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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 MATTHEW CARROLL and EDUARDO  
AVILA, individually and on behalf all other  
12 aggrieved employees of DEFENDANTS in the  
State of California,

13 Plaintiffs,

14 vs.

15 AMERICAN RECLAMATION, INC. a  
16 California Corporation; JOHN R.  
GASPARIAN, an individual; DOES 1 through  
17 50, inclusive,

18 Defendants.

Case No. 20STCV20699

Judge: Hon. Mark V. Mooney  
Dept.: 68

**FIRST AMENDED 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)
11. Failure to Comply with Labor Code §§ 226 and 1198.5 – Failure to Produce Wage Statements and Personnel File

**DEMAND FOR JURY TRIAL**

Complaint filed: June 2, 2020  
Trial date: Not set.

**NATURE OF ACTION**

1. Plaintiffs MATTHEW CARROLL (“CARROLL”) and EDUARDO AVILA (“AVILA”) (collectively “Plaintiffs”) bring 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 themselves 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. Plaintiffs bring 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, Plaintiffs bring 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.

1           5.       Plaintiffs are informed and believe and based thereon allege that Defendants,  
2 jointly and severally, have acted intentionally and with deliberate indifference and conscious  
3 disregard to the rights of all employees. Defendants' systematic pattern of wage and hour and  
4 IWC Wage Order violations toward Plaintiffs and other Aggrieved Employees include, *inter alia*:  
5               a.   Failure to provide compliant meal and rest periods;  
6               b.   Failure to pay all minimum, regular, and overtime wages;  
7               c.   Failure to reimburse for all business expenses;  
8               d.   Failure to maintain true and accurate records;  
9               e.   Failure to provide accurate itemized wage statements; and  
10              f.   Failure to timely pay wages due during and upon separation of employment.

11           6.       Plaintiffs bring this lawsuit against Defendants seeking restitution, declaratory  
12 judgment, injunctive relief, and monetary relief on behalf of themselves and all other Aggrieved  
13 Employees of Defendants in California. Plaintiffs seek to recover, *inter alia*, unpaid wages,  
14 unreimbursed expenses, interest, attorney's fees, damages, liquidated damages, penalties, and  
15 costs pursuant to Labor Code sections 201, 202, 204, 210, 223, 225.5, 226, 226.3, 226.7, 510, 512,  
16 558, 98.6, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, California Business and  
17 Professions Code section 17200, *et seq.*, and the provisions of the applicable IWC Wage Order.

18           7.       Plaintiffs reserve the right to name additional representatives throughout the State  
19 of California.

20                               **PARTIES, THEIR AGENTS AND JOINT LIABILITY**

21           8.       Plaintiff CARROLL was employed by Defendants as a non-exempt employee in  
22 the position of laborer from October 8, 2019 to November 27, 2019 and paid on an hourly basis.  
23 Plaintiff AVILA was employed by Defendants as a non-exempt employee in the position of  
24 laborer from November 2017 through August 2019 and paid on an hourly basis. Plaintiff  
25 CARROLL worked at various locations including Defendants' yard in located in Los Angeles,  
26 California and trash routes in and around the Los Angeles area. Plaintiff AVILA worked at  
27 Defendants' yard.

1           9.       Plaintiffs are “aggrieved employees” within the meaning of Labor Code section  
2 2699(c) because they were employed by Defendants and suffered one or more of the violations  
3 committed by Defendants.

4           10.     At all relevant times herein, Plaintiffs were residents and now are individuals  
5 residing in the County of Los Angeles, State of California.

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

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

17           13.     Plaintiffs are informed and believe, and based thereon allege, that Defendant  
18 GASPARIAN is a California resident who owns, operates, and/or manages Defendant ARI, the  
19 company at issue in this lawsuit. On information and belief, and based thereon alleged, Defendant  
20 GASPARIAN is a resident of the County of Los Angeles in the State of California.

21           14.     The true names and capacities, whether corporate, associate, individual or  
22 otherwise of defendants DOES 1 through 50, inclusive, are unknown to Plaintiffs, who therefore  
23 sue said defendants by such fictitious names pursuant to California Code of Civil Procedure § 474.  
24 Each of the defendants designated herein as a DOE is negligently or otherwise legally responsible  
25 in some manner for the events and happenings herein referred to and caused injuries and damages  
26 proximately thereby to Plaintiffs and based on information and belief, and based thereon alleged,  
27 to other Aggrieved Employees, as herein alleged. Plaintiffs are informed and believe and thereon  
28 allege that each of said fictitious Defendants were responsible in some way for the matters alleged

herein and proximately caused Plaintiffs and members of the general public and other Aggrieved Employees to be subject to the illegal employment practices, wrongs and injuries complained of herein. Plaintiffs will ask leave of court to amend this Complaint to show their names and capacities when the same have been ascertained.

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

16. Unless otherwise indicated herein, each Defendant herein sued is the agent, co-conspirator, joint venture, partner, and/or employee of every other Defendant and, as alleged, has been acting within the course and scope of said agency, conspiracy, joint venture, partnership, and/or employment, with the knowledge and/or consent of co-Defendants, and each of them. Moreover, Plaintiffs are informed and believe and thereon allege that each Defendant has authorized and/or ratified the wrongful activities of each of the remaining Defendants and their agents.

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

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

19. Plaintiffs are informed and believe and thereon allege that at all times herein mentioned Defendants and DOES 1 through 50, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

20. Plaintiffs are informed and believe and based thereon allege that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or

1 joint venturer of, or working in concert with each of the other co-Defendants and was acting  
2 within the course and scope of such agency, employment, joint venture, or concerted activity. To  
3 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the  
4 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting  
5 Defendants.

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

9 22. At all times herein mentioned, the acts and omissions of various Defendants, and  
10 each of them, concurred and contributed to the various acts and omissions of each and all of the  
11 other Defendants in proximately causing the injuries and damages as herein alleged. At all times  
12 herein mentioned, Defendants, and each of them, ratified each and every act or omission  
13 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and  
14 abetted the acts and omissions of each and all of the other Defendants in proximately causing the  
15 damages as herein alleged.

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

23 24. Plaintiffs are informed and believe, and based thereon allege, that each and all of  
24 the acts and omissions alleged herein were performed by, or are attributable to, Defendants, each  
25 acting as the agent for the other, with legal authority to act on the other's behalf. The acts of any  
26 and all Defendants were in accordance with, and represent the official policies of Defendant ARI.

27 25. Defendants, including DOES 1 THROUGH 50, were Plaintiffs' employers or  
28 persons acting on behalf of Plaintiffs' employer, within the meaning of California Labor Code

1 section 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California  
2 Labor Code or any provision regulating hours and days of work in any order of the Industrial  
3 Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as  
4 set forth in Labor Code section 558, at all relevant times.

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

10 **JURISDICTION AND VENUE**

11 27. The California Superior Court has jurisdiction over this action pursuant to  
12 California Constitution Article VI, Section 10, which grants the Superior Court original  
13 jurisdiction in all causes except those given by statute to other trial courts. The statutes under  
14 which this action is brought do not specify any other basis for jurisdiction. The Superior Court of  
15 California has jurisdiction over this matter pursuant to the California Labor Code and the  
16 California Business & Professions Code. The Court also has subject-matter jurisdiction to hear  
17 this case because Plaintiffs are informed and believe that the monetary damages and restitution  
18 sought herein for Defendants' conduct exceeds the minimum jurisdictional limits of the Superior  
19 Court.

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

25 29. Venue is proper in this Court pursuant to Code of Civil Procedure sections 395(a)  
26 and 395.5 because Defendants reside, maintain their principal California offices, transact business,  
27 and/or have an agent in Los Angeles County and Defendants are otherwise within this Court's  
28

jurisdiction for purposes of service of process. On information and belief, Defendants employ numerous individuals throughout Los Angeles County in the State of California.

**GENERAL ALLEGATIONS**

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

31. Defendants employed Plaintiff CARROLL as a non-exempt employee in the position of a laborer from October 8, 2019 to November 27, 2019 and paid on a hourly basis. Defendants employed Plaintiff AVILA as a non-exempt employee in the position of a laborer from November 2017 to August 2019 and paid on a hourly basis. Plaintiffs and, on information and belief, other Aggrieved Employees regularly worked more than eight hours a day and/or more than forty hours a week.

32. Defendants employed Plaintiff CARROLL in various non-exempt tasks throughout his employment such as wood-chipper in the recycling yard and helper. In the helper role, Plaintiff CARROLL cleaned in and around the wood-chipping machine in the yard. Plaintiff CARROLL was also assigned to trash routes and paired with a driver on a garbage truck. When assigned to trash runs on the garbage truck, a driver would drive the truck to various commercial locations and Plaintiff CARROLL would act as the laborer. When they would arrive at their desired location, Plaintiff CARROLL 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. Plaintiff CARROLL generally worked thirteen to fourteen hours a day and six days a week at all times during his employment. Plaintiff CARROLL worked at various locations including Defendants' yard located in Los Angeles, California and trash routes in and around the Los Angeles area. Defendants employed Plaintiff AVILA in a lead role, which was also a non-exempt position, in the recycling yard. Plaintiff AVILA generally worked 8 to 12 hours a day and fixe to six days a week at all times during his employment.

33. Defendants denied Plaintiffs and, on information and belief, other Aggrieved Employees certain rights afforded to them under the California Labor Code and the Industrial

1 Welfare Commission Wage Orders. Specifically, Defendants failed to provide Plaintiffs and, on  
2 information and belief, other Aggrieved Employees with compliant meal and rest periods, did not  
3 properly compensate Plaintiffs and, on information and belief, other Aggrieved Employees for all  
4 hours worked, failed to maintain accurate records, failed to provide Plaintiffs and, on information  
5 and belief, other Aggrieved Employees with accurate itemized wage statements, paid Plaintiffs  
6 and, on information and belief, other Aggrieved Employees in cash without issuing accurate  
7 itemized wage statements, failed to reimburse Plaintiffs and, on information and belief, other  
8 Aggrieved Employees for all necessary expenses, and failed to pay Plaintiffs and, on information  
9 and belief, other Aggrieved Employees with all wages due and owing by the times set forth by  
10 law. Defendants also did not pay Plaintiffs and, on information and belief, other Aggrieved  
11 Employees the requisite meal and/or rest period premium pay of an additional hour of wages for  
12 missed and/or late meal and/or rest periods. On information and belief, Defendants have a  
13 company-wide policy of never paying Plaintiffs and on information and belief, other Aggrieved  
14 Employees for missed and/or late meal and/or rest periods.

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

18 35. Defendants had a pattern and practice of not providing Plaintiffs and, on  
19 information and belief, other Aggrieved Employees with legally compliant meal periods, even  
20 though Plaintiffs and other Aggrieved Employees worked more than six (6) hours during their  
21 workday, and also had a pattern and practice of not providing Plaintiffs and, on information and  
22 belief, other Aggrieved Employees, with a second legally compliant meal periods, even though  
23 Plaintiffs and other Aggrieved Employees worked more than ten (10) hours during their workday.

24 36. Based on information and belief, and based thereon alleged, Defendants have a  
25 company-wide policy and practice requiring Plaintiff CARROLL and, on information and belief,  
26 other Aggrieved Employees to remain on the garbage truck and keep working and did not provide  
27 Plaintiff CARROLL and, on information and belief, other Aggrieved Employees with the  
28 opportunity to take compliant meal periods throughout their thirteen to fourteen-hour shift when

Defendants assigned Plaintiff CARROLL and, on information and belief, other Aggrieved Employees to work on the garbage trucks on trash routes. As such, when working on the garbage trucks, Plaintiff CARROLL and, on information and belief, other Aggrieved Employees remained on the garbage trucks and kept working and were not provided with compliant meal periods. Moreover, Defendants did not allow Plaintiffs and, on information and belief, other Aggrieved Employees to take a meal period until six (6) to seven (7) hours after starting their shifts. As such, the alleged “meal period” was untimely and not legally compliant because Plaintiffs and, on information and belief, other Aggrieved Employees were not permitted to take an off-duty complaint 30-minute meal period within the first five (5) hours of work.

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

38. Defendants similarly have a pattern and practice of failing to authorize and permit Plaintiffs and, on information and belief, other Aggrieved Employees to take legally compliant rest breaks of at least 10 minutes for every four-hour work period, or major fraction thereof. Based on information and belief, and based thereon alleged, Defendants have a company-wide policy and practice requiring Plaintiff CARROLL and, on information and belief, other Aggrieved Employees 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 Defendants assigned Plaintiff CARROLL and, on information and belief, other Aggrieved Employees to work on the garbage trucks on trash routes. As such, when working on the garbage trucks, Plaintiffs and, on information and belief, other Aggrieved Employees remained on the garbage trucks and kept working and were not provided with compliant rest breaks.

39. Plaintiff CARROLL is informed and believes, and based thereon alleged, Defendants have a company-wide policy and practice of providing Plaintiffs and, on information and belief, other Aggrieved Employees with one 20-minute break at approximately 2:00 p.m. when Defendants assigned Plaintiffs and information and belief, other Aggrieved Employees to

1 work at Defendants' recycling yard but that break was not a legally compliant rest break because  
2 Plaintiffs and on information and belief, other Aggrieved Employees, were not permitted or  
3 authorized to leave the Defendants' work premises during that alleged rest break. Moreover, the  
4 2:00 p.m. minute rest break was untimely because Plaintiffs and on information and belief, other  
5 Aggrieved Employees, started their shifts at 5:00 a.m. or 6:00 a.m. and were not authorized or  
6 permitted to a legally compliant off-duty rest break within the first four hours of work, or major  
7 fraction thereof. Additionally, based on information and belief, and based thereon alleged,  
8 Defendants have a company-wide policy and practice of combining two ten (10) minute rest  
9 breaks to create one unlawful twenty (20) minute allege rest break, which is also unlawful and  
10 violates the Labor Code.

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

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

20 42. Defendants failed to properly pay Plaintiffs and, on information and belief, other  
21 Aggrieved Employees at least minimum, regular and overtime wages owed for all time suffered or  
22 permitted to work, in violation of the Labor Code's overtime provisions. For example, Defendants  
23 had a company practice of not paying Plaintiffs and, on information and belief, other Aggrieved  
24 Employees for work performed or paying employees with pay checks that would bounce due to  
25 insufficient funds or not pay them whatsoever. As a result, Plaintiffs and, on information and  
26 belief, Aggrieved Employees did not receive the statutory minimum wage for all time suffered or  
27 permitted to work because they were not properly compensated, nor did they receive proper  
28

1 overtime compensation for all hours worked after the eight hour of work in a workday and/or forty  
2 hours in a workweek.

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

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

26 45. Plaintiffs and, on information and belief, other Aggrieved Employees of  
27 Defendants incurred expenses in direct consequence of the discharge of their duties of  
28 employment with Defendants, but Defendants failed to adequately reimburse them for such

1 expenses. For example, Plaintiffs and, on information and belief, other Aggrieved Employees  
2 were required to purchase work boots, gloves, protective eyewear, vests and helmets. Despite  
3 Defendants' knowledge that Plaintiffs and, on information and belief, other Aggrieved Employees,  
4 were required to and did incur these expenses, Defendants failed to provide appropriate  
5 reimbursement for these expenses, in violation of Labor Code § 2802.

6 46. To this date, Defendants have not paid Plaintiffs and, on information and belief,  
7 other Aggrieved Employees all wages owed, including all minimum, regular and overtime wages,  
8 as well as all meal and rest period premium wages.

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

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

18 49. Plaintiffs are informed and believe, and based thereon allege, that at all times  
19 herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees  
20 and advisors knowledgeable about: (1) California and federal labor and wage law; (2) employment  
21 and personnel practices; and (3) the requirements of California and federal law.

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

25 51. Defendants knew or should have known that Plaintiffs and the other Aggrieved  
26 Employees were entitled to immediate payment of their wages upon the termination of their  
27 employment.

28

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

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

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

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

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

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

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

59. As a direct result of Defendants' violations alleged herein, Plaintiffs and the other Aggrieved Employees 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.

60. On or around February 11, 2020, Plaintiff AVILA counsel of record sent Defendants a letter pursuant to California Labor Code §§ 226 and 1198.5, requesting Defendants

1 to produce and/or allow him to inspect his wage statements and personnel file (a statutory right).  
2 The letter, along with verification signed by Plaintiff AVILA, was sent to Defendants via Certified  
3 Mail. The letter was sent to the same Defendants address that is listed on Defendants' Secretary of  
4 State filings – 4560 Doran Street, Los Angeles, CA 90039. On March 12, 2020, Defendants  
5 received the letter requesting production of Plaintiff AVILA's wage statements and personnel file.

6 61. DEFENDANTS never responded to the letter and never produced the requested and  
7 required documents. DEFENDANTS has failed to comply with Labor Code §§ 226 and 1198.5,  
8 thereby entitling Plaintiff AVILA to recovery statutory penalties and attorney's fees.

9 **FIRST CAUSE OF ACTION**

10 **Failure to Provide Meal Periods**

11 **(Violation of Labor Code §§ 226.7 and 512)**

12 **[Alleged by Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

13 62. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
14 though set forth herein.

15 63. At all relevant times, Defendants failed in their affirmative obligation to ensure that  
16 Plaintiffs and other Aggrieved Employees, had the opportunity to take and were provided with off-  
17 duty meal periods in accordance with the mandates of the California Labor Code and the  
18 applicable IWC Wage Order. At all relevant times, Plaintiffs and other Aggrieved Employees  
19 were suffered and permitted to work through legally required meal breaks and were denied the  
20 opportunity to take their off-duty meal breaks. This included, without limitation, Defendants  
21 requiring Plaintiffs and the Aggrieved Employees to remain on the garbage truck and keep  
22 working and did not provide Plaintiffs and the Aggrieved Employees with the opportunity to take  
23 compliant meal periods throughout their thirteen to fourteen-hour shift. As such, Defendants are  
24 responsible for paying premium compensation for missed meal periods pursuant to Labor Code§  
25 226.7 and the applicable IWC Wage Order. Defendants, as a matter of corporate policy and  
26 procedure, regularly failed to pay such premium compensation for each meal period Plaintiffs and  
27 the Aggrieved Employees missed.

64. At all relevant times, Plaintiffs 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, Plaintiffs and other Aggrieved Employees who worked in excess of ten (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 Plaintiffs with compliant meal periods and Plaintiffs are informed and believe, and based thereon allege, that Defendants failed to provide this compliant meal periods to the Aggrieved Employees.

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

66. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiffs, 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.

67. Plaintiffs are informed and believe, and based thereon allege, that Defendants' willful failure to provide all meal period premium wages due and owing to Plaintiffs 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, Plaintiffs are 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 Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

68. Plaintiffs restates and incorporates by reference all above stated paragraphs as though set forth herein.

69. Plaintiffs 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, Plaintiffs and the Aggrieved Employees who worked shifts of seven and

1 one-half (7.5) hours or more per day had a right to take a second 10-minute rest period. Plaintiffs  
2 and the Aggrieved Employees who worked shifts of ten hours or more per day had a right to take a  
3 third 10-minute rest period.

4 70. Defendants failed in their affirmative obligation to provide all of their employees,  
5 including Plaintiffs and the Aggrieved Employees, the opportunity to take rest periods in  
6 accordance with the mandates of the California Labor Code and the applicable IWC Wage Order.  
7 Plaintiffs and the Aggrieved Employees were suffered and permitted to work through legally  
8 required rest breaks and were denied the opportunity to take their rest breaks. Again, Defendants  
9 required Plaintiffs and the Aggrieved Employees to remain on the garbage truck and keep working  
10 and were not authorized or permitted to take rest breaks throughout their thirteen to fourteen-hour  
11 shift. Furthermore, Defendants gave one 20-minute break at approximately 2:00 p.m. when  
12 Defendants assigned Plaintiffs and the Aggrieved Employees to work at Defendants' recycling  
13 yard but that break was not a legally compliant rest break because Plaintiffs and the Aggrieved  
14 Employees were not permitted or authorized to leave the Defendants' work premises during that  
15 alleged rest break. Moreover, the 2:00 p.m. minute rest break was untimely because Plaintiffs and  
16 the Aggrieved Employees started their shifts at 5:00 a.m. or 6:00 a.m. and were not authorized or  
17 permitted to a legally compliant off-duty rest break within the first four hours of work, or major  
18 fraction thereof. Additionally, based on information and belief, and based thereon alleged,  
19 Defendants have a company-wide policy and practice of combining two ten (10) minute rest  
20 breaks to create one unlawful twenty (20) minute allege rest break, which is also unlawful and  
21 violates the Labor Code.

22 71. As a pattern and practice, Defendants regularly required employees to work  
23 through their rest periods without proper compensation and denied Plaintiffs and the Aggrieved  
24 Employees the right to take proper rest periods as required by law.

25 72. Such a pattern, practice and uniform administration of corporate policy as described  
26 herein is unlawful and creates an entitlement to recovery by the Plaintiffs, in a civil action, for the  
27 unpaid balance of the unpaid premium compensation pursuant to Labor Code § 226.7, including  
28 interest thereon, penalties and costs of suit.

73. Plaintiffs are informed and believe and based thereon allege that Defendants willfully failed to pay employees who were not provided the opportunity to take rest breaks the premium compensation set out in Labor Code § 226.7 and that Plaintiffs are owed wages for the rest period violations set forth above. Plaintiffs are informed and believe and based thereon allege Defendants' willful failure to provide Plaintiffs the wages due and owing him upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiffs are 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 Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

74. Plaintiffs restates and incorporates by reference all above stated paragraphs as though set forth herein.

75. 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.

76. 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.

77. As a result of Defendants' conduct during the applicable statutory period, Defendants willfully failed to pay Plaintiffs, 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

1 well as all meal period premiums and rest period premiums owed within the time required by  
2 Labor Code §§ 201, 202, and 204 as applicable.

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

8 79. As a direct result of Defendants' violations alleged herein, Plaintiffs suffered and  
9 continue to suffer losses related to the use and enjoyment of wages due and owing to them, all to  
10 their respective damage in an amount to be shown according to proof at trial and within the  
11 jurisdictional limitations of this Court.

12 **FOURTH CAUSE OF ACTION**

13 **Failure to Pay Minimum Wages**

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

15 **[Alleged by Plaintiffs, Individually, Against all Defendants]**

16 80. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
17 though set forth herein.

18 81. This cause of action is brought pursuant to Labor Code §§ 558, 1194, 1197, and  
19 1197.1, which require an employer to pay employees minimum wages for all hours worked less  
20 than eight hours in a day and/or less than 40 hours in a workweek.

21 82. As a pattern and practice, Defendants suffered and permitted employees to work  
22 without payment of minimum wages for all hours worked in a workday and workweek. For  
23 example, Defendants had a company practice of not paying Plaintiffs and the Aggrieved  
24 Employees for work performed or paying them with pay checks that would bounce due to  
25 insufficient funds or not pay them whatsoever. As a result, Plaintiffs and the Aggrieved  
26 Employees did not receive the statutory minimum wage for all time suffered or permitted to work  
27 because they were not properly compensated. Defendant had a uniform corporate pattern and  
28

1 practice and procedure regarding the above practices in violation of Labor Code §§ 558, 1194,  
2 1197 and 1197.1.

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

8 84. Plaintiffs are informed and believe, and based thereon allege, that Defendants'  
9 willful failure to provide all minimum wages due and owing Plaintiffs upon separation from  
10 employment results in a continued payment of wages up to thirty (30) days from the time the  
11 wages were due. Therefore, Plaintiffs are entitled to compensation pursuant to Labor Code § 203.

12 **FIFTH CAUSE OF ACTION**

13 **Failure to Pay Overtime**

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

15 **[Alleged by Plaintiffs, Individually, Against all Defendants]**

16 85. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
17 though set forth herein.

18 86. This cause of action is brought pursuant to Labor Code §§ 510, 558, 1194, and  
19 1197.1, which require an employer to pay employees overtime at a rate of one and one-half the  
20 employee's regular rate of pay for any work in excess of eight hours in a workday or 40 hours in a  
21 workweek.

22 87. As a pattern and practice, Defendant suffered and permitted employees to work in  
23 excess of eight hours in a workday and/or over 40 hours in a workweek without overtime pay. For  
24 example, Defendants had a company practice of not paying Plaintiffs and the Aggrieved  
25 Employees for work performed or paying them with pay checks that would bounce due to  
26 insufficient funds or not pay them whatsoever. As a result, Plaintiffs and the Aggrieved  
27 Employees did not receive the statutory overtime wage for all time suffered or permitted to work  
28

1 because they were not properly compensated. Defendants had a uniform corporate pattern and  
2 practice and procedure regarding the above practices in violation of Labor Code §§ 510 and 1194.

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

8 89. Plaintiffs are informed and believe, and based thereon allege, that Defendants'  
9 willful failure to provide all overtime wages due and owing Plaintiffs upon separation from  
10 employment results in a continued payment of wages up to thirty (30) days from the time the  
11 wages were due. Therefore, Plaintiffs are entitled to compensation pursuant to Labor Code § 203.

12 **SIXTH CAUSE OF ACTION**

13 **Improper Wage Statements**

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

15 **[Alleged by Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

16 90. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
17 though set forth herein.

18 91. Defendant failed in its affirmative obligation to provide accurate itemized wage  
19 statements. Defendant, as a matter of policy and practice, did not provide accurate records in  
20 violation of Labor Code § 226 by failing to provide accurate payroll records for Plaintiffs and the  
21 Class.

22 92. Here, Plaintiffs and the Aggrieved Employees were paid hourly. As such, the wage  
23 statements should have reflected the number of hours worked and the applicable hourly rates,  
24 pursuant to Labor Code § 226(a)(9). Defendants similarly failed to provide Plaintiffs and the  
25 Aggrieved Employees with accurate itemized wage statements. For example, Defendants would  
26 pay Plaintiffs and the Aggrieved Employees in cash without the issuance of wage statements.  
27 Additionally, Defendants violated Labor Code § 226(a) by issuing wage statements that did not  
28 include: (1) the correct total regular and overtime hours worked, (2) the correct amount of gross

1 and net wages earned, and (3) all applicable hourly rates and the corresponding number of hours  
2 worked at each hourly rate, as required under Labor Code section 226. As such, Defendants  
3 violated Labor Code section 226(a) by not providing accurate, itemized wage statements to  
4 Plaintiffs and the Aggrieved Employees by paying cash without providing wage statements, by not  
5 accurately reflecting the hours worked, as well as by not including the premium pay for missed  
6 rest breaks and meal periods on the paystubs.

7 93. Such a pattern, practice and uniform administration of corporate policy as described  
8 herein is unlawful and creates an entitlement to recovery by the Plaintiffs, in a civil action, for all  
9 damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys' fees, and  
10 costs of suit according to the mandate of California Labor Code § 226.

11 **SEVENTH CAUSE OF ACTION**

12 **Failure To Reimburse Business Expenses**

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

14 **[Alleged by Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

15 94. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
16 though set forth herein.

17 95. Labor Code § 2802 requires an employer to indemnify its employees for all  
18 necessary expenditures or losses incurred by an employee in direct consequence of the discharge  
19 of his or her duties of employment.

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

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

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

99. As a direct result of Defendants' violations alleged herein, Plaintiffs 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.

100. Plaintiffs 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 Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

101. Plaintiffs restates and incorporates by reference all above stated paragraphs as though set forth herein.

102. 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

1 hours worked daily by and the wages paid to, and the number of piece-rate units earned by and  
2 any applicable piece rate paid to, employees employed at the respective plants or establishments.”

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

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

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

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

23 **NINTH CAUSE OF ACTION**

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

25 **[Alleged by Plaintiffs, Individually, against all Defendants, except GASPARIAN]**

26 107. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
27 though set forth herein.

1 108. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair  
2 competition, which includes any “unlawful, unfair or fraudulent business act or practice...”

3 109. Defendants, and each of them, have engaged and continue to engage in unfair and  
4 unlawful business practices in California by practicing, employing and utilizing the employment  
5 practices outlined above, include, to wit, by: (i) failure to provide proper meal periods and pay to  
6 Plaintiffs and the Aggrieved Employees premium wages for failure to provide compliant meal  
7 periods; (ii) failure to provide proper rest periods and pay to Plaintiffs and the Aggrieved  
8 Employees premium wages for failure to provide compliant rest periods; (iii) failure to pay  
9 Plaintiffs and the Aggrieved Employees all regular, minimum, and overtime wages for all hours  
10 suffered or permitted to work and under the control of Defendants; (iv) (vi) failure to indemnify  
11 Plaintiffs and the Aggrieved Employees for necessary business expenses incurred in direct  
12 consequence of the discharge of their duties and under the direction of Defendants; (vii) failure to  
13 maintain accurate records of the hours that Plaintiffs and the Aggrieved Employees worked while  
14 employed by Defendants; (viii) failure to provide Plaintiffs and the Aggrieved Employees with  
15 accurate itemized wage statements; and (ix) failure to timely pay Plaintiffs and members of the  
16 Waiting Time Penalties Subclass all wages owed upon separation of their employment with  
17 Defendants.

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

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

24 112. Plaintiffs are informed and believe, and based thereon allege, that at all times  
25 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,  
26 as proscribed by California Business and Professions Code§ 17200, *et seq.*, including those set  
27 forth herein above thereby depriving Plaintiffs the minimum working condition standards and  
28

1 conditions due to them under the California laws and the applicable IWC Wage Orders as  
2 specifically described therein.

3  
4 **TENTH CAUSE OF ACTION**

5 **Violation of Labor Code § 2698, *et seq.***

6 **[Alleged by Plaintiffs, Individually, and On Behalf of the Aggrieved Employees Against all**  
7 **Defendants]**

8 113. Plaintiffs restates and incorporates by reference all above stated paragraphs as  
9 though set forth herein.

10 114. Pursuant to Labor Code section 2699(a), Plaintiff CARROLL seeks civil penalties  
11 on behalf of himself and all other current and former employees of Defendants that worked as  
12 non-exempt employees in California from March 5, 2019 through the present. Pursuant to Labor  
13 Code section 2699(a), Plaintiff AVILA seeks civil penalties on behalf of himself and all other  
14 current and former employees of Defendants that worked as non-exempt employees in California  
15 from April 28, 2020 through the present.

16 115. Defendants employed Plaintiffs and Plaintiffs had one or more of the alleged  
17 violations committed against him. Therefore, Plaintiffs are an “aggrieved employee” under PAGA  
18 because the alleged violators employed him and they had one or more of the alleged violations  
19 committed against them. As such, Plaintiffs are properly suited to represent the interests of other  
20 aggrieved employees in a PAGA Representative action.

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

25 117. For all provisions of the Labor Code for which a civil penalty is not specifically  
26 provided, Labor Code section 2699(f) imposes upon Defendants, and each of them, a penalty of  
27 one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation  
28

1 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each  
2 subsequent violation.

3 118. The Cause of Action alleged herein is appropriately suited for a Labor Code Private  
4 Attorneys General Act of 2004 ("PAGA") action because:

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

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

14 c. Plaintiffs are an "aggrieved employee" because he was employed by the  
15 alleged violators and had one or more of the alleged violations committed against him;

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

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

26 f. On or about April 28, 2020, Plaintiff AVILA satisfied the procedural  
27 requirements of section 2699.3 by serving the LWDA electronically and Defendants via Certified  
28 Mail with his notice for wage and hour violations and penalties, including the facts and theories to

1 support each violation. A true and correct of Plaintiff AVILA's PAGA notice is attached hereto as  
2 **EXHIBIT 2.**

3 g. As of the date of the filing of this Complaint, the LWDA has not informed  
4 Plaintiff AVILA whether the LWDA intends to investigate Plaintiff AVILA's claims. More than  
5 65 days have passed since Plaintiff AVILA served notice via Certified Mail to the LWDA and his  
6 employers. Therefore, Plaintiff AVILA satisfied all the administrative requirements to pursue civil  
7 penalties against Defendants pursuant to Labor Code section 2698, *et seq.*

8 h. Plaintiffs file this action pursuant to Labor Code section 2699(a) and (f), on  
9 behalf of themselves and all other aggrieved employees of Defendants to recover civil penalties,  
10 including unpaid wages, which are to be paid to the affected employees pursuant to Labor Code  
11 sections 558 and 1197.1.

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

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

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

27 119. For bringing this action, Plaintiffs are additionally entitled to attorney's fees and  
28 costs incurred herein.

120. Plaintiffs 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.

**ELEVENTH CAUSE OF ACTION**

**Failure to Comply with Labor Code §§ 226 and 1198.5**

**Failure to Produce Wage Statements and Personnel File**

**[Alleged by Plaintiff AVILA against all Defendants, except GASPARIAN]**

121. Plaintiffs restates and incorporates by reference all above stated paragraphs as though set forth herein.

122. California Labor Code § 226(c) states, in pertinent part: "An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction..." Labor Code § 226(f) states, in pertinent part: "A failure by an employer to permit a current or former employee to inspect or receive a copy of records within the time set forth in subdivision (c) entitles the current or former employee...to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer." Lastly, Labor Code § 226(h) states, "An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees."

123. California Labor Code § 1198.5(a) provides as follows: "Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee." Additionally, Labor Code § 1198.5(b) provides, in pertinent part: "Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records...not later than 30 calendar days from

1 the date the employer receives the request...” Moreover, Labor Code § 1198.5(k) provides, in  
2 pertinent part, “If an employer fails to permit a current or former employee, or his or her  
3 representative to inspect or copy personnel records within the times specified in this section...the  
4 current or former employee...may recover a penalty of seven hundred fifty dollars (\$750) from the  
5 employer.” Lastly, Labor Code § 1198.5(l) states, “A current or former employee may also bring  
6 an action for injunctive relief to obtain compliance with this section, and may recover costs and  
7 reasonable attorney’s fees in such an action.”

8 124. On or around February 11, 2020, Plaintiff AVILA counsel of record sent  
9 Defendants a letter pursuant to California Labor Code §§ 226 and 1198.5, requesting Defendants  
10 to produce and/or allow him to inspect his wage statements and personnel file (a statutory right).  
11 The letter, along with verification signed by Plaintiff AVILA, was sent to Defendants via Certified  
12 Mail. The letter was sent to the same Defendants address that is listed on Defendants’ Secretary of  
13 State filings – 4560 Doran Street, Los Angeles, CA 90039. On March 12, 2020, Defendants  
14 received the letter requesting production of Plaintiff AVILA’s wage statements and personnel file.

15 125. DEFENDANTS never responded to the letter and never produced the requested and  
16 required documents. DEFENDANTS has failed to comply with Labor Code §§ 226 and 1198.5,  
17 thereby entitling Plaintiff AVILA to recovery statutory penalties and attorney’s fees.

18 126. More than 21 and 30 days have passed since Plaintiff AVILA’s request for  
19 Defendants to produce his employment and payroll records. Defendants have failed to comply  
20 with Labor Code §§ 226 and 1198.5, thereby entitling Plaintiff AVILA to recovery statutory  
21 penalties and attorney’s fees and to seek injunctive relief.

22 127. As a result of Defendants’ unlawful conduct, Plaintiff AVILA is entitled to \$750,  
23 and injunctive relief directing Defendants to turn over his personnel records, together with interest,  
24 costs, and attorney’s fees.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs pray for judgment as an individual and on behalf of all others  
27 that this suit is brought against Defendants, jointly and severally, as follows:  
28

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

4                           **As to the First and Second Causes of Action**  
5                           **(Failure to Provide Meal and Rest Periods)**

6           2.       For general unpaid wages and premium wages pursuant to California Labor Code §  
7 226.7 and such general and special damages as may appropriate,

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

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

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

12                           **As to the Third Cause of Action**  
13                           **(Wages Not Paid Upon Termination and By The Appropriate Time Period)**

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

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

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

17                           **As to the Fourth and Fifth Causes of Action**  
18                           **(Failure to Pay Minimum and Overtime Wages)**

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

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

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

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

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

28                           **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 Plaintiffs 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 Plaintiffs 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.

**As to the Eleventh Cause of Action**

**(Failure to Produce Wage Statements and Personnel File)**

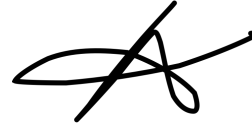
35. For reasonable attorneys' fees and costs of suit to the extent permitted by law pursuant to Labor Code sections 226 and 1198.5.

36. For statutory penalties and injunctive relief permitted by law pursuant to Labor Code sections 226 and 1198.5.

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

1 Dated: July 9, 2020

ARIN | JAMES LLP



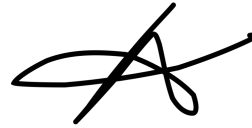
By: \_\_\_\_\_

ARIN NORIJANIAN  
JAMES H. DEMERJIAN  
Attorneys for MATTHEW CARROLL and  
EDUARDO AVILA

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3  
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7  
8 **PLAINTIFFS MATTHEW CARROLL AND EDUARDO AVILA DEMAND A**  
9 **JURY TRIAL**

10 Dated: July 9, 2020

ARIN | JAMES LLP



By: \_\_\_\_\_

ARIN NORIJANIAN  
JAMES H. DEMERJIAN  
Attorneys for MATTHEW CARROLL and  
EDUARDO AVILA



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



Arin | James LLP

*On behalf of the employee.*

arin@arinjames.com  
james@arinjames.com

April 28, 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: **Eduardo Avila'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 Eduardo Avila ("Mr. Avila") 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. Avila's written notice under Labor Code § 2699.3 of the claims asserted on behalf of Mr. Avila and all other aggrieved employees against American Reclamation. Mr. Avila provides this notice in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3.

Mr. Avila 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. Avila 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. Avila 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. Avila as a non-exempt employee from approximately November 2017 through August 2019. American Reclamation employed Mr. Avila in as a lead, a non-exempt position, in its recycling yard. Mr. Avila generally worked 8 to 12 hours a day and five to six days a week at all times during his employment. Mr. Avila worked at American Reclamation's yard located in Los Angeles, California.

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

American Reclamation denied Mr. Avila 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. Avila 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. Avila 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. Avila 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. Avila 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 did not allow Mr. Avila and other non-exempt employees to take meal period until six (6) to seven (7) hours after starting their shifts. As such, the alleged "meal period" was untimely and not legally compliant because Mr. Avila and other non-exempt employees were not permitted to take an off-duty compliant 30-minute meal period within the first 5 hours of work. In addition,



American Reclamation did not pay the requisite meal period premium pay of an additional hour of wages for missed and/or interrupted meal periods.

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. Avila and other non-exempt employees to take legally compliant duty-free rest breaks for every 4 hours worked, or major fraction thereof. American Reclamation did not authorize or permit Mr. Avila and other non-exempt employees to take legally compliant rest breaks at any point during their 8-hour to 12-hour shifts. 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. Avila and other non-exempt employees their minimum wage for all hours worked. American Reclamation would either provide Mr. Avila and other non-exempt employees with pay checks that would bounce due to insufficient funds, not pay them whatsoever or pay late. As a result, Mr. Avila 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. Avila 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. Avila and other non-exempt employees with pay checks that would bounce due to insufficient funds, not pay them whatsoever or pay late.

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. Avila 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. Avila 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. Avila 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. Avila 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

an/jd