period was not provided, Plaintiff and class members suffered and continue to suffer a loss of wages and compensation.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

(Violation of Labor Code §§ 2800, 2802)

67. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

68. Labor Code § 2800 states that an employer shall in all cases indemnify his employee for losses.

69. Labor Code § 2802 requires employers to indemnify their employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

70. Section 9 of the applicable IWC Wage Order states that when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer.

71. During the relevant time period, Defendants required Plaintiff and class members to incur travel expenses without properly compensating them for such expenses.

72. During the relevant time period, Defendants required Plaintiff and class members to store, care for, and maintain its company vehicles, but did not properly reimburse employees for these expenses.

73. During the relevant time period, Defendants required Plaintiff and class members

1 to purchase, store, and maintain their own tools, which were necessary for the trade and typically
2 provided by the employer, but failed to pay Plaintiff and other class members at two (2) times the
3 minimum wage for all hours worked.

4 74. In violation of Labor Code §§ 2800 and 2802, Defendants failed to indemnify
5 Plaintiff and class members for these expenses.

6 75. In committing the violations as herein alleged, Defendants have intentionally and
7 willfully failed to fully reimburse Plaintiff and class members for necessary business-related
8 costs and expenses. As a direct result, Plaintiff and class members have suffered and continue to
9 suffer substantial losses relating to the use and enjoyment of such compensation, wages,
10 expenses, and attorney's fees.

11 **SIXTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

13 **(Violation of Labor Code § 226)**

14 76. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
15 though fully set forth herein.

16 77. Labor Code § 226(a) requires Defendants to provide each employee with an
17 accurate wage statement in writing showing nine pieces of information, including: (1) gross
18 wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
19 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
20 deductions, provided that all deductions made on written orders of the employee may be
21 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period
22 for which the employee is paid, (7) the name of the employee and the last four digits of his or
23 her social security number or an employee identification number other than a social security
24 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
25 hourly rates in effect during the pay period and the corresponding number of hours worked at
26 each hourly rate by the employee.

27 78. During the relevant time period, Defendants have knowingly and intentionally
28 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff

1 and class members. The deficiencies include, among other things, the failure to correctly state
2 accurate inclusive dates of the pay period for Plaintiff and class members.

3 79. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiff
4 and class members have suffered injury and damage to their statutorily protected rights.
5 Specifically, Plaintiff and class members have been injured by Defendants' intentional
6 violation of California Labor Code § 226(a) because they were denied both their legal right to
7 receive, and their protected interest in receiving, accurate itemized wage statements under
8 California Labor Code § 226(a). Plaintiff has had to file this lawsuit in order to determine the
9 extent of the underpayment of wages, thereby causing Plaintiff to incur expenses and lost time.
10 Plaintiff would not have had to engage in these efforts and incur these costs had Defendants
11 provided the accurate wages earned. This has also delayed Plaintiff's ability to demand and
12 recover the underpayment of wages from Defendants.

13 80. California Labor Code § 226(a) requires an employer to pay the greater of all
14 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
15 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
16 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
17 comply with California Labor Code § 226(a).

18 81. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff
19 and class members from knowing, understanding and disputing the wages paid to them, and
20 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'
21 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiff and
22 class members have suffered an injury, and the exact amount of damages and/or penalties is all
23 in an amount to be shown according to proof at trial.

24 82. Plaintiff and class members are also entitled to injunctive relief under California
25 Labor Code § 226(h), compelling Defendants to comply with California Labor Code § 226, and
26 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SEVENTH CAUSE OF ACTION
FAILURE TO TIMELY PAY ALL WAGES OWED AND WITHIN THE REQUIRED
TIME
(Violation of Labor Code § 204)

83. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

84. California Labor Code § 204 provides that all wages earned by any person in any employment between the first and fifteenth days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth and the twenty-sixth day of the month during which the labor was performed. All wages earned by any person in any employment between the sixteenth and the last day, inclusive, of any calendar month, other than wages due upon termination of an employee, are due and payable between the first and the tenth day of the following month.

85. California Labor Code § 204 also provides that 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.

86. As a result of Defendant’s intentional and willful failure to pay Plaintiff and other class members all wages due to them – as more fully detailed in the sections above -- within the time period permissible under California Labor Code § 204, Plaintiff and the other class members have suffered an injury, and the exact amount of damages and/or penalties is all in an amount to be shown according to proof at trial.

87. Accordingly, Plaintiff and the other class members are entitled to recover all remedies available for Defendants’ violations of California Labor Code § 204.

EIGHTH CAUSE OF ACTION
FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT AND
WITHIN THE REQUIRED TIME
(Violation of Labor Code §§ 201, 202 and 203)

88. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as

1 though fully set forth herein.

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

8 90. During the relevant time period, Defendants willfully failed to pay Plaintiff and
9 Waiting Time Subclass members all their earned wages upon termination including, but not
10 limited to, proper minimum wages and overtime compensation, either at the time of discharge
11 or within seventy-two (72) hours of their leaving Defendants' employ.

12 91. Defendants' failure to pay Plaintiff and Waiting Time Subclass members all
13 their earned wages at the time of discharge or within seventy-two (72) hours of their leaving
14 Defendants' employ is in violation of Labor Code §§ 201 and 202.

15 92. California Labor Code § 203 provides that if an employer willfully fails to pay
16 wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201
17 and 202, then the wages of the employee shall continue as a penalty from the due date at the
18 same rate until paid or until an action is commenced; but the wages shall not continue for more
19 than thirty (30) days.

20 93. Plaintiff and Waiting Time Subclass members are entitled to recover from
21 Defendants the statutory penalty which is defined as Plaintiff's and Waiting Time Subclass
22 members' regular daily wages for each day they were not paid, at their regular hourly rate of
23 pay, up to a thirty (30) day maximum pursuant to Labor Code § 203.

24 **NINTH CAUSE OF ACTION**

25 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

26 94. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
27 though fully set forth herein.

28 95. Defendants' conduct, as alleged herein, has been and continues to be unfair,

1 unlawful and harmful to Plaintiff and class members. Plaintiff seek to enforce important rights
2 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

3 96. Defendants' activities, as alleged herein, violate California law and constitute
4 unlawful business acts or practices in violation of California Business and Professions Code
5 §§ 17200, *et seq.*

6 97. A violation of Business and Professions Code §§ 17200, *et seq.* may be
7 predicated on the violation of any state or federal law.

8 98. Defendants' policies and practices have violated state law in at least the
9 following respects:

- 10 (a) Failing to pay Plaintiff and other class members at least the legal
11 minimum wage, regular wages, or the applicable double-time and
12 overtime wages for all hours worked, as a result of unpaid off-the-clock
13 work, failing to compensate employees for providing and maintaining
14 necessary tools for the trade, and it's improper rounding of employees
15 time punches to the benefit of the employer, in violation of Labor Code
16 §§ 510, 558, 1182.12, 1194, 1194.2, 1197, 1198, and §9(B) of the
17 applicable wage order.
- 18 (b) Failing to pay all overtime wages at the proper rate to Plaintiff and class
19 members in violation of Labor Code §§ 510, 1194 and 1198;
- 20 (c) Failing to provide timely, complaint meal periods without paying
21 Plaintiff and class members premium wages for every day said meal
22 periods were not provided in violation of Labor Code §§ 226.7 and 512;
- 23 (d) Failing to authorize or permit rest breaks without paying Plaintiff and
24 class members premium wages for every day said rest breaks were not
25 authorized or permitted in violation of Labor Code § 226.7;
- 26 (e) Failing to reimburse Plaintiff and class members for necessary business
27 expenses, in violation of Labor Code §§ 2800 and 2802;
- 28 (f) Failing to provide Plaintiff and class members with accurate itemized

wage statements in violation of Labor Code § 226;

(g) Failing to maintain accurate payroll records for Plaintiff and the other class members, in violation of Labor Code §1174;

(h) Failing to timely pay all wages owed to Plaintiff and other class members, in violation of Labor Code § 204; and

(h) Failing to timely pay all earned wages to Plaintiff and Waiting Time Subclass members upon separation of employment in violation of Labor Code §§ 201, 202 and 203.

99. Defendants intentionally avoided paying Plaintiff and class members' wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to undercut their competitors and establish and gain a greater foothold in the marketplace.

100. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiff and class members are entitled to restitution of the wages unlawfully withheld and retained by Defendants during a period that commences four years prior to the filing of the Complaint; an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

TENTH CAUSE OF ACTION

ENFORCEMENT OF LABOR CODE §§ 2698, ET SEQ. ("PAGA")

101. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as though fully set forth herein.

102. Plaintiff hereby incorporates by reference the allegations from Plaintiff's PAGA violation notice letter as though fully set forth herein. A true and correct copy of Plaintiff's January 12, 2021 PAGA violation notice letter to the LWDA is attached hereto as **Exhibit A**.

103. Pursuant to Labor Code § 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 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the Labor Code may, as an alternative, be recovered through a civil action brought by

1 an aggrieved employee on behalf of himself or herself and other current or former employees
2 pursuant to the procedures specified in Labor Code § 2699.3.

3 104. For all provisions of the Labor Code except those for which a civil penalty is
4 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
5 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
6 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
7 period in which Defendants violated these provisions of the Labor Code.

8 105. The following sections of the Labor Code include those violated by Defendants
9 and those upon which Plaintiff seeks the recovery of civil penalties:

- 10 a. Labor Code §§ 201-203, 204, 210, 510, 558, 1182.12, 1194, 1194.2, 1197,
11 and 1198 for failure to timely pay all earned wages (including minimum,
12 regular, double-time, and applicable overtime wages) owed to Plaintiff
13 and other aggrieved employees during employment and upon separation of
14 employment as herein alleged;
- 15 b. Labor Code §§ 510, 1194 and 1198 for failing to pay Plaintiff and other
16 class members at the correct overtime rate of pay;
- 17 c. Labor Code §§ 226.7 and 512 for failure to provide meal periods to
18 Plaintiff and other aggrieved employees and failure to pay premium wages
19 for missed meal periods as herein alleged;
- 20 d. Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other
21 aggrieved employees and failure to pay premium wages for missed rest
22 periods as herein alleged;
- 23 e. Labor Code §§ 2800 and 2802 for failure to reimburse necessary business
24 expenses to Plaintiff and other aggrieved employees as herein alleged;
- 25 f. Labor Code § 226 and 226.3 for failure to provide accurate itemized wage
26 statements to Plaintiff and other aggrieved employees as herein alleged;
27 and
28

1 g. Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and
2 complete records showing, among other things, the hours worked daily by
3 and the wages paid to aggrieved employees.

4 106. Plaintiff is an “aggrieved employee” because he was employed by the alleged
5 violator and had one or more of the violations committed against him, and therefore is properly
6 suited to represent the interests of all other aggrieved employees.

7 107. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as
8 to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all
9 other aggrieved employees under PAGA.

10 108. Pursuant to Labor Code §§ 2699(a), 2699.3, and 2699.5, Plaintiff is entitled to
11 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
12 cited above.

13 109. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
14 herein.

15 **PRAYER FOR RELIEF**

16 Plaintiff, on his own behalf and on behalf of all others similarly situated, prays for relief
17 and judgment against Defendants, jointly and severally, as follows:

18 1. For certification of this action as a class action, including certifying the Class
19 and Subclass(es) alleged by Plaintiff;

20 2. For appointment of Victor Flores as the class representative;

21 3. For appointment of Aegis Law Firm, PC, as class counsel for all purposes;

22 4. For compensatory damages in an amount according to proof with interest
23 thereon;

24 5. For economic and/or special damages in an amount according to proof with
25 interest thereon;

26 6. For reasonable attorneys’ fees, costs of suit and interest to the extent permitted
27 by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e), 1194,
28 and 2698, *et seq.*;

1 7. For statutory penalties to the extent permitted by law, including those pursuant
2 to the Labor Code and IWC Wage Orders;

3 8. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

4 9. For an order requiring Defendants to restore and disgorge all funds to each
5 employee acquired by means of any act or practice declared by this Court to be unlawful, unfair
6 or fraudulent and, therefore, constituting unfair competition under Business and Professions
7 Code §§ 17200, *et seq.*;

8 10. For an award of damages in the amount of unpaid compensation including, but
9 not limited to, unpaid wages, benefits and penalties, including interest thereon;

10 11. For pre-judgment interest;

11 12. For civil penalties; and

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

13
14 Dated: March 22, 2021

AEGIS LAW FIRM, PC

15
16 By: _____

Jessica L. Campbell

Alexander G.L. Davies

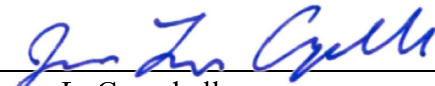
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

Dated: March 22, 2021

AEGIS LAW FIRM, PC

By: 

Jessica L. Campbell

Alexander G.L. Davies

Attorneys for Plaintiff

EXHIBIT A



AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: 949.379.6250
Facsimile: 949.379.6251
www.aegislawfirm.com

January 12, 2021

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
Private Attorneys General Act (PAGA) – Filing

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Agent for Service of Process for ACCO Engineered Systems, Inc.
Registered Agent Solutions, Inc. (C2392069)
1220 S. Street, Ste 150N
Sacramento, CA 95811

Jeffrey R. Marrs
888 East Walnut Street
Pasadena, CA 91101

Re: *Victor Flores v. ACCO Engineered Systems, Inc.*

Dear Labor and Workforce Development Agency and ACCO Engineered Systems, Inc.:

Please allow this correspondence to serve as Amended written notice required by California Labor Code § 2699.3(a)(1) of the specific provisions of the Labor Code allegedly violated by ACCO Engineered Systems, Inc. (“ACCO” or “Defendant”), and additional facts and theories in support of said allegations. This firm represents Victor Flores (“Claimant”). We hereby notify you that Claimant intends to seek penalties against ACCO under the Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698 *et seq.*, on behalf of himself and all other aggrieved employees.

Specific Provisions of the California Labor Code Allegedly Violated by ACCO

The specific provisions of the Labor Code allegedly violated by ACCO include the following: §§ 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and the applicable Wage Order. Claimant seeks to amend this notice and the complaint he filed in the Superior Court to add more information regarding the previously alleged violations and to add violations for ACCO’s failure to pay minimum wages; failure to reimburse business expenses or alternatively to compensate aggrieved employees twice the minimum wage, despite requiring employees to provide and maintain tools typically provided by the employer and necessary to the trade; ACCO’s failure to pay Claimant and other aggrieved employees for required off-the-clock work; and ACCO’s failure to compensate Claimant and aggrieved employees for time traveling between service locations.

Facts and Theories Supporting the Allegations Against ACCO

Claimant and other aggrieved employees worked for ACCO as non-exempt employees in California. The aggrieved employees include all non-exempt employees of ACCO in California from one year prior to the date Claimant sent his original PAGA letter through the present and continuing until judgment or other resolution of the claims.

Claimant was employed by ACCO as a non-exempt employee in California within the past year. Specifically, Claimant worked as a Certified Journey Pipe-fitter, primarily in commercial buildings. At least some aggrieved employees worked in groups of 7-8 employees, spread among ACCO's California locations, and working under the direction of an area supervisor. Claimant's responsibilities included, among other things, servicing the company's machinery, exhaust fans, supply fans, package units, chillers, walk-in freezers, refrigeration units, residential air-conditioning, thermostats, fans, pumps, boilers, in addition to electrical work, plumbing, molding sheet metal, welding, and HVAC work. Other aggrieved employees (including but not limited to journeyman pipe-fitters, tradesmen, apprentices and general foremen) performed similar work as Claimant, but with varying degrees of expertise and supervision. Claimant is informed and believed ACCO employed aggrieved employees in additional positions who were also subject to ACCO's wage and hour practices and at least some of the violations described below. Due to their numerous responsibilities and ACCO's high-volume work environment, Claimant and other aggrieved employees were routinely forced to work through their rest breaks and meal periods.

Throughout the course of Claimant's employment, ACCO failed to provide meal periods for each five hours of work to Claimant and other aggrieved employees as required by Labor Code Section 512 and section 11 of the applicable Wage Order. Claimant and other aggrieved employees frequently worked shifts over five hours and did not receive lawful meal periods because they were interrupted during their meal periods and/or were not scheduled to be relieved by other employees at the appropriate intervals to receive lawful meal periods. As a result, their meal periods were missed, late, short, and/or interrupted. For example, ACCO routinely called Claimant and other aggrieved employees on their lunch breaks to obtain updates regarding their progress on daily tasks and to coordinate about additional assignments. Thus, the lunch breaks were interrupted for work purposes. Even after Claimant reported these issues to his Supervisor, and after informing callers he was on a break, ACCO required Claimant and aggrieved employees to respond in real-time and issued reprimands for untimely responses. Claimant and aggrieved employees were effectively required to be on call and thus on-duty and work through their lunch periods without pay for the time spent working during those lunch periods or meal period premiums for the lunch break violations. As a result of ACCO's busy work schedule and desire to schedule more appointments in one day, Claimant and other aggrieved employees experienced short or interrupted meals multiple times per week. This busy work schedule and the interruptions also routinely delayed Claimant's and aggrieved employees' lunch periods until the sixth or seventh hour of the work day. Moreover, as a result of ACCO's demanding work schedule, Claimant and other aggrieved employees routinely missed meal periods. Claimant believes meal periods may have been rounded in the employer's favor and/or automatically deducted from pay as well. When Claimant and other aggrieved employees worked over 10 hours in a shift, they were entitled to a second meal period, but were not provided a second meal period for the same reasons stated herein. When Claimant and other aggrieved employees suffered meal period violations, ACCO violated Labor Code

Sections 226.7 and 512, as well as section 11 of the applicable Wage Order, by failing to pay an additional hour of pay at the regular rate of pay to Claimant and other aggrieved employees.

Further, ACCO failed to pay Claimant and other aggrieved employees at least the legal minimum wage, regular wages, or the applicable overtime wage for all hours worked during required off-the-clock work (in violation of Labor Code sections 510, 558, 1182.12, 1194, 1194.2, 1197, and 1198) due to ACCO's illegal practice of requiring Claimant and aggrieved employees to work through their meal periods without proper pay, not paying Claimant and aggrieved employees for travel time between service locations, and failing to compensate aggrieved employees for required off-the-clock work after hours (including the transportation and storage of ACCO's company vehicles, routinely requiring aggrieved employees to complete paperwork after clocking out but before being allowed to stop working, and requiring aggrieved employees to be "on call" 24 hours a day over one-week periods on a regular basis every seven to eight weeks but only compensating aggrieved employees with an additional \$125 of pay. Additionally, ACCO violated section 9(B) of the applicable wage order by failing to pay aggrieved employees at least two (2) times the applicable minimum wage rate to aggrieved employees who were required to provide and maintain hand tools and equipment customarily provided by the employer and required for the employees' trade (including general laborers tools and specialized equipment for ACCO's projects on commercial buildings). To the extent such unpaid work entitled employees to pay at the legal minimum wage rate, regular rate, or at the overtime rate of pay, ACCO failed to pay Claimant and other aggrieved the required wages for this work.

ACCO's requirement that aggrieved employees buy their own hand tools also violated Labor Code sections 2800 and 2802 and the applicable Wage Order. ACCO required aggrieved employees to provide and maintain hand tools and equipment customarily provided by the employer and required for the employees' trade (including general laborers tools and specialized equipment for ACCO's projects on commercial buildings). ACCO was required to reimburse employees for these expenses but failed to do so, instead requiring employees to buy and maintain the tools in order to keep their jobs.

Further, throughout the course of Claimant's employment, ACCO failed to pay the proper overtime rate by failing to include non-discretionary bonuses or other incentive payments in calculating Claimant and aggrieved employees' overtime rate (in violation of Labor Code Sections 510, 1194, and 1198). For example, Claimant's Statement of Earnings & Deductions dated December 27, 2019 shows that Claimant earned a \$32.50 Christmas Bonus ("XMAS Bonus") but with no adjustment to the applicable overtime rate. Claimant and aggrieved employees regularly received bonuses or other incentive pay such that they became an expected part of their annual compensation, but ACCO failed to adjust the overtime rate to include these non-discretionary payments.

Additionally, throughout the course of Claimant's employment, ACCO failed to authorize or permit ten-minute (10) rest periods for every four (4) hours or major fraction thereof worked. Claimant and other aggrieved employees were not authorized to take their rest periods at the appropriate time intervals. For example, as a result of ACCO's high volume work environment and demands place upon aggrieved employees, Claimant was not able to take full 10-minute rest breaks. As described above regarding meal periods, Claimant and aggrieved employees were constantly on call during the day such that they had to remain available by phone to respond to

inquiries from ACCO, and as a result were not relieved of duty for rest breaks. As another example, Claimant was scheduled for a minimum of 80 hours of scheduled service calls per month, in addition to his daily service calls; due to the number of jobs Claimant had to accomplish, and the limited hours in the day, Claimant did not have enough time to take his required breaks. Moreover, when Claimant and other aggrieved employees worked over 10 hours in a day, ACCO did not provide Claimant or other aggrieved employees with a third 10-minute rest break for the same reasons listed above. When Claimant and other aggrieved employees did not receive rest breaks, ACCO violated Labor Code Section 226.7 and section 12 of the applicable Wage Order by failing to pay an additional hour of pay at the regular rate of pay to Claimant and other aggrieved employees.

As a result of, and in addition to, these actions, ACCO violated Labor Code sections 226 and 226.3 by failing to provide itemized wage statements that accurately reported the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Specifically, at least some paystubs contained incorrect or incomplete pay period dates, among other violations. In one paystub from October 16, 2019, there is a pay period end date in October of 2019 and a check date but no pay period start date. As another example, the same paystub shows confusing information: there are dates listed with “STD” and the number 2 or 4 by each date, but it is unclear what the numbers and “STD” mean. To the extent this may refer to hours worked, it does not meet the requirements to show the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. In fact, it appears to show that Claimant worked more than 40 hours but he apparently was only paid for 40 hours with no overtime pay. Moreover, there is no section on the paystub listing the total hours worked and the “STD” section include a negative number, making it unclear if that number should be subtracted, and there are multiple entries for the same day making it unclear if those numbers represent multiple shifts on the same day or duplicate entries. Further, the paystub appears to show 40 hours of work at a rate of \$53.10 but it also shows the number 1.00 without indicating what this number means. Is this really piece rate pay for 1 unit of work but with no number of pieces or piece rate for each piece listed? Does the 1.00 indicate a certain type of work? Additionally, the word “ROUND OFF” is listed below the number 1.00 and 1.50. It is unclear what this term indicates. To the extent it indicates hours are illegally rounded off, Claimant and aggrieved employees have an additional claim for unpaid wages due to illegal rounding of time punches.

As another example of paystub violations, Claimant uses his paystubs dated November 20, 2019. Again, there is no pay period start date listed. The paystub includes the “STD” section again with dates and number but that section also includes amount of money this time, one entry from 11/14/19 coincides with \$36.79. Another entry from 11/17/19 coincides with \$120.00. Given these consistencies between paystubs, Claimant believes aggrieved employees were issued similar paystubs with violations.

Furthermore, ACCO failed to properly pay all wages owed throughout Claimant and other aggrieved employees' employment and following the end of these workers' employment due to the unpaid wage violations described above (in violation of Labor Code Sections 201-204, and 210). ACCO further violated Labor Code Sections 1174 and 1174.5 by failing to maintain accurate and complete records showing the proper overtime rate of pay and hours of work due to the violations described above regarding off-the-clock work.

Based on these violations, and any predicate violations subsequently discovered, Claimant seeks attorneys' fees, interest, and penalties under the Labor Code. Attached hereto and incorporated herein is the class action complaint Claimant filed on behalf of himself and all other aggrieved employees against ACCO. Claimant intends to amend the complaint to include more details in his cause of action pursuant to Labor Code §§ 2698, *et seq.*, after the minimum required review period elapses.

Thank you for your assistance on this issue. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very truly yours,

AEGIS LAW FIRM, PC

A handwritten signature in black ink, appearing to read 'Alex Davies', written over the printed name.

Alexander G.L. Davies

Enclosure:
Class Action Complaint

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and
4 my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

5 On March 22, 2021, I served the foregoing document entitled:

6 • **SECOND AMENDED CLASS ACTION COMPLAINT**

7 on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true
8 copy thereof on the party(ies) addressed below as follows:

9 Richard A. Leasia
10 Benjamin A. Emmert
11 LITTLER MENDELSON, P.C.
12 50 W. San Fernando, 7th Floor
13 San Jose, CA 95113-2303
14 Telephone: 408.998.4150
15 Facsimile: 408.288.5686
16 rleasia@littler.com
17 bemmert@littler.com

18 *Attorneys for Defendant:*

19 ACCO ENGINEERED SYSTEMS, INC.

20 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
21 correspondence for mailing. Under that practice it would be deposited with the U.S.
22 Postal Service on that same day with postage thereon fully prepaid at Irvine, California
23 in the ordinary course of business. I am aware that on motion of the party served, service
24 is presumed invalid if postage cancellation date or postage meter date is more than one
25 day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc.* § 1013(a); *Fed.*
26 *R. Civ. Proc.* 5(a); *Fed. R. Civ. Proc.* 5(c).)

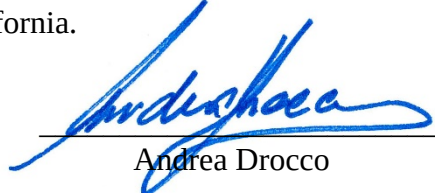
27 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
28 practice of Aegis Law Firm PC for collection and processing correspondence for
overnight delivery, and I caused such document(s) described herein to be deposited for
delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal*
Code Civ. Proc. § 1013(c); *Fed. R. Civ. Proc.* 5(c).)

☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
electronic transmission via the above listed email addresses on the date below. (*Cal.*
Code Civ. Proc. § 1010.6(6); *Fed. R. Civ. Proc.* 5(b)(2)(E); *Fed. R. Civ. Proc.* 5(b)(3).)

☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to
the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.*
5(b)(2)(A).)

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Executed on March 22, 2021, at Irvine, California.


Andrea Drocco