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Attorneys for Plaintiff, DELVIN HINES,
on behalf of himself and all others aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

DELVIN HINES, on behalf of himself and all
others aggrieved,

Plaintiff,

v.

CONSTELLIS INTEGRATED RISK
MANAGEMENT SERVICES, a Delaware
corporation; CENTERRA SERVICES
INTERNATIONAL, INC., a Delaware
corporation; CENTERRA GROUP, LLC, a
forfeited Delaware limited liability company;
MICHAEL CHANDLESS, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **20STCV26962**

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1197.1 and 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

COMES NOW plaintiff DELVIN HINES (“Plaintiff”), on behalf of himself and all other
aggrieved employees, and alleges as follows:

1 **INTRODUCTION**

2 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
3 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), on behalf of Plaintiff and all
4 other aggrieved current and former employees of CONSTELLIS INTEGRATED RISK
5 MANAGEMENT SERVICES, a Delaware corporation any of their subsidiaries or affiliated
6 companies within the State of California ("CONSTELLIS"), CENTERRA SERVICES
7 INTERNATIONAL, INC., a Delaware corporation any of their subsidiaries or affiliated companies
8 within the State of California ("CENTERRA") and CENTERRA GROUP, LLC, a forfeited
9 Delaware limited liability company any of their subsidiaries or affiliated companies within the State
10 of California ("CENTERRA GROUP") and MICHAEL CHANDLESS, an individual
11 ("CHANDLESS", and collectively with CONSTELLIS, CENTERRA, CENTERRA GROUP and
12 DOE defendants as further defined below, "Defendants").

13 2. At all relevant times mentioned herein, Defendants have, at times, failed to pay
14 overtime wages to Plaintiff and other non-exempt employees in the State of California in violation
15 of California state wage and hour laws as a result of, without limitation, Plaintiff and other aggrieved
16 employees working over eight (8) hours in a workday or forty (40) hours in a workweek; over twelve
17 (12) hours in a workday; and/or seven (7) consecutive workdays in a workweek without being
18 properly compensated for all hours worked in excess of eight (8) hours in a workday or forty (40)
19 hours in a workweek; all hours worked in excess of twelve (12) hours in a workday; and/or for all
20 hours worked on the seventh consecutive workday in a workweek, as a result of, among other things,
21 Defendants, at times, failing to pay Plaintiff or other aggrieved employees' wages for all time
22 worked, including overtime wages, as a result of, without limitation: failing, on occasion, to track
23 and pay for all hours worked; at times paying overtime hours at the regular or otherwise improper
24 rates of pay; at times suffering or permitting employees to work off the clock; and/or otherwise
25 occasionally editing, manipulating, auto-deducting or rounding down employee hours worked, to
26 the detriment of Plaintiff and other aggrieved employees.

27 3. At all relevant times mentioned herein, Defendants have, at times, failed to pay
28 minimum wages to Plaintiff and other non-exempt employees in the State of California in violation

1 of California state wage and hour laws as a result of, including but not limited to, Defendants, at
2 times, failing to track and pay for all hours worked; suffering or permitting employees to work off
3 the clock; and/or otherwise occasionally editing, manipulating, auto-deducting or rounding down
4 employee hours worked, to the detriment of Plaintiff and other aggrieved employees.

5 4. At all relevant times mentioned herein, Defendants have, at times, failed to provide
6 Plaintiff and other aggrieved employees a thirty (30) minute uninterrupted, timely, and complete
7 meal period for days on which the employee worked in excess of five (5) hours in a workday; a
8 second thirty (30) minute uninterrupted, timely, and complete meal period for days on which the
9 employee worked in excess of ten (10) hours in a workday; or compensation in lieu thereof due to,
10 without limitation, not authorizing employees to take meal periods at all, authorizing employees to
11 take meal periods late, authorizing employees to take shorter than 30-minute meal periods,
12 interrupting meal periods and/or auto deducting meal periods not actually taken, as required by
13 California wage and hour laws.

14 5. At all relevant times mentioned herein, Defendants have, at times, failed to provide
15 Plaintiff and other aggrieved employees paid, uninterrupted, timely, and complete rest periods of at
16 least ten (10) minutes per four (4) hours worked or major fractions thereof, or compensation in lieu
17 thereof, as required by California wage and hour laws.

18 6. At all relevant times mentioned herein, Defendants have occasionally failed to
19 comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish Plaintiff
20 other aggrieved employees with itemized wage statements that accurately reflect gross wages
21 earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay
22 period and the corresponding number of hours worked at each hourly rate; and other such
23 information as required by Labor Code section 226, subdivision (a).

24 7. At all relevant times mentioned herein, Defendants have, at times, failed to timely
25 pay Plaintiff and other aggrieved employees, among other wages, overtime wages, minimum wages,
26 and/or premium wages, as required by Labor Code sections 201 and 202.

27 8. At all relevant times mentioned herein, Defendants have occasionally failed to
28 provide Plaintiff and other aggrieved employees with, or permit them inspection of, records

1 pertaining to their employment, including wage statements and similar payroll documents under
2 Labor Code section 226, documents signed to obtain or hold employment under Labor Code section
3 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section
4 1174, to the detriment of Plaintiff and all other aggrieved employees.

5 9. At all relevant times mentioned herein, Defendants have, at times, failed to reimburse
6 Plaintiff and other aggrieved employees with the costs they incurred, including without limitation,
7 purchasing mandatory uniforms, separately laundering mandatory uniforms, using cellular phones
8 for work purposes, and/or for mileage and/or gas incurred in operating personal vehicles in direct
9 consequence of the discharge of their duties, as required by Labor Code section 2802.

10 10. At all relevant times mentioned herein, Defendants have, at times, failed to comply
11 with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of
12 2011) by, among other things, occasionally, failing to provide Plaintiff and other aggrieved
13 employees with the rates of pay and overtime rates of pay applicable to their employment;
14 allowances claimed as part of the minimum wage; the regular payday designated by Employers; the
15 name, address, and telephone number of the workers' compensation insurance carrier; information
16 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
17 under Labor Code section 2810.5.

18 11. At all relevant times mentioned herein, Defendants have, at times, failed to provide
19 Plaintiff and other aggrieved employees with the amount of paid sick leave required to be provided
20 pursuant to California law (including, without limitation Labor Code section 246, *et seq.*), and also
21 did not permit its use upon request as contemplated under California law, to the detriment of Plaintiff
22 and all other aggrieved employees.

23 12. At all relevant times mentioned herein, Defendants have, on occasion, failed to pay
24 employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor
25 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
26 the 16th and 26th day of the month during which the labor was performed, and labor performed
27 between the 16th and the last day, inclusive of any calendar month, shall be paid for between the
28 1st and 10th day of the following month."

13. Plaintiff, in his representative capacity, seeks civil penalties under Labor Code sections 210, 226.3, 558, 1197.1, and 2699 for the herein-described acts, which violate the California Labor Code as described above, including on behalf of himself and other aggrieved employees pursuant to PAGA.

PARTIES

A. Plaintiff

14. Plaintiff is a resident of the State of California. At all relevant times herein, Defendants employed Plaintiff as a non-exempt employee, with duties that included, but were not limited to, patrolling the property and providing security services, from approximately May of 2002 through sometime in the past calendar year.

B. Defendants

15. Plaintiff is informed and believes, and based thereon alleges, that defendant CENTERRA is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and doing business in the County of Los Angeles, State of California.

16. Plaintiff is informed and believes, and based thereon alleges, that defendant CONSTELLIS is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and doing business in the County of Los Angeles, State of California.

17. Plaintiff is informed and believes, and based thereon alleges, that defendant CENTERRA GROUP is, and at all times relevant hereto was, a forfeited limited liability company organized and existing under and by virtue of the laws of the State of Delaware, and doing business in the County of Los Angeles, State of California.

18. Plaintiff is informed and believes, and based thereon alleges, that defendant CHANDLESS is an individual residing in the State of California, and at all times relevant hereto, a Project Manager and/or Director. In that role, Plaintiff is informed and believes that CHANDLESS exercised control over the wages, hours and/or working conditions of Plaintiff and other aggrieved employees. Plaintiff is further informed and believes and based thereon alleges that, as such,

1 CHANDLESS violated, or caused to be violated, the below-referenced Labor Code provisions and
2 is thus liable for damages under Labor Code section 558.1.

3 19. The true names and capacities, whether individual, corporate, associate, or otherwise,
4 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
5 who therefore sue defendants by such fictitious names under Code of Civil Procedure section 474.
6 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
7 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
8 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
9 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
10 informed and believes and based thereon allege that all defendants sued herein as DOES are in some
11 manner responsible for the acts herein alleged and that Plaintiff's damages were proximately caused
12 by their conduct. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
13 include CENTERRA, CONSTELLIS, CENTERRA GROUP, CHANDLESS, and DOES 1 through
14 100, inclusive.

15 20. Plaintiff is informed and believes and based thereon alleges that the Defendants
16 collectively acted in all respects pertinent to this action as joint employers, and that each defendant
17 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
18 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
19 legally attributable to the other defendants.

20 **JURISDICTION**

21 21. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
22 of Civil Procedure section 410.10.

23 22. Venue is proper in Los Angeles County, California pursuant to Code of Civil
24 Procedure sections 392, *et seq.* because, among other things, Los Angeles County is where: the
25 causes of action complained of herein arose; the county in which the employment relationship
26 began; the county in which performance of the employment contract, or part of it, between Plaintiff
27 and Defendants was due to be performed; the county in which the employment contract, or part of
28 it, between Plaintiff and Defendants was actually performed; and the county in which the

1 employment contract between Plaintiff and Defendants, or part of it, was breached by Defendants.

2 23. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by
3 Defendants during the applicable statutory period and suffered one or more of the Labor Code
4 violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and all other
5 aggrieved current and former employees of Defendants, the civil penalties provided by PAGA plus
6 reasonable attorneys’ fees and costs, as the term “civil penalty” is defined under *ZB N.A. v. Superior*
7 *Court* (2019) 8 Cal.5th 175.

8 24. Plaintiff seeks to recover the PAGA civil penalties through a representative action
9 permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior*
10 *Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA
11 allegations described herein is not required.

12 25. During the period beginning one (1) year preceding the provision of notice to the
13 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
14 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 246,
15 432, 510, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198.5, 2699, 2802, and 2810.5, among others.

16 26. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
17 such as Plaintiff, on behalf of himself and all other aggrieved current and former employees within
18 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
19 specified in Labor Code section 2699.3.

20 27. On or around May 11, 2020, Plaintiff provided written notice under Labor Code
21 section 2699.3 online and by certified mail, with return receipt requested, of Defendants’ violation
22 of various, including the herein-described, provisions of the Labor Code, to the Labor and
23 Workforce Development Agency (“LWDA”), as well as by certified mail, with return receipt
24 requested to Defendants, and each of them.

25 28. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
26 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
27 calendar days of the May 11, 2020 postmarked date of the herein-described notice sent by Plaintiff
28 to the LWDA and Defendants.

PAGA REPRESENTATIVE ALLEGATIONS

29. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other aggrieved employees have not, at times, been paid, during the relevant time period, wages for all time worked, including overtime wages, as a result of, without limitation, Defendants occasionally failing to pay overtime wages to Plaintiff and other non-exempt employees in the State of California in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and other aggrieved employees working over eight (8) hours in a workday or forty (40) hours in a workweek; over twelve (12) hours in a workday; and/or seven (7) consecutive workdays in a workweek without being properly compensated for all hours worked in excess of eight (8) hours in a workday or forty (40) hours in a workweek; all hours worked in excess of twelve (12) hours in a workday; and/or for all hours worked on the seventh consecutive workday in a workweek, as a result of, among other things, Defendants, at times, failing to track and pay for all hours worked; occasionally paying overtime hours at the regular or otherwise improper rates of pay; at times suffering or permitting employees to work off the clock; and/or otherwise occasionally editing, manipulating, auto-deducting or rounding down employee hours worked by Plaintiff and other aggrieved employees in the State of California. As such, Plaintiff is informed and believes, and based thereon alleges, that Defendants violated Labor Code sections 510 and 1194, and applicable Wage Orders based on their occasional failure to provide total compensation that is less than the required legal overtime compensation, entitling Plaintiff and other aggrieved employees to relief under, without limitation, these sections. In addition, Defendants would also be liable for civil penalties pursuant to Labor Code sections 558, 558.1, and 2699.

30. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other aggrieved employees have occasionally not been paid, during the relevant time period, wages for all time worked, including minimum wages, as a result of, without limitation, Defendants at times failing to pay Plaintiff or other aggrieved employees' wages for all hours worked or otherwise under Defendants' control due to, without limitation, Defendants occasionally failing to track and pay for all hours worked, at times suffering or permitting employees to work off the clock; and/or otherwise occasionally editing, manipulating, auto-deducting or rounding down employee hours worked by

1 Plaintiff and other aggrieved employees in the State of California. As such, Plaintiff is informed
2 and believes, and based thereon alleges, that Defendants violated, without limitation, Labor Code
3 section 1197 and applicable Wage Orders, based on their occasional failure to pay minimum wages,
4 entitling Plaintiff and other aggrieved employees to relief under, without limitation, Labor Code
5 sections 1194 and 1194.2. Defendants would also be liable for civil penalties pursuant to Labor
6 Code sections 558, 558.1, 1197.1, and 2699.

7 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants at times
8 failed to provide Plaintiff and other aggrieved employees a thirty (30) minute uninterrupted, timely,
9 and complete meal period for days on which the employee worked in excess of five (5) hours in a
10 workday; a second thirty (30) minute uninterrupted, timely, and complete meal period for days on
11 which the employee worked in excess of ten (10) hours in a workday; or compensation in lieu
12 thereof, including, without limitation, by interrupting meal periods, not providing timely meal
13 periods, failing to provide first and second meal periods all together, providing short meal periods,
14 and/or auto-deducting meal periods even when they were not taken. As such, Plaintiff is informed
15 and believes, and based thereon alleges, that Defendants occasionally violated Labor Code section
16 512, entitling Plaintiff and other aggrieved employees to premium payments under Labor Code
17 section 226.7. Defendants would also be liable for civil penalties pursuant to Labor Code sections
18 558, 558.1, and 2699.

19 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants at times
20 failed to provide Plaintiff and other aggrieved employees paid, uninterrupted, timely, and complete
21 rest periods of at least ten (10) minutes per four (4) hours worked or major fractions thereof, or
22 compensation in lieu thereof as required under (the) applicable Wage Order(s). As such, Plaintiff
23 is informed and believes, and based thereon alleges, that he and other aggrieved employees are
24 entitled to relief under, without limitation, Labor Code section 226.7. Defendants would also be
25 liable for civil penalties pursuant to Labor Code sections 558, 558.1, and 2699.

26 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 occasionally failed to furnish Plaintiff other aggrieved employees with itemized wage statements
28 that accurately reflect gross wages earned; total hours worked; net wages earned; all applicable

1 hourly rates in effect during the pay period and the corresponding number of hours worked at each
2 hourly rate; and other such information as required by Labor Code section 226, subdivision (a).
3 Consequently, since Defendants would have at times failed to comply with Labor Code section 226,
4 subdivision (a), Plaintiff and other aggrieved employees would be entitled to recover penalties
5 under, without limitation, Labor Code section 226, subdivision (e). Defendants would also be liable
6 for civil penalties pursuant to Labor Code sections 226.3, 558, 558.1, and 2699.

7 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants at times
8 failed or refused to timely pay compensation to Plaintiff and other terminated or resigned employees
9 within the State of California, among other wages, overtime wages, minimum wages, and/or
10 premium wages. As such, Defendants would be liable for waiting time penalties for having
11 occasionally violated California Labor Code sections 201, 202, and 203. Defendants would also be
12 liable for civil penalties pursuant to Labor Code sections 558, 558.1, and 2699.

13 35. At all relevant times mentioned herein, Defendants have at times failed to provide
14 Plaintiff and other aggrieved employees with, or permit them inspection of, records pertaining to
15 their employment, including wage statements and similar payroll documents under Labor Code
16 section 226, documents signed to obtain or hold employment under Labor Code section 432,
17 personnel records under Labor Code section 1198.5, and time records under Labor Code section
18 1174, to the detriment of Plaintiff and all other aggrieved employees. As a result of these occasional
19 violations, Defendants are liable for civil penalties pursuant to Labor Code sections 558, 558.1, and
20 2699.

21 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
22 at times failed to reimburse Plaintiff and other aggrieved employees for their costs incurred,
23 including but not limited to, purchasing mandatory uniforms, separately laundering mandatory
24 uniforms, using cellular phones for work purposes, and/or for mileage and/or gas incurred in
25 operating personal vehicles in direct consequence of the discharge of their duties, as required by
26 Labor Code section 2802. Defendants would also be liable for civil penalties pursuant to Labor
27 Code sections 558, 558.1, and 2699.

28 / / /

1 37. Plaintiff is informed and believes, and based thereon alleges that Defendants have,
2 and at all times relevant hereto failed to comply with the notice requirements of Labor Code section
3 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide
4 Plaintiff and other aggrieved employees with the rates of pay and overtime rates of pay applicable
5 to their employment; allowances claimed as part of the minimum wage; the regular payday
6 designated by Defendants; the name, address, and telephone number of the workers' compensation
7 insurance carrier; information regarding paid sick leave; and other pertinent information required to
8 be disclosed by Defendants under Labor Code section 2810.5. As such, Plaintiff is informed and
9 believes, and based thereon alleges that the occasional failure to provide such information, including
10 rates of pay that are in effect, has permitted Defendants to pay employees at rates of pay that were
11 not agreed upon, in violation of overtime wage and minimum wage laws in California. As a result
12 of these violations, Defendants are liable for civil penalties pursuant to Labor Code sections 558,
13 558.1, and 2699.

14 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
15 at times failed to provide Plaintiff and other aggrieved employees with the amount of paid sick leave
16 required to be provided pursuant to California law (including, without limitation, Labor Code
17 section 246, *et seq.*), and also occasionally did not permit its use upon request as contemplated under
18 California law. As such, Defendants would be liable for civil penalties for violation of the paid sick
19 leave regulations under Labor Code sections 558, 558.1, and 2699.

20 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants at times
21 failed to pay Plaintiff and other aggrieved employees their wages in accordance with Labor Code
22 section 204, which requires that "[l]abor performed between the 1st and 15th days, inclusive, of any
23 calendar month shall be paid for between the 16th and 26th day of the month during which the labor
24 was performed, and labor performed between the 16th and the last day, inclusive, of any calendar
25 month, shall be paid for between the 1st and 10th day of the following month." As such, Plaintiff
26 is informed and believes, and based thereon alleges, that Defendants occasionally did not and do not
27 pay their employees in accordance with Labor Code section 204. Defendants would be liable for
28 civil penalties pursuant to Labor Code sections 210, 558, 558.1, and 2699.

40. Plaintiff and other aggrieved employees at all times pertinent hereto were not exempt from receiving overtime wages, minimum wages, meal breaks or compensation in lieu thereof, rest breaks or compensation in lieu thereof, accurate wage statements, timely pay of wages during their employment and after their employment separation, the opportunity to inspect employment records, reimbursement for work related expenses, the proper accrual and use of paid sick leave, and other such provisions of California law and the implementing rules and regulations of the IWC California Wage Orders.

41. As a result of these violations, Defendants are liable for civil penalties under PAGA.

FIRST CAUSE OF ACTION

(Civil Penalties Under Labor Code § 210 – Against All Defendants)

42. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

43. At all relevant times herein, Labor Code section 204, requires and required that: “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

44. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

45. At all relevant times herein, Defendants have, at times, failed to pay Plaintiff and aggrieved employees during their employment on a timely basis as per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other aggrieved employees or former employees he seeks to represent are entitled to recover civil penalties for Defendants' occasional

1 violations of Labor Code section 204, in the amount of one hundred dollars (\$100) for each
2 aggrieved employee or former employee for each initial violation per employee, and two hundred
3 dollars (\$200) for each aggrieved employee or former employee for each subsequent violation in
4 connection with each payment that was made in violation of Labor Code section 204.

5 **SECOND CAUSE OF ACTION**

6 **(Civil Penalties Under Labor Code § 226.3 – Against All Defendants)**

7 46. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
8 the preceding paragraphs of this Complaint as though fully set forth hereat.

9 47. Defendants have, on occasion, failed to comply with Labor Code section 226,
10 subdivision (a) by intentionally failing to furnish Plaintiff with itemized wage statements that
11 accurately reflect gross wages earned; total hours worked; net wages earned; all applicable hourly
12 rates in effect during the pay period and the corresponding number of hours worked at each hourly
13 rate; and other such information as required by Labor Code section 226, subdivision (a).

14 48. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
15 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
16 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
17 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
18 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

19 49. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
20 this section are in addition to any other penalty provided by law.”

21 50. Plaintiff is informed and believes, and based thereon alleges, that Defendants, at
22 times, failed to furnish non-exempt employees, including, without limitation, Plaintiff, with
23 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
24 earned; the name and address of each employer with whom they have been placed to work; all
25 applicable hourly rates in effect during the pay period and the corresponding number of hours
26 worked at each hourly rate; and other such information as required by Labor Code section 226,
27 subdivision (a).

28 / / /

51. Pursuant to Labor Code section 226.3, Plaintiff and other aggrieved employees he seeks to represent are entitled to recover civil penalties for Defendants' occasional violation of Labor Code section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each aggrieved current or former employee per pay period for the initial violation, and one thousand dollars (\$1,000) for each aggrieved current or former employee per pay period for each subsequent violation.

THIRD CAUSE OF ACTION

(Violation of Labor Code § 558 – Against All Defendants)

52. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

53. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty as follows:

- a. For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- b. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- c. Wages recovered pursuant to this section shall be paid to the affected employee.”

54. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, at times, violated, or caused to be violated, the Labor Code sections described herein, including occasionally causing Plaintiff and other aggrieved employees not to: be paid overtime wages and minimum wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their employment and after their employment separation; receive accurate, itemized wage statements; be provided with the opportunity to inspect employment records; be

1 provided with notice as required under Labor Code section 2810.5; be reimbursed for expenses
2 incurred in furtherance of work duties; and be provided with the proper accrual and use of paid sick
3 leave.

4 55. As a direct and proximate result of Defendants' conduct, Plaintiff and other
5 aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to
6 Labor Code section 558 in amounts to be determined at trial.

7 **FOURTH CAUSE OF ACTION**

8 **(Violation of Labor Code § 1197.1 – Against All Defendants)**

9 56. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs
10 and incorporates each by reference as though fully set forth hereat.

11 57. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
12 person acting either individually or as an officer, agent, or employee of another person, who pays
13 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
14 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
15 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
16 Section 203 as follows:

- 17 a. For any initial violation that is intentionally committed, one hundred dollars
18 (\$100) for each underpaid employee for each pay period for which the
19 employee is underpaid. This amount shall be in addition to an amount
20 sufficient to recover underpaid wages, liquidated damages pursuant to Section
21 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 22 b. For each subsequent violation for the same specific offense, two hundred fifty
23 dollars (\$250) for each underpaid employee for each pay period for which the
24 employee is underpaid regardless of whether the initial violation is
25 intentionally committed. This amount shall be in addition to an amount
26 sufficient to recover underpaid wages, liquidated damages pursuant to Section
27 1194.2, and any applicable penalties imposed pursuant to Section 203.
- 28 c. Wages, liquidated damages, and any applicable penalties imposed pursuant to

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

3 58. Plaintiff is informed and believes, and based thereon alleges, that Defendants, at
4 times, caused Plaintiff and aggrieved employees not to be paid minimum wages as a result of
5 Defendants, without limitation, occasionally failing to pay Plaintiff or other aggrieved employees’
6 wages for all hours worked or otherwise under Defendants’ control due to, without limitation,
7 Defendants, at times, failing to track and pay for all hours worked; occasionally suffering or
8 permitting employees to work off the clock; and/or otherwise at times editing, manipulating, auto-
9 deducting or rounding down employee hours worked by Plaintiff and aggrieved employees in the
10 State of California.

11 59. As a direct and proximate result of Defendants’ conduct, Plaintiff and other
12 aggrieved employees are entitled to recover directly from Defendants civil penalties pursuant to
13 Labor Code section 1197.1.

14 **FIFTH CAUSE OF ACTION**

15 **(Civil Penalties Under Labor Code § 2699 – Against All Defendants)**

16 60. Plaintiff re-alleges and incorporates by reference all of the allegations contained in
17 the preceding paragraphs of this Complaint as though fully set forth hereat.

18 61. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
19 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
20 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
21 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
22 action brought by an aggrieved employee on behalf of himself or herself and other current or former
23 employees pursuant to the procedures specified in Labor Code section 2699.3.

24 62. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
25 Code except those for which a civil penalty is specifically provided, the established civil penalty for
26 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
27 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
28 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved

1 employee per pay period for each subsequent violation.

2 63. Plaintiff is informed and believes and based thereon alleges that Defendants, and
3 each of them, at times, violated the Labor Code sections described herein, including, without
4 limitation, for the failure to: pay overtime wages and minimum wages; provide meal and rest periods
5 or compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages
6 during employment and after employment separation; provide employees the opportunity to inspect
7 employment records; provide notice as required under Labor Code section 2810.5; reimburse
8 expenses incurred in furtherance of job duties; and provide the proper accrual and use of paid sick
9 leave, entitling Plaintiff and other aggrieved employees to civil penalties for each of these Labor
10 Code violations in the amounts set forth in Labor Code section 2699, subdivision (f).

11 64. Moreover, Plaintiff and other aggrieved current and former employees within the
12 State of California whom he seeks to represent are entitled to an award of reasonable attorneys' fees
13 and costs in connection with their herein-described claims for civil penalties.

14 **REQUEST FOR JURY TRIAL**

15 65. Plaintiff hereby requests a trial by jury.

16 **PRAYER**

17 **WHEREFORE**, on behalf of himself and all others aggrieved, Plaintiff prays for
18 judgment against Defendants as follows:

- 19 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 558.1,
20 1197.1, and 2699;
- 21 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
22 210, 226.3, 558, 1197.1, and 2699;
- 23 C. Pre-judgment and post-judgment interest;
- 24 D. For costs of suit incurred herein; and

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E. Such other and further relief as the Court deems just and proper.

Dated: July 16, 2020

BIBIYAN LAW GROUP, P.C.

BY:



DIEGO AVILES

DAVID D. BIBIYAN

Attorneys for Plaintiff DELVIN HINES, on behalf of
himself and all other aggrieved employees