



SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

Superior Court of California, County of Orange

751 W. Santa Ana Blvd
Santa Ana, CA 92701

PAYMENT RECEIPT

E-Filing Transaction #: 3941709

Receipt #: 12615767

Clerk ID: gramirez

Transaction No: 12788848

Transaction Date: 10/01/2020

Transaction Time: 02:08:02 PM

Case Number	Fee Type	Qty	Fee Amount\$	Balance Due	Amount Paid	Remaining Balance
30-2020-01163014-CU-OE-CXC	194 - Complaint or other 1st paper	1	\$435.00	\$435.00	\$435.00	\$0.00
30-2020-01163014-CU-OE-CXC	34 - Complex Case Fee - Plaintiff	1	\$1,000.00	\$1,000.00	\$1,000.00	\$0.00

Sales Tax: \$0.00

Total: **\$1,435.00** **Total Rem. Bal:**

E-Filing: \$1,435.00

Total Amount Tendered: \$1,435.00

Change Due: \$0.00

Balance: **\$0.00**

A \$45 fee may be charged for each returned check, electronic funds transfer or credit card payment.

COPY

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO): Coolsys Commercial & Industrial Solutions,
Inc.; Source Refrigeration & HVAC, Inc.;
and Does 1-10, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Melinda James, individually and on behalf of
all aggrieved employees,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

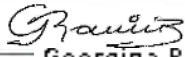
Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Superior Court of California, County of Orange
(El nombre y dirección de la corte es):
751 West Santa Ana Blvd., Santa Ana, California 92701

CASE NUMBER:
(Número de caso):
30-2020-01163014-CU-OE-CXC
Judge Peter Wilson

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jonathan M. Lebe, 777 S. Alameda Street, 2nd Floor, Los Angeles, CA 90021

DATE: 10/01/2020 DAVID H. YAMASAKI, Clerk of the Court Clerk, by  , Deputy
(Fecha) (Secretario) Georgina Ramirez (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

Page 1 of 1

Jonathan M. Lebe (SBN 284605)
jon@lebelaw.com
LEBE LAW, APLC
777 S. Alameda Street, Second Floor
Los Angeles, CA 90021
Telephone: (213) 358-7046

Attorneys for Plaintiff Melinda James,
Individually and on behalf of all aggrieved employees

Assigned for All Purposes

Judge Peter Wilson

CX-102

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

Melinda James, individually and on behalf of
all aggrieved employees,

Plaintiff,

Vs.

Coolsys Commercial & Industrial Solutions,
Inc.; Source Refrigeration & HVAC, Inc.; and
Does 1-10, Inclusive,

Defendants.

CASE NO.: 30-2020-01163014-CU-OE-CXC

**COMPLAINT FOR RECOVERY OF
CIVIL PENALTIES PURSUANT TO
THE PRIVATE ATTORNEYS
GENERAL ACT ("PAGA")**

(1) PAGA Civil Penalties for
Violations of Labor Code §§ 1194,
1197.1 and the Applicable Wage Order
for Failure to Pay All Minimum Wages;

(2) PAGA Civil Penalties for
Violations of Labor Code §§ 510, 1194,
1198 and the Applicable Wage Order for
Failure to Pay All Overtime Wages;

(3) PAGA Civil Penalties for
Violations of Labor Code §§ 204, 210
and the Applicable Wage Order for
Failure to Pay All Wages;

(4) PAGA Civil Penalties for
Violations of the Applicable Wage Order
for Failure to Pay Reporting Time Pay;

(5) PAGA Civil Penalties for
Violations of Labor Code §§ 226.7, 512
and the Applicable Wage Order for
Failure to Provide Timely and Compliant
Meal Periods;

(6) PAGA Civil Penalties for Violations of Labor Code § 226.7, and the Applicable Wage Order for Failure to Provide Timely and Compliant Rest Periods;

(7) PAGA Civil Penalties for Violations of Labor Code §§ 226(a), 226.3 and the Applicable Wage Order for Failure to Provide Accurate and Itemized Wage Statements; and

(8) PAGA Civil Penalties for Violations of Labor Code §§ 201-203 for Failure to Timely Pay All Wages Due to Terminated/Separated Employees.

Plaintiff Melinda James (“Plaintiff”), individually and on behalf of all aggrieved employees, alleges as follows:

INTRODUCTION

1. Plaintiff is an individual who worked as an employee for Coolsys Industrial and Cool Systems Solutions, Inc., Source Refrigeration & HVAC, Inc., and Does 1 through 10, inclusive (“Defendants”). Plaintiff seek to recover civil penalties for all California-based “aggrieved employees” during the “Relevant Time Period” (defined as April 6, 2019¹ up to and including the date of commencement of trial) who incurred wage and hour violations and losses as hereinafter described.

2. On July 10, 2020, Plaintiff gave notice of these claims to the California Labor and Workforce Development Agency (“LWDA”) and to the agent for service of process for each Defendant. Plaintiff has not received any response from the LWDA indicating that it intends to investigate these claims. Accordingly, Plaintiff has exhausted all notice requirements under the PAGA.

///

¹ The statute of limitations for this matter was tolled pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

1 **JURISDICTION AND VENUE**

2 3. The relief sought by Plaintiff on behalf of himself and the aggrieved employees
3 below exceeds the minimal jurisdictional limits of the Superior Court and will be established
4 according to proof at trial. The Court has personal jurisdiction over each of the parties because
5 they are either citizens of this State, doing business in this State or otherwise have minimum
6 contacts with this State.

7 4. Based on information and belief, Plaintiff alleges that this entire action arises solely
8 under the laws of the State of California and applicable regulations of the health, safety and wages
9 of the employees residing in the State of California. Plaintiff alleges, on information and belief,
10 that no federal question is raised. Moreover, PAGA civil penalty actions are not subject to federal
11 jurisdiction.

12 5. Venue is proper in this Court because, upon information and belief, Defendants
13 reside, transact business or have offices in this county and the acts and omissions alleged herein
14 took place in this county.

15 **PARTIES**

16 **Plaintiff**

17 6. Plaintiff Melinda James is a citizen of California who worked for Defendants within
18 the past year. Throughout Plaintiff's employment, Plaintiff and Plaintiff's co-workers were
19 subjected to wage theft.

20 **Defendants**

21 7. Defendant Coolsys Commercial & Industrial Solutions, Inc. is a corporation
22 incorporated under the laws of California and headquartered in Orange County.

23 8. Defendant Source Refrigeration & HVAC, Inc. is an unknown entity.

24 9. Defendant Coolsys, Inc. is a corporation incorporated under the laws of Delaware.

25 10. Plaintiff is unaware of the true names or capacities of the defendants sued herein
26 under the fictitious names DOES 1 through 10 but will seek leave of this Court to amend this
27 Complaint and serve such fictitiously named defendants once their names and capacities become
28 known.

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

12. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1 through 10, acting as the agent or alter ego for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

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

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

GENERAL ALLEGATIONS

15. At all relevant times mentioned herein, Defendants employed Plaintiff and other persons as employees.

16. Defendants employed Plaintiff during the Relevant Time Period.

17. Defendants failed to provide meal periods for each five hours of work to its employees, including Plaintiff. Plaintiff and aggrieved employees often worked through meal periods. Purported meal periods were often short, late or interrupted. Defendants also failed to pay an additional hour's worth of premium pay on each occasion that it failed to provide lawful meal periods as required by law.

18. Additionally, Defendants failed to authorize or permit ten-minute rest periods for every four hours or major fraction thereof worked. Plaintiff and other aggrieved employees very

1 often did not receive any rest breaks. Defendants also failed to pay an additional hour's worth of
2 premium pay on each occasion that it failed to provide lawful rest periods as required by law.

3 19. Additionally, Defendants have subjected Plaintiff and other aggrieved employees
4 to a uniform policy and practice of unlawful time rounding and manipulation. That is, Defendants
5 rounded Plaintiff's and other aggrieved employees' hours worked, or otherwise manipulated the
6 reported hours, which over time, unlawfully favored Employer and resulted in time loss to the
7 employees. This rounding policy was not neutral on its face or in application and resulted in
8 cumulative loss of time to the employees.

9 20. Defendants had the ability to pay for the precise hours worked but opted instead to
10 utilize the rounding policy with no apparent benefit other than to benefit Defendants and deprive
11 employees of payment for all hours worked. As a result of the rounding practices and also the off
12 the clock work during meal periods, Plaintiff and aggrieved employees were not paid all minimum
13 and regular wages for all hours worked. When the employees worked overtime, the rounding
14 policy and time manipulation policy also resulted in the failure to pay all overtime hours worked.

15 21. Defendants failed to pay all reporting time pay to Plaintiff and aggrieved
16 employees. For example, on various dates, Plaintiff received only 2 or 3 hours of reporting time
17 pay instead of half of the hours of her normal shift.

18 22. Defendants failed to provide accurate and complete wage statements by failing to
19 include all the required information pursuant to Labor Code section 226, including but not limited
20 to failing to include the correct number of hours worked and wages earned and each employer's
21 legal name and address.

22 23. Defendants failed to timely pay final wages to Plaintiff and aggrieved employees.
23 For example, according to Defendants' records, Plaintiff's employment was terminated on March
24 11, 2020 but, also according to Defendants' records, the pay date for her final wages was March
25 13, 2020.

26 24. Plaintiff suffered losses as detailed above as a result of these practices and is
27 therefore an aggrieved employee under Labor Code section 2699(c). Plaintiff is informed and
28 believe that because the Defendants used identical procedures for all employees, there are many

1 other aggrieved employees who suffered the above violations including underpayment of wages,
2 non-compliant meal periods and rest breaks, failure to provide sick leave, failure to reimburse all
3 reasonable and necessary business expenses, and derivative violations for inaccurate pay and wage
4 statements, and failure to timely pay all wages due to employees who were separated or were
5 terminated from employment during the applicable limitations period, and for which recovery
6 under PAGA is owed.

7 **FIRST CAUSE OF ACTION**

8 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 1194,**
9 **1197.1 AND THE APPLICABLE WAGE ORDER FOR**
10 **FAILURE TO PAY ALL MINIMUM WAGES**

11 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

12 25. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
13 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
14 dated July 10, 2020.

15 26. The Labor Code and the Wage Order provide that in the State of California an
16 employer must pay a minimum wage to an employee, which is eight dollars (\$8.00) per hour for
17 all hours worked effective January 1, 2008, nine dollars (\$9.00) per hour for all hours worked
18 effective July 1, 2014, ten dollars (\$10.00) per hour for all hours worked effective January 1, 2016,
19 ten dollars and fifty cents (\$10.50) per hour for all hours worked effective January 1, 2017, eleven
20 dollars (\$11.00) per hour for all hours worked effective January 1, 2018, twelve dollars (\$12.00)
21 per hour for all hours worked effective January 1, 2019, and thirteen dollars (\$13.00) per hour for
22 all hours worked effective January 1, 2020.

23 27. Labor Code section 1194 states: “Notwithstanding any agreement to work for a
24 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
25 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
26 of the full amount of this minimum wage or overtime compensation, including interest thereon,
27 reasonable attorney’s fees, and costs of suit.”

28 28. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved

1 employees of their rightfully earned minimum wage compensation, including overtime
2 compensation at the minimum wage rate, as a direct and proximate result of Defendants' failure
3 to pay said compensation. Consequently, Plaintiff, on behalf of himself and other aggrieved
4 employees, intends to seek civil penalties pursuant to the PAGA for the alleged violations.

5 29. Labor Code section 1197.1(a)(1) provides that: "For any initial violation that is
6 intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay
7 period for which the employee is underpaid. This amount shall be in addition to an amount
8 sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
9 applicable penalties imposed pursuant to Section 203."

10 30. Labor Code section 1191.1(a)(2) provides that: "For each subsequent violation for
11 the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each
12 pay period for which the employee is underpaid regardless of whether the initial violation is
13 intentionally committed. This amount shall be in addition to an amount sufficient to recover
14 underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties
15 imposed pursuant to Section 203.

16 31. Violations of the Wage Orders for failure to pay all wages trigger the civil penalty
17 provisions of Labor Code section 558: "(a) Any Employers or other person acting on behalf of an
18 Employers who violates, or causes to be violated, a section of this chapter or any provision
19 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
20 subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
21 underpaid employee for each pay period for which the employee was underpaid; (2) For each
22 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
23 for which the employee was underpaid."

24 32. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
25 to Labor Code section 1197.1(a) for violations of statutes and subject to civil penalties for
26 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
27 according to proof.

28 33. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section

1 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
2 labor laws and applicable regulations is determined to be in the public interest and consistent with
3 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
4 subject to Court approval.

5 **SECOND CAUSE OF ACTION**

6 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 510,**
7 **1194, 1198 AND THE APPLICABLE WAGE ORDER FOR**
8 **FAILURE TO PAY ALL OVERTIME WAGES**

9 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

10 34. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
11 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
12 dated July 10, 2020.

13 35. Labor Code section 510(a) states in pertinent part that: "Eight hours of labor
14 constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess
15 of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in
16 any one workweek shall be compensated at the rate of no less than one and one-half times the
17 regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
18 compensated at the rate of no less than twice the regular rate of pay for an employee."

19 36. Labor Code section 1194 states: "Notwithstanding any agreement to work for a
20 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
21 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
22 of the full amount of this minimum wage or overtime compensation, including interest thereon,
23 reasonable attorney's fees, and costs of suit."

24 37. Each of these statutes is listed in Labor Code section 2699.5 as a statute for which
25 violation of has been established to be subject to the default civil penalty provisions in Labor Code
26 section 2699(f)(2). That section provides: "(f) For all provisions of this code except those for
27 which a civil penalty is specifically provided, there is established a civil penalty for a violation of
28 these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one

1 or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee
2 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee
3 per pay period for each subsequent violation.”

4 38. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
5 employees of their rightfully earned overtime compensation as a direct and proximate result of
6 Defendants’ failure to pay said compensation. Consequently, Plaintiff, on behalf of himself and
7 other aggrieved employees, intends to seek civil penalties pursuant to the PAGA for the alleged
8 violations.

9 39. Violations of the Wage Orders for failure to pay all wages trigger the civil penalty
10 provisions of Labor Code section 558: “(a) Any Employers or other person acting on behalf of an
11 Employers who violates, or causes to be violated, a section of this chapter or any provision
12 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
13 subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
14 underpaid employee for each pay period for which the employee was underpaid; (2) For each
15 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period
16 for which the employee was underpaid.”

17 40. Accordingly, the Defendants are subject to assessment of civil penalties pursuant
18 to Labor Code section 1197.1(a) for violations of statutes and subject to civil penalties for
19 violations of the applicable Wage Order as provided by Labor Code section 558(a) in an amount
20 according to proof.

21 41. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
22 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
23 labor laws and applicable regulations is determined to be in the public interest and consistent with
24 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
25 subject to Court approval.

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE § 204, 210 AND THE**
3 **APPLICABLE WAGE ORDER FOR FAILURE TO PAY ALL WAGES**

4 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

5 42. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
6 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
7 dated July 10, 2020.

8 43. Labor Code section 204(a) provides: “All wages, other than those mentioned in
9 Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and
10 payable twice during each calendar month, on days designated in advance by the Employers as the
11 regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month
12 shall be paid for between the 16th and the 26th day of the month during which the labor was
13 performed, and labor performed between the 16th and the last day, inclusive, of any calendar
14 month, shall be paid for between the 1st and 10th day of the following month.”

15 44. Labor Code section 210(a) provides: “(a) **In addition to, and entirely**
16 **independent and apart from, any other penalty provided in this article**, every person who fails
17 to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205,
18 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one
19 hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation,
20 or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
21 employee, plus 25 percent of the amount unlawfully withheld.” [Emphasis added.]

22 45. This statute is listed in Labor Code section 2699.5 as a statute for which violation
23 of has been established to be subject to the default civil penalty provisions in Labor Code section
24 2699(f)(2). That section provides: “(f) For all provisions of this code except those for which a civil
25 penalty is specifically provided, there is established a civil penalty for a violation of these
26 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or
27 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per
28 pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee

1 per pay period for each subsequent violation.”

2 46. Here, based on the foregoing, Defendants deprived Plaintiff and similarly aggrieved
3 employees of their rightfully earned compensation, including overtime compensation and hours at
4 the minimum wage rate, as a direct and proximate result of Defendants’ failure to pay said
5 compensation. Consequently, Plaintiff, on behalf of himself and other aggrieved employees,
6 intends to seek civil penalties pursuant to the PAGA for the alleged violations.

7 47. Plaintiff will seek recovery of attorneys’ fees pursuant to Labor Code section
8 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
9 labor laws and applicable regulations is determined to be in the public interest and consistent with
10 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
11 subject to Court approval.

12 **FOURTH CAUSE OF ACTION**

13 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF** 14 **THE APPLICABLE WAGE ORDER FOR FAILURE TO PAY REPORTING TIME PAY** 15 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

16 48. At all times relevant hereto, the applicable IWC Order required Defendants to
17 compensate Plaintiff and the aggrieved employees at their usual rate for half of their usual or
18 scheduled day’s work, but in no event less than two hours, for each workday Plaintiff or any
19 aggrieved employee was required to report to work but was not put to work or was furnished with
20 less than half of her or his usual scheduled day’s work, including times when Plaintiff were
21 required to report to work but were told to wait before clocking in.

22 49. Labor Code section 1199 states, Every employer or other person acting either
23 individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and
24 is punishable by a fine of not less than one hundred dollars (\$100) or by imprisonment for not less
25 than 30 days, or by both, who does any of the following: (a) Requires or causes any employee to
26 work for longer hours than those fixed, or under conditions of labor prohibited by an order of the
27 commission; (b) Pays or causes to be paid to any employee a wage less than the minimum fixed
28 by an order of the commission; (c) Violates or refuses or neglects to comply with any provision of
this chapter or any order or ruling of the commission.

50. Labor Code section 2699(f)(2) states: “For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

51. Aggrieved employees are entitled to pursue civil penalties under the PAGA for violations of Labor Code section 1199. Labor Code § 2699.5.

52. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

FIFTH CAUSE OF ACTION

PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 226.7, 512

AND THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE

TIMELY AND COMPLIANT MEAL PERIODS

(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)

53. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated April 1, 2020, and the Amended Notice dated July 8, 2020.

54. Labor Code section 226.7(b) provides: “An Employers shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

55. Labor Code section 226.7(c) provides: “If an Employers fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not

1 limited to, an applicable statute or applicable regulation, standard, or order of the Industrial
2 Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of
3 Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay
4 at the employee's regular rate of compensation for each workday that the meal or rest or recovery
5 period is not provided."

6 56. Labor Code section 512(a) provides: "(a) An Employers shall not employ an
7 employee for a work period of more than five hours per day without providing the employee with
8 a meal period of not less than 30 minutes, except that if the total work period per day of the
9 employee is no more than six hours, the meal period may be waived by mutual consent of both the
10 Employers and employee. An Employers shall not employ an employee for a work period of more
11 than 10 hours per day without providing the employee with a second meal period of not less than
12 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period
13 may be waived by mutual consent of the Employers and the employee only if the first meal period
14 was not waived."

15 57. Here, based on the foregoing, Defendants employed Plaintiff and aggrieved
16 employees for work periods of more than five hours without a timely meal period of not less than
17 thirty minutes, where they were free from employer control, and failed to compensate them for
18 such meal periods at the correct regular rate of pay, as required by Labor Code § 226.7 and the
19 applicable Wage Order.

20 58. Labor Code sections 226.7 and 512 are statutes specifically listed in Labor Code
21 section 2699.5 as statutes for which violations of have been established to be subject to the default
22 civil penalty provisions in Labor Code section 2699(f)(2). That section provides: "(f) For all
23 provisions of this code except those for which a civil penalty is specifically provided, there is
24 established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of
25 the alleged violation, the person employs one or more employees, the civil penalty is one hundred
26 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred
27 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation."

28 59. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section

1 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California
2 labor laws and applicable regulations is determined to be in the public interest and consistent with
3 the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and
4 subject to Court approval.

5 **SIXTH CAUSE OF ACTION**

6 **PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE § 226.7 AND THE**
7 **APPLICABLE WAGE ORDER, FOR FAILURE TO PROVIDE TIMELY**
8 **AND COMPLIANT REST PERIODS**

9 **(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)**

10 60. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
11 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
12 dated July 10, 2020.

13 61. Labor Code section 226.7(b) provides: “An Employers shall not require an
14 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
15 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the
16 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
17 Health.”

18 62. Labor Code section 226.7(c) provides: “If an Employers fails to provide an
19 employee a meal or rest or recovery period in accordance with a state law, including, but not
20 limited to, an applicable statute or applicable regulation, standard, or order of the Industrial
21 Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of
22 Occupational Safety and Health, the Employers shall pay the employee one additional hour of pay
23 at the employee’s regular rate of compensation for each workday that the meal or rest or recovery
24 period is not provided.”

25 63. Here, based on the foregoing, Defendants employed Plaintiff and aggrieved
26 employees for work periods of four hours or major fraction thereof without timely rest periods of
27 ten minutes where they were free of employer control, and failed to compensate them for such rest
28 periods, as required by Labor Code section 226.7 and the applicable Wage Order.

64. Labor Code sections 226.7 is a statute specifically listed in Labor Code section 2699.5 as statutes for which violations of have been established to be subject to the default civil penalty provisions in Labor Code section 2699(f)(2). That section provides: “(f) For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

65. Plaintiff will seek recovery of attorneys' fees pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

SEVENTH CAUSE OF ACTION

**PAGA CIVIL PENALTIES FOR LABOR CODE §§ 226(a), 226.3 AND
THE APPLICABLE WAGE ORDER FOR FAILURE TO PROVIDE ACCURATE AND
ITEMIZED WAGE STATEMENTS**

(By Plaintiff on behalf of all similarly aggrieved employees and against each Defendant)

66. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated July 10, 2020.

67. Labor Code section 226(a) provides in pertinent part: “(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee. . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown

1 as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
2 paid, . . . (8) the name and address of the legal entity that is the employer . . . and (9) all applicable
3 hourly rates in effect during the pay period and the corresponding number of hours worked at each
4 hourly rate by the employee...”

5 68. Labor Code section 226.3 provides in pertinent part: “Any employer who violates
6 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty
7 dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000)
8 per employee for each violation in a subsequent citation, for which the employer fails to provide
9 the employee a wage deduction statement or fails to keep the records required in subdivision (a)
10 of Section 226. The civil penalties provided for in this section are in addition to any other penalty
11 provided by law...”

12 69. Defendants systemically failed to provide such wage statements with accurate
13 information and engaged in a policy of failing to pay for all hours actually worked.

14 70. The aforementioned conduct violated Labor Code section 226(a). It also violated
15 the applicable Wage Order on required recordkeeping. Finally, the practices described herein
16 violate Labor Code section 226.3, which assigns a specific civil penalty scheme for enforcement
17 actions by the Department of Labor Standards and Enforcement (“DLSE”) or the LWDA.

18 71. Labor Code section 226(a) is a statute listed under Labor Code section 2699.5 for
19 which civil penalties may be recovered under the default civil penalty scheme outlined in Labor
20 Code section 2699(f)(2), cited above.

21 72. Labor Code section 226.3 provides an additional recoverable penalty “in the
22 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
23 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation...” The
24 civil penalty assessments under Section 226.3 “are **in addition** to any other penalty provided by
25 law.” [Emphasis added.]

26 73. Consequently, Plaintiff, on behalf of himself and other aggrieved employees, seeks
27 to recover civil penalties pursuant to the PAGA for the alleged violations in an amount according
28 to proof and subject to Court approval.

74. Plaintiff will also seek recovery of attorneys' fees and litigation expenses pursuant to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent enforcement of California labor laws and applicable regulations is determined to be in the public interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount according to proof and subject to Court approval.

EIGHTH CAUSE OF ACTION

PAGA CIVIL PENALTIES FOR VIOLATIONS OF LABOR CODE §§ 201-203

FOR FAILURE TO TIMELY PAY ALL WAGES DUE TO

TERMINATED/SEPARATED EMPLOYEES

(By Plaintiff on behalf of all similarly aggrieved employees against each Defendant)

75. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA dated July 10, 2020.

76. Labor Code section 201 provides in part: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

77. Labor Code section 202 provides in part: “ If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, 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.

78. Labor Code section 203 provides: “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves or themselves to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids

1 payment.”

2 79. Labor Code section 203 is a statute listed under Labor Code section 2699.5 for
3 which civil penalties may be recovered under the default civil penalty scheme outlined in Labor
4 Code section 2699(f)(2), cited above.

5 80. Here, Plaintiff and other aggrieved employees who were separated or were
6 terminated from their employment within the applicable limitations period were not paid all wages
7 due in a timely manner including as detailed above.

8 81. Consequently, Plaintiff, on behalf of himself and other aggrieved employees, seeks
9 to recover civil penalties pursuant to the PAGA for the alleged violations per pay period in an
10 amount according to proof and subject to Court approval.

11 82. Plaintiff will also seek recovery of attorneys’ fees and litigation expenses pursuant
12 to Labor Code section 2699(g) and/or Code of Civil Procedure section 1021.5 to the extent
13 enforcement of California labor laws and applicable regulations is determined to be in the public
14 interest and consistent with the Legislative intent stated in Labor Code section 90.5, in an amount
15 according to proof and subject to Court approval.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for relief as follows:

18 1. On the First Cause of Action, Plaintiff individually and on behalf of all aggrieved
19 employees against all Defendants, Plaintiff seeks:

20 a. Civil Penalties pursuant to Labor Code § 1197.1:

21 i. \$100 for each aggrieved employee per pay period for the initial violation;
22 and

23 ii. \$250 for each aggrieved employee per pay period for each subsequent
24 violation; and

25 b. Civil Penalties pursuant to Labor Code § 558:

26 i. \$50 for each underpaid employee for each pay period; and

27 ii. \$100 per employee per pay period for subsequent violations.
28

- 1 2. On the Second Cause of Action, by Plaintiff individually and on behalf of all
2 aggrieved employees against all Defendants, Plaintiff seeks:
- 3 a. Civil penalties pursuant to Labor Code § 2699(f):
- 4 i. \$100 for each aggrieved employee per pay period for the initial violation;
5 and
- 6 ii. \$200 for each aggrieved employee per pay period for each subsequent
7 violation; and
- 8 b. Civil penalties pursuant to Labor Code § 558:
- 9 i. \$50 for each underpaid employee for each pay period; and
10 ii. \$100 per employee per pay period for subsequent violations.
- 11 3. On the Third Cause of Action, by Plaintiff individually and on behalf of all
12 aggrieved employees against all Defendants, Plaintiff seeks:
- 13 a. Civil penalties pursuant to Labor Code § 2699(f):
- 14 i. \$100 for each aggrieved employee per pay period for the initial violation;
15 and
- 16 ii. \$200 for each aggrieved employee per pay period for each subsequent
17 violation; and
- 18 b. Civil penalties pursuant to Labor Code § 558:
- 19 i. \$50 for each underpaid employee for each pay period; and
20 ii. \$100 per employee per pay period for subsequent violations.
- 21 4. On the Fourth Cause of Action, by Plaintiff individually and on behalf of all
22 aggrieved employees against all Defendants, Plaintiff seeks:
- 23 a. Civil penalties pursuant to Labor Code § 2699(f):
- 24 i. \$100 for each aggrieved employee per pay period for the initial violation;
25 and
- 26 ii. \$200 for each aggrieved employee per pay period for each subsequent
27 violation; and
- 28 b. Civil penalties pursuant to Labor Code § 558:

- i. \$50 for each underpaid employee for each pay period; and
 - ii. \$100 per employee per pay period for subsequent violations.
5. On the Fifth Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 2699(f):
 - i. \$100 for each aggrieved employee per pay period for the initial violation; and
 - ii. \$200 for each aggrieved employee per pay period for each subsequent violation; and
 - b. Civil penalties pursuant to Labor Code § 558:
 - i. \$50 for each underpaid employee for each pay period; and
 - ii. \$100 per employee per pay period for subsequent violations.
6. On the Sixth Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 2699(f):
 - i. \$100 for each aggrieved employee per pay period for the initial violation; and
 - ii. \$200 for each aggrieved employee per pay period for each subsequent violation; and
 - b. Civil penalties pursuant to Labor Code § 558:
 - i. \$50 for each underpaid employee for each pay period; and
 - ii. \$100 per employee per pay period for subsequent violations.
7. On the Seventh Cause of Action, by Plaintiff individually and on behalf of all aggrieved employees against all Defendants, Plaintiff seeks:
 - a. Civil penalties pursuant to Labor Code § 226.3:
 - i. \$250 per employee per violation for an initial citation; and
 - ii. \$1,000 per employee for each violation for subsequent citation;

1 8. On the Eighth Cause of Action, by Plaintiff individually and on behalf of all
2 aggrieved employees against all Defendants, Plaintiff seeks:

3 a. Civil penalties pursuant to Labor Code § 2699(f):

4 i. \$100 for each aggrieved employee per pay period for the initial violation;
5 and

6 ii. \$200 for each aggrieved employee per pay period for each subsequent
7 violation.

8 9. For reasonable attorneys' fees under the California Labor Code and any other
9 statutes, including California Labor Code of Civil Procedure § 1021.5 and/or California Labor
10 Code § 2699(g);

11 10. For costs of the suit incurred herein;

12 11. For pre- and post-judgment interest at the prevailing statutory rate;

13 12. For civil penalties as described above pursuant to PAGA, 75% of which will be
14 paid to the Labor Workforce Development Agency and 25% of which will be distributed to the
15 aggrieved employees;

16 13. For such equitable relief as the Court may deem just and proper; and

17 14. For such other relief as the Court may deem proper.

18 DATED: September 30, 2020

LEBE LAW, APLC

19
20 By: 

21 Jonathan M. Lebe

22 Attorney for Plaintiff Melinda James, Individually
23 and on behalf of all aggrieved employees
24
25
26
27
28

FOR PARTY OR PARTY WITH COUNSEL ATTORNEY (Name, State Bar number and address): Jonathan M. Lebe (SBN 284605) Lebe Law, APLC 777 S. Alameda Street, 2nd Floor, Los Angeles, CA 90021 TELEPHONE NO.: (213) 358-7056 FAX NO.: ATTORNEY FOR (Name): Plaintiff Melinda James		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 West Santa Ana Blvd. MAILING ADDRESS: 751 West Santa Ana Blvd. CITY AND ZIP CODE: Santa Ana, California 92701 BRANCH NAME:		
CASE NAME: Melinda James v. Coolsys Commercial & Industrial Solutions, Inc.		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 30-2020-01163014-CU-OE-CXC JUDGE: Judge Peter Wilson DEPT: CX-102

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
---	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify):
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 30, 2020
Jonathan M. Lebe

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition