

MESSRELIAN LAW INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

HECTOR LEONIDES,

Plaintiff,

vs.

WASTE AWAY LLC and DOES 1 to 25,
inclusive,

Defendants.

CASE NO.: 30-2021-01181372-CU-OE-CXC
Assigned for all purposes to: Judge Peter Wilson
Dept: CX102

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES;**
- 3) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 4) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) VIOLATION OF LABOR CODE SECTION 558;**
- 7) FAILURE TO MAINTAIN ACCURATE RECORDS;**
- 8) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 9) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

JURY TRIAL DEMANDED

COMES NOW Plaintiff, HECTOR LEONIDES (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Orange in this judicial district because Defendants WASTE AWAY LLC and DOES 1 to 25 do business in the County of Orange and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Orange is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant WASTE AWAY LLC (“WASTE AWAY”)s is a Florida corporation, doing business in the County of Orange, State of California and which employed Plaintiff.

4. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

5. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

GENERAL ALLEGATIONS

6. Plaintiff started working for WASTE AWAY sometime in 2018 in a janitorial position as his main job duty was to pick up trash at a particular apartment complex located at 11152 Wallingsford Rd., Los Alamitos, California, 90720 which is in the County of Orange.

7. Plaintiff's last day worked for WASTE AWAY was on or around September 17, 2020.

8. Throughout his employment at WASTE AWAY, Plaintiff worked from Sunday through Thursday and had a set time frame during which he worked every day (as set forth by WASTE AWAY). He was paid \$350 every two weeks for an aggregate of \$700 per month. Plaintiff was not classified as a "W-2" employee and was classified as an independent contractor.

9. WASTE AWAY has committed numerous labor code violations against Plaintiff and other similarly situated aggrieved employees.

10. WASTE AWAY violated Labor Code section 226.8. Pursuant to Labor Code section 226.8(a)(1), it is unlawful for any person or employer to willfully misclassify an individual as an independent contractor. "Willful misclassification means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor." Cal. Lab. Code Section 226.8(i)(4). If a person or employer has willfully misclassified an individual as an independent contractor, the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code Section 226.8(b). If the person or employer has engaged in or is engaging in a pattern or practice of willfully misclassifying individuals as independent contractors, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code Section 226.8(c).

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1 11. In a very important decision, Dynamex Operations v. Superior Court (2018) 4 Cal. 5th
2 903, the Supreme Court developed the “ABC Test” to determine whether an independent
3 contractor is an employee. Under the ABC Test, a worker will be deemed to have been “suffered
4 or permitted to work,” and thus, an employee for wage order purposes, unless the putative
5 employer proves:

6 (A) that the worker is free from the control and direction of the hiring entity in connection with
7 the performance of the work, both under the contract for the performance of the work and in fact;

8 (B) that the worker performs work that is outside the usual course of the hiring entity’s business;
9 and

10 (C) that the worker is customarily engaged in an independently established trade, occupation, or
11 business of the same nature as the work performed.

12 Note that each of these requirements need to be met in order for the presumption that a worker
13 is an employee to be rebutted, and for a court to recognize that a worker has been properly
classified as an independent contractor.

14 12. Here, it is unequivocally clear that WASTE AWAY would not be able to get past the
15 second part of the test since Plaintiff and others were unequivocally janitors, which comprises
16 WASTE AWAY’s core business of waste management. As such, WASTE AWAY willfully
17 misclassified Plaintiff and other aggrieved employees as independent contractors.

18 13. WASTE AWAY did not provide Plaintiff and other similarly situated aggrieved
19 employees with the minimum wages to which they were entitled for work performed and as
20 such did compensate Plaintiff and others for all hours worked at the minimum wage rate
21 pursuant to California Labor Code sections 1194, 1197 and 1197.1. This was so because
22 WASTE AWAY has not paid Plaintiff for the hours he worked from August 15, 2020 through
23 August 30, 2020. To date, Plaintiff has not been paid for that time period and for those hours
24 and as such has not been paid for all hours worked, including the minimum wage.

25 14. Furthermore, during the relevant time period and due to the above-cited labor code
26 violations, WASTE AWAY failed to pay Plaintiff and other similarly situated aggrieved
27 employees all wages due to them within any time period specified by California Labor Code
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1 section 204.

2 15. WASTE AWAY was also in violation of California Labor Code section 226(a) by failing
3 to include pertinent information on their wage statements, including but not limited to, all hours
4 worked, gross wages earned, all deductions, net wages earned, all applicable hourly rates, the
5 start and end of the pay period, and the legal name and address of the employing entity, among
6 others. In fact, WASTE AWAY did not provide Plaintiff and other aggrieved employee with
7 any paystubs whatsoever due to the fact that they were misclassified as independent contractors.
8 Plaintiff as well as others were just left guessing as to their compensation and how it was broken
9 down, which is an obvious cognizable injury under the law. As such, WASTE AWAY did not
10 provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
11 itemized wage statements.

12 16. WASTE AWAY violated Labor Code § 203 because it willfully failed to pay Plaintiff
13 and other similarly situated aggrieved employees their earned and due wages upon separation of
14 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
15 These earned but unpaid wages include compensation for all hours worked, including minimum
16 wages.

17 17. During the relevant time period, WASTE AWAY also failed to keep accurate and
18 complete payroll records showing the hours worked by Plaintiff and other similarly situated
19 aggrieved employees as well as the correct wages paid to Plaintiff and other aggrieved
20 employees pursuant to California Labor Code sections 1174(d).

21 18. Moreover, WASTE AWAY failed to provide sick pay pursuant to Labor Code section
22 246.

23 19. WASTE AWAY also failed to provide Worker's Compensation coverage for Plaintiff
24 and other aggrieved employees in violation of Labor Code Section 3700.5.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

3 **(California Industrial Welfare Commission Order 4-2001, California Code of**
4 **Regulations Title 8 Section 11040, and California Labor Code Section 1198)**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 20. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 19, inclusive, of this Complaint as though fully set forth herein.

8 21. At all times relevant herein, Defendants were required to compensate its employees for
9 all hours worked upon reporting for work at the appointed time stated by the employer
10 pursuant to Industrial Welfare Commission Order 4-2001, California Code of Regulations,
11 Title 8, Section 11040.

12 22. For the three (3) years preceding filing of this action, Defendants failed to compensate
13 Plaintiff for all hours worked.

14 23. Under the aforementioned wage order and regulations, Plaintiff is to recover
15 compensation for all hours worked but not paid by Defendants for the three (3) years
16 preceding the filing of this Complaint.

17 24. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
18 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
19 this Court.

20 25. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
21 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
22 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
23 reasonable attorney's fees and costs of suit.

24 26. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
26 amount known to Plaintiff once he has obtained all of his payroll records from
27 Defendants.
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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES**

3 **(California Labor Code Sections 1194, 1194.2, 1197)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 27. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 26, inclusive, of this Complaint as though fully set forth herein.
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8 28. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
9 to suffer or permit a California employee to work without paying wages at the minimum wage
10 rate for all hours worked as required by the applicable Industrial Welfare Commission
11 (hereinafter "IWC") Wage Order No. 4-2001, codified at California Code of Regulations, Title
12 8, Section 11040, subdivision 4.

13 29. Pursuant to IWC Wage Order no. 4-2001, subdivision 2(K), at all relevant times, "hours
14 worked" included "the time during which an employee is subject to the control of an employer,
15 and includes all the time the employee is suffered or permitted to work, whether or not required
16 to do so..."

17 30. During his employment, Plaintiff was regularly required as a matter of uniform
18 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
19 was paid less than the minimum wage rate by Defendants for hours worked in violation of
20 California Labor Code Section 1197 and the applicable California Industrial Wage
21 Commission wage order(s).

22 31. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
23 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
24 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
25 to believe that their acts or omissions were not contrary to California law.

26 32. For all hours worked by Plaintiff for which he was paid less than the minimum wage
27 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
28 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount

1 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
2 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

3 33. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
4 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
5 trial.

6 **THIRD CAUSE OF ACTION**

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

8 **(California Labor Code Section 226)**

9 **(Plaintiff against all named defendants and all DOE defendants)**

10 34. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 33, inclusive, of this Complaint as though fully set forth herein.

12 35. Pursuant to California Labor Code Section 226, every employer must furnish each
13 employee an itemized statement of wages and deductions at the time of payment of wages.

14 36. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs
15 that accurately reflected all information required by Labor Code Section 226, including but not
16 limited to, accurate figures for gross wages earned, net wages earned, total hours worked by
17 the employee (regular and overtime), all applicable hourly rates, all deductions, premium pay
18 for missed rest breaks and meal breaks, the correct start and end of the pay period, the correct
19 name and address of the legal employer, and business expense reimbursement. Therefore,
20 Defendants failed to maintain and provide accurate itemized wage statements to Plaintiff in
21 accordance with California Labor Code Section 226(a).

22 37. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
23 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
24 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
25 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
26 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
27 the 1-year period immediately preceding the date this lawsuit was filed.
28

1 38. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
2 sustained damages, including loss of earnings, in an amount to be established at trial. As a
3 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
4 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
5 and attorney's fees pursuant to statute.

6 39. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial.

9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

11 **(California Labor Code Sections 201, 203)**

12 **(Plaintiff against all named defendants and all DOE defendants)**

13 40. Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 39, inclusive, of this Complaint as though fully set forth herein.

15 41. Pursuant to California Labor Code Section 201(a), an employer who discharges an
16 employee must immediately pay for all compensation due and owing.

17 42. Pursuant to California Labor Code Section 202, when an employee resigns, the
18 employer must pay all compensation due and owing within 72 hours of resignation, or on the
19 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

20 43. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
21 without abatement or reduction, any wages of an employee whose employment ends, the wages
22 of the employee shall continue as a penalty from the due date at the same rate until paid or until
23 an action is commenced; however, the wages shall not continue for more than 30 days for
24 failure to pay an employee owed wages.

25 44. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
26 continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

27 45. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
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1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
3 preceding the filing of this lawsuit.

4 46. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
5 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
6 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

7 47. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
8 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
9 trial.

10 **FIFTH CAUSE OF ACTION**

11 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

12 **(California Labor Code Section 204)**

13 **(Plaintiff against all named defendants and all DOE defendants)**

14 48. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 47, inclusive, of this Complaint as though fully set forth herein.

16 49. California Labor Code Section 204 establishes the fundamental right of all employees
17 in the State of California to be paid wages in a timely fashion for their work.

18 50. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
19 full amount of all owed wages when due as required by California Labor Code Section 204.

20 51. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
21 informed, believes, and thereon alleges, that all times relevant during the liability period,
22 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
23 including overtime hours and the minimum wage as well as premiums for missed rest breaks
24 and meal breaks.

25 52. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
26 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
27 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
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1 from Defendants' records or indirectly based on information from Defendants' records.

2 53. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
3 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
4 trial.

5 **SIXTH CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE SECTION 558**

7 **(California Labor Code Section 558)**

8 **(Plaintiff against all named defendants and all DOE defendants)**

9 54. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

11 55. California Labor Code Section 558 states that any person acting on behalf of an
12 employer who violates, or causes to be violated, a section of this chapter or any provision
13 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
14 subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid
15 employee for each pay period for which the employee was underpaid in addition to an amount
16 sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one
17 hundred dollars (\$100) for each underpaid employee for each pay period for which the
18 employee was underpaid in addition to an amount sufficient to recover underpaid wages.
19 Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was
20 filed.
21

22 56. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558.
23 Thus, Defendants are subject to civil penalties under the following laws:

- 24 a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular wages
25 for hours worked. As such, Defendants violated Section 558 under which penalties
26 are due. Plaintiff therefore prays for penalties of \$50.00 for the first pay period and
27 \$100.00 for each subsequent violation for each pay period for which Plaintiff was
28

underpaid in addition to an amount sufficient to recover underpaid wages.

b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for relief associated with Plaintiff's prosecution of this cause of action under California Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not paying Plaintiff for all of his hours worked.

c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's fees for relief associated with Plaintiff's prosecution of this cause of action under California Labor Code Sections 200, et seq.

57. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

58. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs and attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

SEVENTH CAUSE OF ACTION

FAILURE TO MAINTAIN ACCURATE RECORDS

(California Labor Code Section 1174(d))

(Plaintiff against all named defendants and all DOE defendants)

59. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

60. Labor Code section 1174(d) requires that employers, including Defendants, maintain accurate records showing the hours worked daily by its employees and to whom wages were paid.

61. Additionally, the "Records" section of the applicable IWC Wage Order obligates the employer, including Defendants, to keep accurate information with respect to each one of their employees including, but not limited to, the total wages paid each payroll period, and time records showing when the employee begins and ends each work period, meal periods, split

1 shift intervals; the total daily hours worked; the total hours worked in the payroll period, and
2 the applicable rates of pay.

3 62. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails
4 to maintain accurate and complete records required by Labor Code section 1174(d) is subject
5 to a penalty. On information and belief, Defendants intentionally failed to maintain accurate
6 records of Plaintiff's total daily hours, the total hours worked in the payroll period, the
7 applicable rates of pay, and total wages earned for the payroll period.

8 63. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and
9 continues to suffer substantial losses related to Defendants' failure to record and maintain
10 records of meal and rest periods as well as time records.

11 64. Plaintiff seeks all available remedies for Defendants' violations including, but not
12 limited penalties, and costs to the extent permitted by law and according to proof at trial.

13 **EIGHTH CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT**

15 **Individual and Representative Claim for PAGA penalties under California Labor Code**
16 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 232, 246, 558, 1174, 1174.5, 1194,**
1197, 1198, 3700.5)

17 **(Against All Named Defendants and all DOE Defendants)**

18 65. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 64, inclusive, of this Complaint as though fully set forth herein.

20 66. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
21 Defendants of the specific violations of the California Labor Code that Defendants
22 and DOE defendants have violated and continue to violate.

23 67. Pursuant to California Labor code section 2699.3, no response was received from the
24 LWDA within 65 days of the postmark date of the above-alleged letter.

25 68. Plaintiff therefore has exhausted all administrative remedies required of him under
26 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
27 cause of action and pursue penalties in a representative action for Defendants' violations of the
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1 Labor Code.

2 69. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
3 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
4 departments, divisions, commissions, boards, agencies, or employees for violation of the code
5 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
6 on behalf of himself or herself and other current or former employees pursuant to the
7 procedures specified in California Labor Code section 2699.3.
8

9 70. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
10 violator and had one or more of the alleged violations committed against him, and therefore is
11 properly suited to represent the interests of other current and former employees who were
12 misclassified as independent contractors but who should have been classified as hourly, non-
13 exempt employees who worked for CANTON at its various locations in the State of
14 California during the PAGA period.

15 71. Based on the acts alleged above, Plaintiff, on behalf of himself and all other hourly,
16 non-exempt employees who worked for CANTON in the State of California during
17 the applicable PAGA period, seeks penalties under California Labor Code sections 2698 and
18 2699 because of Defendants’ violations of numerous provisions of the California Labor Code
19 as alleged in this Complaint.

20 72. Plaintiff therefore has exhausted all administrative remedies required of him under
21 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
22 cause of action and pursue penalties in a representative action for Defendants’ violations of the
23 Labor Code.

24 73. California Labor Code section 2699 et seq. imposes penalties upon culpable
25 Defendants for violating the Labor Code.

26 74. California Labor Code section 558 establishes a civil penalty as follows: Any
27 employer or other person action on behalf of an employer who violates, or causes to be
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1 violated, a section of this chapter or any provision regulating hours and days of work in any
2 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
3 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
4 dollars (\$50) for each underpaid employee for each pay period for which the employee was
5 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
6 employee for each pay period for which the employee was underpaid ...;

7 75. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
8 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
9 seeking individual/victim specific relief or underpaid wages under this particular cause of
10 action.

11 76. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
12 law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
13 the following:

14 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
15 226.3, 232, 246, 558, 1174, 1174.5, 1194, 1197, 1198, and 3700.5 via 2698 and 2699 and
16 any other Labor Codes and Industrial Welfare Commission Wage Orders (Order no. 4)
17 violated based on the facts alleged in this Complaint.

18 77. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney’s fees,
19 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
20 employees as alleged herein in an amount to be shown according to proof at trial and within the
21 jurisdictional limits of this Court.

22 **NINTH CAUSE OF ACTION**

23 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

24 **(California Business and Professions Code Section 17200)**

25 **(Plaintiff against All Named Defendants and all DOE defendants)**

26 78. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 77, inclusive, of this Complaint as though fully set forth herein.
28

1 79. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
2 constitutes unfair and unlawful business practices under California Business and Professions
3 Code Section 17200, et seq.

4 80. Defendant's violations of California labor laws constitutes a business practice because
5 it was done repeatedly over a significant period of time in a systematic manner that was
6 detrimental to Plaintiff and other similarly situated aggrieved employees.

7 81. For the four years preceding the filing of this action, Plaintiff has suffered damages
8 and request damages and/or restitution of all monies and profits to be disgorged from
9 Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of
10 this Court.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
13 follows:

- 14 1. For compensatory damages including regular wages, according to
15 proof at trial;
- 16 2. For special damages to the extent allowed by law, according to proof at trial;
- 17 3. For restitution and disgorgement for all unfair business practices by Defendants against
18 Plaintiff in an amount according to proof;
- 19 4. For an order enjoining Defendants from further unfair and unlawful business practices
20 in violation of Business and Professions Code section 17200, et seq.;
- 21 5. For damages and penalties against Defendants under Labor Code section
22 226 for Plaintiff in an amount subject to proof at trial;
- 23 6. For damages and penalties pursuant to Labor Code section 203 against Defendants in
24 an amount subject to proof at trial;
- 25 7. For maximum civil penalties available under the Labor Code and applicable Wage
26 Order against Defendants as described more particularly in the Complaint and
27 representative PAGA claim;
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- 1 8. For all remedies available to Plaintiff under the applicable Wage Order and the
2 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
3 liquidated damages, damages, penalties, and waiting time penalties according to proof
4 to the extent permitted by law;
5 9. For the imposition of civil penalties and/or statutory penalties;
6 10. Reasonable attorney's fees where available by law, including but not limited to,
7 pursuant to Labor Code section 2698 et seq., and the California Labor Code;
8 11. Costs and expenses of suit incurred herein;
9 12. For all interest as allowed by law;
10 13. For such other and further relief as the Court deems just and proper.
11

12 DATED: January 25, 2021

MESSRELIAN LAW INC.

13
14 By 
15 Harout Messrelian, Esq.
16 Attorneys for Plaintiff Hector Leonides

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
19

20 DATED: January 25, 2021

MESSRELIAN LAW INC.

21
22 By 
23 Harout Messrelian, Esq.
24 Attorneys for Plaintiff Hector Leonides
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