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Attorneys for Plaintiff JOHN MALDONADO, JR. and
on behalf of all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CIVIL COMPLEX
COUNTY OF ORANGE COUNTY – CENTRAL JUSTICE CENTER

JOHN MALDONADO, JR., an individual,
and on behalf of all Aggrieved Employees

Plaintiff,

V.

ALUMINUM PRECISION PRODUCTS, INC.),
A CALIFORNIA CORPORATION; and DOES)
1 through 50, inclusive,)

Defendants.

Case No. 30-2020-01164707-CU-QE-CXC

COMPLAINT

VIOLATION OF PRIVATE ATTORNEYS
GENERAL ACT, LABOR CODE §2699
(PAGA)

Assigned for all purposes to: Judge Peter Wilson

Dept: CX102

REQUEST FOR JURY TRIAL

1 Plaintiff John Maldonado ("Plaintiff") brings this representative action against
2 Defendants ALUMINUM PRECISION PRODUCTS, INC. and Does 1 through 50, inclusive
3 (collectively "Defendants/EMPLOYER"), on behalf of himself individually and all other
4 aggrieved employees employed by Defendants throughout California.

5 Plaintiff John Maldonado, individually and on behalf of other aggrieved employees,
6 hereby alleges as follows:

7 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

8 1. By this complaint, Plaintiff brings this case as a representative action seeking
9 penalties for the State of California in a representative capacity, as provided for by the Private
10 Attorneys General Act ("PAGA"), Labor Code section 2698 et seq., to the extent permitted by
11 law, as an Aggrieved Employee who was employed by Defendant and subject to alleged
12 violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in
13 his notice to the Labor Workforce Development Agency ("LWDA") and the employer: Labor
14 Code sections 1198 (work conditions, such as excessive heat) and Labor Code section 2802
15 (failure to reimburse for necessary business expenses) as well as the violation of the California
16 WARN Act.
17

18 2. Defendants maintain and operate a manufacturing plant in California.

19 3. Through this action, Plaintiff is alleging that Defendants have engaged in a
20 systematic pattern of wage and hour violations under the California Labor Code ("Labor Code")
21 and Industrial Welfare Commission ("IWC") Wage Orders.

22 4. Plaintiff is informed and believes, and thereon alleges, during the relevant time
23 period, Defendants had a consistent policy of violating state wage and hour laws by, among other
24 things. The term "Relevant Time Period" or "Time Period" is defined as one (1) year prior to the
25 filing of PAGA Notice (dated July 28, 2020) in this matter through the present. Plaintiff reserves
26 the right to amend this Complaint to reflect a different "Time Period" or modify the definition of
27

1 “Aggrieved Employees” as further discovery is conducted.

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

- 4 a) Failing to reimburse business expenses, Labor Code section 2802;
5 b) Excessive heat and work condition violations, Labor Code section 1198;
6 c) Violation of the California WARN Act; under California Labor Code §§ 1400 et seq.

7 6. Plaintiff brings this representative action against Defendants on behalf of
8 himself and other aggrieved employees to recover, among other things, civil penalties,
9 attorney's fees and costs and expenses pursuant to the Private Attorneys General Act of 2004,
10 Labor Code §§ 2698, et seq. ("PAGA").

11 7. Plaintiff, individually and on behalf of all Aggrieved Employees, seeks relief
12 against Defendant for: (1) its failure to reimburse business expenses pay all wages due for use of
13 personal vehicles to discharge work duties; (2) its failure to provide a work environment at a
14 temperature with reasonable comfort and (3) its violation of the California WARN Act, under
15 California Labor Code §§ 1400 et seq.

16 8. Plaintiff seeks penalties in connection with Defendant's Labor Code violations
17 based on Labor Code section 2698 et seq., the Private Attorneys General Act of 2004
18 (hereinafter "PAGA").

19 9. At all relevant times herein, Defendant has consistently maintained and
20 enforced against Plaintiff the above unlawful policies and practices.

21 10. Plaintiff brings this representative action seeking monetary relief against
22 Defendants on behalf of himself and other aggrieved employees to recover, among other things,
23 penalties, attorney's fees, costs and expenses pursuant to the Private Attorneys General Act of
24 2004, Labor Code §§ 2698, et seq. ("PAGA").
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JURISDICTION AND VENUE

11. This is a Representative Action pursuant to the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA") brought on behalf of PLAINTIFF, JOHN MALDONADO ("PLAINTIFF") and all others similarly situated who were employed by DEFENDANTS prior to the mass layoff/termination that occurred on or about May 7, 2020.

12. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS owned and operated ALUMINUM PRECISION PRODUCTS, INC. plants located throughout California. At all relevant times herein, DEFENDANTS employed in excess of one hundred (100) full-time employees. As such, DEFENDANTS were required to provide written notice to all such employees at least sixty (60) days prior to any mass layoff/termination pursuant to the Worker's Adjustment and Retraining Notification Act, ("WARN") Act; the California WARN Act under California Labor Code §§ 1400 *et seq.*

13. During the time period between April 1, 2020 when Defendants claim they had a downturn in business and May 7, 2020, when they laid off 83 employees, including PLAINTIFF, JOHN MALDONADO, they had at least 30 days to give notice to employees but chose to give them ZERO notice on May 7, 2020. 83 of DEFENDANTS' employees were subjected to a mass layoff/termination. As no exigent or unforeseeable circumstances exist, DEFENDANTS were required to provide at least sixty (60) days' written notice of this mass layoff/termination, but failed to do so.

14. The failure to provide at least sixty (60) days' written notice prior to the mass layoff/termination is a violation of the California WARN Act under California Labor Code §§ 1400 *et seq.* The monetary relief sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

15. The Superior Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all cases

1 except those given by statutes to other courts. The statutes under which this action is brought do
2 not specify any other basis for jurisdiction.

3 16. The Superior Court has jurisdiction over all Defendants because, upon
4 information and belief, Defendants principal place of business is in California, County of Orange
5 and have sufficient minimum contacts in California or otherwise intentionally avail themselves
6 of the California market so as to render the exercise of jurisdiction over them by the California
7 courts consistent with traditional notions of fair play and substantial justice.

8 17. Venue is proper in the Superior Court because, upon information and belief,
9 Defendants transact business or have at least one facility in this County which encompasses three
10 manufacturing and office buildings. The statutory violations and torts alleged below all took
11 place at the Defendant ALUMINUM PRECISION PRODUCTS, INC. location at Susan Street,
12 Santa Ana, California (the "Premises") and other connected facilities owned by DEFNDANT.
13

14 **THE PARTIES**

15 18. Plaintiff JOHN MALDONADO is a resident of County of Orange, State of
16 California. Plaintiff is informed and believes, and thereon alleges, that Defendants are
17 corporations doing business throughout the State of California, and at all times hereinafter
18 mentioned, an employer as defined in and subject to the California Labor Code and Industrial
19 Welfare Commission ("IWC") Wage Orders, Wage Order 1, specifically, engaged in the
20 manufacturing industry, whose employees are and were engaged throughout this county and the
21 State of California.
22

23 19. The true names and capacities, whether individual, corporate, associate, or
24 otherwise, of the Defendants sued herein as Does 1 to 50, inclusive, are currently unknown to
25 Plaintiff, who therefore sues said Defendants by such fictitious names under California Code of
26 Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of
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1 the Defendants designated herein as a Doe is legally responsible in some manner for the
2 unlawful acts referred to herein.

3 20. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
4 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
5 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
6 Defendants are legally attributable to the other Defendants. Furthermore, Defendants in all
7 respects acted as the employers and/or joint employers of Plaintiff and the aggrieved employees.

8 **GENERAL ALLEGATIONS**

9 21. At all relevant times herein, Defendants employed Plaintiff and other persons as non-
10 exempt employees.

11 22. Defendants employed Plaintiff during the relevant time period.

12 23. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein,
13 Defendants were advised by skilled lawyers, employees and other professionals who were
14 knowledgeable about California wage and hour law, employment and personnel practices and the
15 requirements of California.

16 24. The action primarily arises under the provisions of the California Labor Code, The
17 Private Attorneys General Act of 2004 and various other California Common laws of Contract
18 and tort.

19 25. JOHN MALDONADO worked for Defendants from January 1995 to May 7, 2020
20 in various positions. At the time of his abrupt termination his job title was tool crib I and he
21 performed several jobs including driving, shipping, forklift work and receiving and keeping
22 inventory. DEFENDANTS terminated MALDONADO with no notice on May 7, 2020 after 25
23 years of excellent service and had him escorted out of work. The given reason for said abrupt
24 termination was a down turn in business due to the Corona Virus.
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26. Plaintiff was at all relevant times a non-exempt employee, pursuant to California law, and was, accordingly, entitled to all the protections of California law including legally required rest breaks, meal breaks, and overtime.

27. DEFENDANTS violated Wage Order 1 section 15 by not providing work areas of Aggrieved Employees in compliance thereto, which states in pertinent parts:

"(a)) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(b) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. ..." (See, e.g., IWC Order 1-2001, section 15) Thereafter, on July 28, 2020, Plaintiff filed a timely charge with the labor work force.

28. At all times, during the relevant period Defendants subjected Aggrieved Employees to temperatures in excess of 100 degrees especially in production areas. At times, the heat was so unbearable that the safety directors for the Defendants, Wally Keiffer asked Plaintiff to drive his personal vehicle to purchase ice and water for the employees. At not time Defendants reimbursed Plaintiff or any Aggrieved Employees with mileage expenses.

29. Similarly, Defendants failed to comply with the safety requirements for work conditions in compliance with Wage Order 1, section 15 because they failed to remedy the excessive heat condition as mandated in Subsection b) "the employer shall take all feasible means to reduce ... excessive heat" created by the work process.

30. On or about May 7, 2020, DEFENDANT terminated Plaintiff's employment claiming his job was eliminated and that they had done all they could to cut costs to avoid the mass lay off. However, Plaintiff had been employed by DEFENDANT for 25 years and was not one of the top wage earners. In fact, he earned much less than several other employees and

covered several jobs which in fact saved DEFENDANT money. DEFENDANT added insult to injury by claiming his job was a luxury and was not needed. In fact, several times Plaintiff was asked to drive his own car to buy ice and water for the employees who worked in the press room and were suffering from too much heat.

31. Plaintiff is unaware of the true names and capacities of defendants sued herein as Does 1 through 50, inclusive, and, therefore, sues these defendants under such fictitious names. Plaintiff will seek leave of court to amend this Complaint to name such defendants when their true names and capacities have been ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named defendants is in some manner responsible for the acts and omissions herein alleged.

32. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, each of the defendants herein was the agent, servant, licensee, employee or alter ego, of each of the remaining defendants, and was at all times herein mentioned acting within the course and scope of said relationship. Plaintiff is further informed and believes, and thereon alleges, that at all times herein mentioned, each business or corporate employer, through its officers, directors and managing agents, and each individual defendant, including without limitation, DEFENDANT had advance knowledge of the wrongful conduct of said agents, servants, licensees, employees and alter egos, and allowed said wrongful conduct to occur and continue to occur, thereby ratifying said wrongful conduct, with a conscious disregard of the rights and safety of persons such as Plaintiff, and after becoming aware of their wrongful conduct, each corporate defendant by and through its officers, directors and managing agents, and each individual defendant, including Defendants authorized and ratified the wrongful conduct herein alleged.

1 33. Plaintiff was at all times employed by the Defendant and Does 1-50 at the
2 Premises. These Defendants will hereinafter, at times, be referred to collectively as 'The
3 Employer Defendants'.

4 34. Under Labor Code section 2699.3, subdivision (a), a Plaintiff may bring a cause
5 of action under PAGA only after giving the Labor Workforce Development Agency ("LWDA")
6 and the employer notice of the Labor Code sections alleged to have been violated, and after
7 receiving notice from the LWDA of its intention not to investigate, or after 65 days have passed
8 without notice from the LWDA.

9 35. On July 28, 2020, prior to the filing of this complaint, Plaintiff gave written
10 notice of the specified provisions alleged to have been violated, including the facts and theories
11 to support the alleged violations, as required by Labor Code section 2699.3. This written notice
12 was given via certified mail to Defendant(s), and to the LWDA by electronically filing the notice
13 via the Department of Industrial Relations website. A true and correct copy of Plaintiff's notice
14 to the LWDA and Defendant(s), dated July 28, 2020, is attached hereto as Exhibit A.
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16
17 **FIRST CAUSE OF ACTION FOR PRIVATE ATTORNEYS' GENERAL ACT**

18 (California Labor Code §§ 2698, *et seq.*)

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

21 37. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
22 for a civil penalty to be assessed and collected by the Labor and Workforce Development
23 Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or
24 employees for violation of the code may, as an alternative, be recovered through a civil action
25 brought by an aggrieved employee on behalf of him or herself and other current or former
26 employees pursuant to the procedures specified in Labor Code § 2699.3.
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38. The IWC working condition requirements are codified by Labor Code section 1198, which provides that "the standard conditions of labor fixed by the [industrial welfare] commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the [IWC] order is unlawful." As such, a violation of this statutory requirement supports an action for civil penalties under PAGA, with penalties based on Labor Code section 2699(f); \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation and attorneys' fees available under section 2699(g).

39. Defendants' conduct violates numerous Labor Code sections including, but not limited to, the following:

- a) Failing to reimburse business expenses, Labor Code section 2802;
- b) Excessive heat and work condition violations, Wage Order 1, section 15 and Labor Code section 1198;
- c) Violation of the California WARN Act; under California Labor Code §§ 1400 et seq.

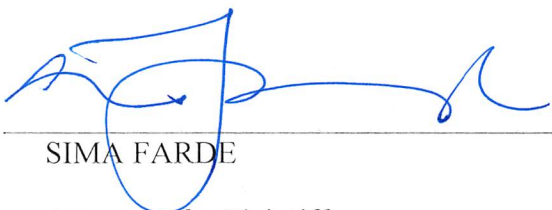
40. Plaintiff is an “aggrieved employee” because he was employed by the alleged violator during the relevant period and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other aggrieved employees.

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

42. Pursuant to Labor Code §§ 2699(a) and (f), 2699.3, and 2699.5, Plaintiff and all other aggrieved employees are entitled to recover civil penalties against Defendants for violations of the above-cited sections of the Labor Code.

1 5. For such other and further relief as the Court deems just and proper.

2
3 Dated: October 13, 2020

4
5 By: 

6 SIMA FARDE

7 Attorneys for Plaintiff
8 JOHN MALDONADO, Jr.

9
10 **REQUEST FOR JURY TRIAL**

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12 Plaintiff hereby requests trial by jury.

13 Dated: October 13, 2020

14 LAW OFFICES OF SIMA FARDE

15 By: 

16 SIMA FARDE

17 Attorneys for Plaintiff
18 JOHN MALDONADO, Jr.

EXHIBIT A

S • F
LAW OFFICES OF SIMA FARDE
23 CORPORATE PLAZA, STE. 150
NEWPORT BEACH, CA 92660

TEL: (949) 476-7006

July 28, 2020

VIA ELECTRONIC FILING

The Labor Workforce Development Agency
California Office
Department of Industrial Relations
Accounting Unit
455 Golden Gate Ave, 10th Floor
San Francisco, CA 94102

Re: John Maldonado, Jr. v. Aluminum Precision Products, Inc.

Dear Sir/Madam:

Please consider this a request pursuant Labor Code section 2699.3 that the Labor and Workforce Development Agency investigate the violations. We intend to file a lawsuit and seek civil penalties under the Labor Code Private Attorney General Act (PAGA) against Aluminum Precision Products, Inc. and any affiliates, (hereinafter referred to as "APP"). Our office represents the above-named Aggrieved Employee, John Maldonado, Jr.

Mr. Maldonado intends to bring a PAGA representative action, alleging violations of the Labor Code and Industrial Welfare Commission (IWC) Order (Wage Order No. 1). We wish to seek penalties in the suit on behalf of the Aggrieved Employee and others similarly situated. The Aggrieved Employee's allegations include, but are not limited to, violations of the statutes set forth below. We reserve the right to add or replace Aggrieved Employee representatives as long as doing so would serve the best interests of the PAGA action.

APP is an Orange County based company engaged in manufacturing metal parts, primarily, aluminum sheets for the aerospace industry. They have been around for a long time and will remain to prosper because of the strong presence of the aerospace industry in California

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and Orange County.

APP has its headquarters in Santa Ana, Orange County with production in Susan Street and Alton which are within a walking distance of each other.

John Maldonado worked for APP from January 17, 1995 until the date of his lay off on May 7, 2020. He worked in various positions and completed several tasks including tool repair, shipping and receiving, inventory and driving amongst other things. His final job title was "tool crib I."

I. The WARN ACT Violation

On May 7, 2020 John Maldonado was abruptly escorted off the premises after being informed that he was laid off. He was handed some papers about the layoff, allegedly being a mass lay off due to the Corona Virus. The letter stated that he was given "no notice" because it was not possible to provide any notice to him "the reduced revenue as a result of the COVID-19 pandemic." The letter added "Your position is among those eliminated."

John Maldonado, however is aware that his position was not subject to elimination as stated by the company because it was a pretext to lay off older employees. Moreover, APP did not meet the requirements of the WARN Act, nor did it meet the exemptions under the Executive Order provided by the California Governor. APP had known about the down turn in business as early as early April and yet kept several of the duplicative clerical positions without reduction.

Therefore, John Maldonado as the Aggrieved Employee and 82 others have a claim under PAGA for the same violations under Labor Code section 1401(a)-(c) for loss of benefits, back pay and attorney's fees. APP at no time requested the DIR to grant an exemption to comply with the notice requirement.

II. Failure to Reimburse Work Related Expenses

APP required the Aggrieved Employee, John Maldonado, Jr. and others similarly situated, to use their personal vehicles for work related activities as directed by supervisors and at times the health and safety director, Wally Keiffer, without reimbursement under Labor Code section 2802 and Wage Order 1, Manufacturing.

II. Temperature and Heat Conditions

As stated above, part of the production line at APP relates to pressing aluminum sheets at high temperatures. This work is done in the press room where temperatures can get over 120 degrees in the summer time. APP has no air conditioning, although it could install such cooling devices. Instead, APP has resorted to just sending people to get ice and water for the employees in the press room. Moreover, the press room is not the only place that is exposed to high heat work conditions.

*Sima Farde, Esq.
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IWC orders contain a section on "Temperature," that provides, among other things: "(a) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. (b) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. ..." (See, e.g., IWC Order 1-2001, section 15.)

Subsection (b) provides an enforceable requirement -- "the employer shall take all feasible means to reduce ... excessive heat" created by the work process. It goes without saying that temperatures over 100 are excessive:

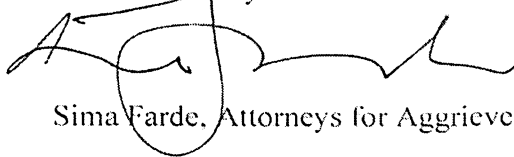
Whether (1) the heat at the workplace created by the work process is "excessive," (2) there are "feasible means" to reduce the heat created by the work process, (3) what measures, if any, were taken by the employer to the excessive heat to a level that provides the workers with reasonable comfort.

These IWC working condition requirements are codified by Labor Code section 1198, which provides that "the standard conditions of labor fixed by the [industrial welfare] commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the [IWC] order is unlawful." As such, a violation of this statutory requirement supports an action for civil penalties under PAGA, with penalties based on Labor Code section 2699(f) -- \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation -- and attorneys' fees available under section 2699(g).

While the Aggrieved Employee did not work in the press room on a regular basis, he did work in other parts of the production line at times where he was subjected to the same work conditions. Moreover, the Aggrieved Employee can represent others with their own claims which the Aggrieved Employee may not personally have.

We continue to investigate additional claims against APP and reserve the right to amend this notice.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Sima Farde', with a large, stylized loop at the end.

Sima Farde, Attorneys for Aggrieved Employee

Service by Certified Mail C/O Gregory S. Keeler, APP, 3333 W. Warner Ave. Santa Ana, CA 92704