

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Teresa Beaudet

1 Katherine J. Odenbreit (SBN: 184619)

2 kmahoney@mahoney-law.netp

3 Joshua D. Klein (SBN: 322099)

4 jklein@mahoney-law.net

5 **MAHONEY LAW GROUP, APC**

6 249 E. Ocean Boulevard, Suite 814

7 Long Beach, California 90802

8 Telephone: (562) 590-5550

9 Facsimile: (562) 590-8400

10 Attorneys for Plaintiff JULIO CASTELLANOS, as representative of the State of California and
11 the Labor and Workforce Development Agency, and on behalf of himself and other current and
12 former employees,

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **LOS ANGELES COUNTY – CENTRAL DISTRICT**

15 **STANLEY MOSK COURTHOUSE**

16 JULIO CASTELLANOS,

17 Plaintiff,

18 v.

19 SIERRA FOODS, INC. dba USA
20 GASOLINE; and DOES 1 through 50,
21 inclusive,

22 Defendants.

Case No.: 20STCV11462

**REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL PENALTIES**

1. Violation of PAGA for Failure to Pay All Wages Including Minimum Wages and Overtime Wages (Lab. Code, § 510, 1194);
2. Violation of PAGA for Failure to Provide Rest Periods (Lab. Code, § 226.7, 512);
3. Violation of PAGA for Failure to Provide Meal Periods (Lab. Code, § 226.7, 512);
4. Violation of PAGA for Waiting Time Penalties (Lab. Code, § 201, 202, 203);
5. Violation of PAGA for Failure to Keep Accurate Payroll Records (Lab. Code, §§ 1174, 226, subd. (A), (E)); and
6. Violation of PAGA for Failure to Reimburse for Necessary Expenditures (Lab. Code, § 2802).

DEMAND FOR JURY TRIAL

1 Plaintiff JULIO CASTELLANOS (“Plaintiff” or “Mr. Castellanos”), as a representative
2 of the State of California and the Labor and Workforce Development Agency (“LWDA”), and on
3 behalf of himself and other current and former employees, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This case arises out of the violation of numerous Labor Code provisions by
6 Defendant SIERRA FOODS, INC. dba USA GASOLINE, a California corporation, (“Defendant”
7 or “SFI”), and DOES 1-50, inclusive. Plaintiff and similarly-aggrieved employees seek civil
8 penalties pursuant to the Private Attorney General Act (“PAGA”) for these violations.

9 2. Plaintiff brings this lawsuit seeking civil penalties on behalf of the State for
10 Defendant’s violations of the Labor Code, including, but not limited to, sections 201, 202, 203,
11 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802. Plaintiff also seeks to recover, among other
12 things, interest, penalties, attorneys’ fees, and costs pursuant to Labor Code.

13 **JURISDICTION AND VENUE**

14 3. Venue is proper in this judicial district and the County of Los Angeles, pursuant
15 to Code of Civil Procedure section 395, because the Defendant maintains its office location and
16 transacts business in this county, the obligations and liability arise in this county, and/or work
17 was performed by Plaintiff and other aggrieved employees made the subject of this action in the
18 County of Los Angeles.

19 4. Defendant employed Plaintiff and similarly-aggrieved employees within the State
20 of California, and the unlawful acts alleged herein have a direct effect on Plaintiff and similarly-
21 aggrieved employees.

22 5. The California Superior Court has jurisdiction in the matter because the individual
23 claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional threshold
24 and the five million dollar (\$5,000,000.00) aggregate jurisdictional threshold for federal court
25 and, upon information and belief, Plaintiff and Defendant are residents of and/or domiciled in the
26 State of California. Further, there is no federal question at issue as the issues herein is based solely
27 on California Statutes and law including the Labor Code, Industrial Welfare Commission Wage
28 Orders, Code of Civil Procedure, and Rules of Court. Thus, the above entitled court maintains

appropriate jurisdiction to hear this matter.

ADMINISTRATIVE PREREQUISITE

6. By this complaint, Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided by the Private Attorney General Act (“PAGA”), Labor Code sections 2698 et seq., to the extent permitted by law, as an aggrieved employee who was employed by Defendant and subject to alleged violations set forth in Labor Code section 2699.5.

7. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause of action under PAGA only after giving notice to the Labor Workforce Development Agency (“LWDA”) and the employer of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate, or after sixty-five (65) days have passed without notice.

8. On January 16, 2020, Plaintiff gave written notice by electronically filing the notice with the Labor Workforce Development Agency (“LWDA”) (LWDA Case No. LWDA-CM-767483-20), and by certified mail to Defendant of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violations as required by Labor Code section 2699.3. A true and correct copy of Plaintiff’s letter sent to the LWDA and Defendant, dated January 16, 2020, is attached hereto as Exhibit A.

9. Plaintiff specifically alleged the following in his notice to the Labor Workforce Development Agency (“LWDA”) and the employer: violation of Labor Code sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802.

10. More than sixty-five (65) days have passed for the LWDA to provide notice of its intent to investigate Plaintiff’s claims, and the LWDA has not provided notice of its intention to investigate Plaintiff’s claims.

THE PARTIES

Plaintiff

11. Plaintiff was employed by Defendant from on or around January 2018, through on or around February 2019. At all relevant times herein, Plaintiff was employed by Defendant in a

1 non-exempt hourly position, and was entitled to compensation for all hours worked, including but
2 not limited to overtime compensation, as well as penalties from Defendant.

3 **Defendant**

4 12. Plaintiff is informed and believes, and based thereon alleges, that Defendant SFI
5 is a California corporation which owns and/or operates grocery and/or gasoline stores within the
6 state of California. On information and belief, and based thereon, Plaintiff alleges that Defendant
7 is conducting business in good standing in California, at all times herein mentioned, has regularly
8 conducted business throughout the State of California.

9 13. On information and belief, SFI is, and was, the employer for Plaintiff and other
10 aggrieved employees.

11 14. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
12 participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50,
13 inclusive, but on information and belief alleges that said Defendants are legally responsible for
14 the payment of wages, and the payment of rest and meal period compensation, to Plaintiff and
15 other aggrieved employees by virtue of their unlawful practices, and therefore sues these
16 Defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names
17 and capacities of the DOE Defendants when ascertained.

18 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
19 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
20 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant
21 are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as
22 the employer and/or joint employer of Plaintiff and other aggrieved employees.

23 16. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
24 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
25 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
26 below was acting, at least in part, within the course and scope of that authority as such agent,
27 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
28 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant

are legally attributable to the other Defendants.

17. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants sued herein was, at all relevant times, the employer, owner, shareholder, principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent and knowledge, approval and/or ratification of the other Defendants. The above co-Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, approved, authorized, and/or ratified the unlawful acts described herein.

GENERAL ALLEGATIONS

18. Plaintiff and other aggrieved employees are, and at all times relevant herein have been, non-exempt employees within the meaning of the Labor Code and the implementing rules and regulations of IWC California Wage Orders.

19. Plaintiff is informed and believes, and based thereon alleges, that Defendant's policies and practices described herein are common across each of SFI's job sites within the state.

20. Defendant failed to pay Mr. Castellanos and other aggrieved employees for all hours worked at the legally mandated wage rates. Throughout Mr. Castellanos's employment, Defendant failed to compensate Mr. Castellanos for all hours worked including, overtime and double-time overtime wages. Specifically, Defendant frequently required Mr. Castellanos to continue working after clocking out in order to complete tasks such as cleaning pumps, changing outside water, sweeping, and washing windows. However, Defendant did not compensate Mr. Castellanos for any time spent performing off-the-clock activities.

21. Plaintiff is informed and believes, and based thereon alleges, that Defendant was required to provide Plaintiff and other aggrieved employees with a work-free, thirty (30) minute meal period within the first five (5) hours of a shift for workdays in excess of six (6) hours, and a second thirty (30) minute meal period within the tenth hour of a shift for workdays in excess of ten (10) hours, in compliance with Labor Code section 512. Defendant routinely denied Plaintiff and other aggrieved employees a full, thirty (30) minute off-duty meal period when they worked

1 in excess of six (6) hours within the first five (5) hours of their shifts, and routinely denied Plaintiff
2 and other aggrieved employees a second thirty (30) minute meal period within the tenth (10th)
3 hour of their shifts. Further, even when provided, Mr. Castellanos's meal periods were routinely
4 interrupted due to inadequate coverage. On several occasions, Mr. Castellanos clocked out for his
5 lunch break only to be called back to work prior to his thirty (30) minute lunch finishing because
6 the kiosk did not have enough staff to tend the number of customers. When employees were
7 prevented from taking timely and uninterrupted meal periods, they did not always receive
8 premium pay as compensation for the unlawful meal periods.

9 22. Additionally, Defendant was obligated to provide Plaintiff and other aggrieved
10 employees with a ten (10) minute rest break for every four (4) hours, or major fraction thereof,
11 worked each day. Mr. Castellanos and other aggrieved employees were generally precluded from
12 taking rest periods due to Defendant's failure to sufficiently staff shifts to provide relief and
13 thereby allow Mr. Castellanos and other aggrieved employees the opportunity to take rest breaks.
14 When employees were prevented from taking timely, uninterrupted rest breaks, they did not often
15 receive premium pay for the missed rest breaks.

16 23. Plaintiff is informed and believes, and based thereon alleges, that Defendant
17 willfully failed to pay other aggrieved employees all wages earned, including compensation for
18 missed meal and rest periods, in a timely manner upon or after termination of their employment
19 with Defendant.

20 24. Defendant also required Plaintiff and other aggrieved employees to wear a uniform
21 shirt bearing Defendant's logo. In doing so, Defendant required Plaintiff and other aggrieved
22 employees to bear the expense of laundering their uniforms without any compensation for doing
23 so. Defendant further did not provide compensation for the time spent either laundering uniforms,
24 or donning and doffing uniforms.

25 25. By failing to include on Mr. Castellanos's and other aggrieved employees' pay
26 stubs, all rest and meal break premium wages, and full compensation for all hours worked,
27 Defendant failed to keep accurate payroll records and failed to provide Mr. Castellanos and other
28 aggrieved employees with complete and accurate wage statements with the accurate number of

1 hours worked, accurate rate of pay for each hour worked, accurate number of premium wage
2 earned, accurate reimbursements owed, and accurate net and gross wages earned. Further,
3 Defendant failed to include bonuses and commissions in the employee's regular rate.

4 26. As a further result of Defendant's failure to pay all wages owed as described
5 herein, Defendant also violated Labor Code sections 201, 202, and 203, due to its uniform policy,
6 practice, and procedure of failing to pay all wages earned to former employees at the time their
7 employment ended.

8 27. Mr. Castellanos and other aggrieved employees were required to pay for necessary
9 business expenditures, for which Defendant did not compensate them. Mr. Castellanos and other
10 aggrieved employees were required to use their personal cell phones for business calls without
11 reimbursement when the kiosk telephone was not working. Mr. Castellanos and other aggrieved
12 employees were also required to travel in between job locations in their personal vehicle for
13 training without receiving reimbursement for their mileage driven

14 28. Plaintiff is informed and believes, and based thereon alleges, that Defendant
15 currently employs, and during the relevant liability period has employed hundreds of employees
16 in the State of California in non-exempt positions.

17 29. At relevant times herein, Plaintiff and the other aggrieved employees were
18 employed by Defendant in non-exempt hourly positions.

19 30. On information and belief, Plaintiff alleges that Defendant's actions as described
20 throughout this complaint were willful.

21 31. Plaintiff, on behalf of himself and other aggrieved employees, brings this action
22 pursuant to PAGA to recover civil penalties for violations of Labor Code sections 201, 202, 203,
23 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, as well as reasonable attorneys' fees and costs.

24 32. Defendant has made it difficult to account with precision for the unlawfully
25 withheld wages and meal and rest period compensation owed to Defendant's non-exempt
26 employees, including Plaintiff, during the liability period, because it did not implement and
27 preserve a record-keeping method as required for non-exempt employees by Labor Code sections
28 226, 1174, subdivision (d), and section 7 of the California Wage Orders. Defendant has failed to

1 comply with Labor Code section 226, subdivision (a), by itemizing in wage statements all
2 deductions from payment of wages and accurately reporting total hours worked by Plaintiff and
3 the other aggrieved employees. Plaintiff and other aggrieved employees are therefore entitled to
4 penalties not to exceed four thousand dollars (\$4,000.00) for each employee pursuant to Labor
5 Code section 226, subdivision (b).

6 33. Defendant has failed to comply with section 7 of the IWC Wage Orders by failing
7 to maintain time records showing when the employee begins and ends each work period, meal
8 periods, wages earned pursuant to Labor Code section 226.7, and total daily hours worked by
9 itemizing in wage statements all deductions from payment of wages and accurately reporting total
10 hours worked by the other aggrieved employees.

11 **FIRST CAUSE OF ACTION**

12 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
13 **PAY ALL WAGES INCLUDING MINIMUM WAGE AND OVERTIME WAGES**

14 **(Lab. Code, § 1194)**

15 **(Against All Defendants)**

16 34. Plaintiff incorporates all previous paragraphs of this complaint as though fully set
17 forth herein.

18 35. As a result of Defendant's unlawful acts as described above, Plaintiff and other
19 aggrieved employees have been deprived of regular wages, overtime, and/or double time
20 compensation in amounts to be determined at trial, and are entitled to recovery of civil penalties,
21 attorneys' fees, and costs, pursuant to Labor Code sections 1194 and 1199.

22 36. Defendant willfully violated the Labor Code with respect to meeting the
23 requirements of paying all wages earned, including regular wages, overtime, and double-time, as
24 alleged herein.

25 37. Plaintiff and similarly-aggrieved employees request recovery of civil penalties
26 pursuant to Labor Code section 226.7, in a sum as provided by the Labor Code and/or any other
27 statute.

28 38. Additionally, Plaintiff and similarly-aggrieved employees are entitled to attorneys'

1 fees, costs, pursuant to Labor Code section 1194 and prejudgment interest.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
4 **PROVIDE REST PERIODS**

5 **(Lab. Code, § 226.7 and 512)**

6 **(Against All Defendants)**

7 39. Plaintiff incorporates all previous paragraphs of this complaint as though fully set
8 forth herein.

9 40. Labor Code section 226.7 provides that employers authorize and permit all
10 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

11 41. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
12 provide and employee rest periods in accordance with this section, the employer shall pay the
13 employee one (1) hour of pay at the employees' regular rate of compensation for each workday
14 that the rest period is not provided.

15 42. Plaintiff alleges that during the relevant time period, Defendant did not permit or
16 authorize Plaintiff and other aggrieved employees to take rest periods.

17 43. Plaintiff and other aggrieved employees were not provided timely, lawful duty-
18 free rest periods for every four hours of their shift or major fraction thereof.

19 44. At all times relevant hereto, Plaintiff and other aggrieved employees worked more
20 than four (4) hours in a workday.

21 45. Plaintiff and other aggrieved employees did not voluntarily or willfully waive rest
22 periods.

23 46. Defendant further failed to implement a policy to pay Plaintiff and other aggrieved
24 employees an additional hour of pay at their regular rate of pay for rest periods not authorized or
25 permitted.

26 47. By failing to keep adequate records as required by sections 226 and 1174,
27 subdivision (d), of the Labor Code, Defendant has injured Plaintiff and other aggrieved
28 employees, and made it difficult to calculate the unpaid rest period compensation (including,

wages, interest, and penalties thereon) due and owing to Plaintiff and other aggrieved employees.

48. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff and other aggrieved employees, they have been deprived of compliant rest periods and/or premium wages in lieu thereof.

49. Plaintiff and similarly-aggrieved employees request recovery of civil penalties pursuant to Labor Code section 226.7, in a sum as provided by the Labor Code and/or any other statute.

THIRD CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code, § 226.7 and 512)

(Against All Defendants)

50. Plaintiff incorporates all previous paragraphs of this complaint as though fully set forth herein.

51. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30) minutes.

52. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section.

53. Defendant maintains, and has maintained throughout the Relevant Time Period, a policy and practice of failing to provide lawful work-free meal periods to Plaintiff and other aggrieved employees, for the days on which non-exempt employees work periods in excess of six (6) hours or a second meal period on days on which non-exempt employees work periods in excess of ten (10) hours. Defendant failed to provide Plaintiff and other aggrieved employees with compensation for their missed meal periods.

1 54. Plaintiff and other aggrieved employees did not voluntarily or willfully waive meal
2 periods.

3 55. At all times relevant hereto, Defendant failed to provide Plaintiff and other
4 aggrieved employees similarly a compliant duty-free meal period as required by Labor Code
5 sections 226.7 and 512.

6 56. By failing to keep adequate records as required by sections 226 and 1174,
7 subdivision (d), of the Labor Code, Defendant has injured Plaintiff and other aggrieved employees
8 and made it difficult to calculate the unpaid meal period compensation (including, wages, interest,
9 and penalties thereon) due Plaintiff and other aggrieved employees.

10 57. By virtue of the Defendant's failure to schedule Plaintiff and similarly-aggrieved
11 employees in such a way as to provide a meal period, and/or work free meal period to Plaintiff
12 and similarly-aggrieved employees thereby causing Plaintiff and similarly-aggrieved employees
13 to suffer, and continue to suffer, damages in amounts which are presently unknown, but will be
14 ascertained according to proof at trial.

15 58. Plaintiff and similarly-aggrieved employees request recovery of civil penalties
16 pursuant to Labor Code section 226.7, which they are owed beginning one (1) year prior to filing
17 this complaint, in a sum as provided by the Labor Code and/or other statutes.

18 **FOURTH CAUSE OF ACTION**

19 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
20 **PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES**

21 **(Lab. Code, § 201, 202, 203)**

22 **(Against All Defendants)**

23 59. Plaintiff incorporates all previous paragraphs of this complaint as though fully set
24 forth herein.

25 60. During the relevant time period, Plaintiff and formerly employed members of the
26 other aggrieved employees resigned or were terminated from their positions with Defendant.
27 Defendant, however, willfully did not pay Plaintiff and other aggrieved employees all wages
28 which were due them upon their separation of employment immediately upon termination or

1 within seventy-two (72) hours of their resignation as required by Labor Code section 202,
2 subdivision (a). Defendant failed to pay Plaintiff and other aggrieved employees all minimum
3 wages and/or overtime wages due which were earned throughout their employment. Defendant
4 also failed to pay premium wages for times Plaintiff and similarly-aggrieved employees were not
5 provided meal and/or rest breaks.

6 61. Plaintiff seeks the payment of civil penalties pursuant to Labor Code section 203,
7 according to proof.

8 62. Plaintiff also seeks attorneys' fees, costs, and prejudgment interest pursuant to
9 Labor Code section 203.

10 **FIFTH CAUSE OF ACTION**

11 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
12 **KEEP ACCURATE PAYROLL RECORDS**

13 **(Lab. Code, § 1174, 226, subd. (a), (e))**

14 **(Against All Defendants)**

15 63. Plaintiff incorporates by reference and realleges all previous paragraphs of this
16 complaint as though fully set forth herein.

17 64. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
18 location in California or at the plant or establishment at which the employee is employed, payroll
19 records showing the hours worked daily, and the wages paid to, each employee. Labor Code
20 section 226, subdivision (a), requires an employer to provide employees—either as a detachable
21 part of the check, draft, or voucher paying the employee's wages, or separately when wages are
22 paid by personal check or cash—an accurate itemized wage statement in writing.

23 65. Plaintiff is informed and believes, and based thereon alleges, that Defendant's
24 failure to keep accurate payroll records, as described above, violated Labor Code section 1174,
25 subdivision (d), and the applicable wage order. Plaintiff and similarly-aggrieved employees are
26 entitled to penalties of one hundred dollars (\$100.00) for the initial violation and two hundred
27 dollars (\$200.00) for each subsequent violation for every pay period during which these records
28 and information were not kept by Defendant.

66. Plaintiff is informed and believes, and based thereon alleges, that Defendant's failure to keep and maintain accurate records and information, as described above, was willful, and Plaintiff and similarly-aggrieved employees are entitled to a civil penalty of five hundred dollars (\$500.00) per employee pursuant to Labor Code section 1174.5.

67. Defendant knowingly and intentionally failed to, and continues to fail to, furnish Plaintiff and similarly-aggrieved employees with timely, itemized statements that accurately reflect the total number of hours worked, as required by Labor Code section 226, subdivision (2), and Plaintiff and similarly-aggrieved employees suffered injury as a result. Consequently, Defendant is liable to Plaintiff and similarly-aggrieved employees for the amounts provided by Labor Code section 226, subdivision (e).

68. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests and is entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest, attorney's fees and costs pursuant to Labor Code section 1174, as well as all statutory penalties and attorneys' fees against Defendant.

SIXTH CAUSE OF ACTION

**VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO
REIMBURSE FOR NECESSARY EXPENDITURES**

(Lab. Code, § 2802)

(Against All Defendants)

69. Plaintiff realleges and incorporates by reference all preceding paragraphs of this complaint as though fully set forth herein.

70. Under California Labor Code section 2802, subdivision (a), an employer is legally to reimburse its employees for necessary business expenditures incurred as a result of performing their work.

71. California Labor Code section 2802 states, “An employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties...”

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Dated: March 23, 2020

Ind. Kei

Attorney for Plaintiff JULIO CASTELLANOS

Exhibit A



Kevin Mahoney, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
kmahoney@mahoney-law.net

January 16, 2020

VIA ELECTRONIC MAIL

LABOR AND WORKFORCE DEVELOPMENT AGENCY

PAGAfilings@dir.ca.gov

VIA U.S. MAIL & CERTIFIED MAIL# 7019 0700 0001 7488 5663

Return Receipt Requested

Sierra Foods, Inc. dba USA Gasoline
23300 Cinema Drive #220
Valencia, CA 91355

Re: Julio Castellanos v. Sierra Foods, Inc. dba USA Gasoline

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; Sierra Foods, Inc.

From: Julio Castellanos, on behalf of himself and other aggrieved employees who were subject to the Employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Julio Castellanos ("Mr. Castellanos" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA"), on behalf of himself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Sierra Foods, Inc. dba USA Gasoline, a California corporation (hereinafter "Employer") is a retail seller of gasoline and sundries. Mr. Castellanos began his employment with Employer on or around January 2018, as an hourly non-exempt employee, at Employer's 6601 Florence Ave., Bell Gardens, California location, where he remained employed until on or about February 4, 2019.

Mr. Castellanos alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, by failing to provide Mr. Castellanos and all other aggrieved employees with meal and rest periods and premium pay, failing to pay all wages owed, including minimum wage and overtime, failing to provide lawful

meal and rest periods, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Mr. Castellanos and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

Employer failed to pay Mr. Castellanos and other aggrieved employees for all hours worked at the legally mandated wage rates. Throughout Mr. Castellanos's employment, Employer failed to compensate Mr. Castellanos for all hours worked including, overtime, and double-time overtime wages. At least four times a month, Mr. Castellanos was required to continue working after clocking out, completing such tasks as cleaning pumps, changing outside water, sweeping and washing windows.

In addition, Employer failed to authorize and/or permit Mr. Castellanos to take adequate meal or rest breaks in violation of the Labor Code. Specifically, Mr. Castellanos was not provided full thirty (30) minute uninterrupted meal periods prior to his (5th) fifth hour of work when he worked in excess of six hours. Further, Mr. Castellanos' meal periods were routinely interrupted due to inadequate coverage. On several occasions, Mr. Castellanos began his lunch break only to have to return to work prior to his 30 minute lunch finishing because a customer needed assistance. When employees were prevented from taking timely and uninterrupted meal periods, they did not always receive premium pay as compensation for the unlawful meal periods. Due to these discrepancies with Mr. Castellanos's meal breaks, as a result Employer also did not provide Mr. Castellanos and other aggrieved employees with accurate wage statements.

Mr. Castellanos further alleges that he and other aggrieved employees often did not receive at least one duty-free, uninterrupted rest period for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. Mr. Castellanos and other aggrieved employees were generally precluded from taking rest periods due to Employers' failure to sufficiently staff shifts to provide relief and thereby allow Mr. Castellanos and other aggrieved employees the opportunity to take rest breaks. When employees were prevented from taking timely, uninterrupted rest breaks, they did not often receive premium pay for the missed rest breaks.

Mr. Castellanos alleges that he and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not provided. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512.

Mr. Castellanos and other aggrieved employees were required to pay for necessary business expenditures, for which Employer did not compensate them. Mr. Castellanos and other aggrieved employees were required to wear a uniform shirt containing the company logo. Mr. Castellanos had to bear the expense of laundering his uniform and did not receive any type of compensation from his employer. On occasion, Mr. Castellanos and other aggrieved employees also had to use their personal cell phones and vehicles for business matters without reimbursement. Employer's failure to provide full and complete reimbursement for all necessary business expenditures incurred by Mr. Castellanos and other aggrieved employees is in violation of Labor Code 2802 and actionable under PAGA.

As a result of Employer's failure to pay all wages owed as described herein, Employer further failed to keep accurate payroll records, and failed to provide Mr. Castellanos and other

aggrieved employees with complete and accurate wage statements showing the actual hours worked and premium wages earned per pay period. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

By failing to include on Mr. Castellanos' and other aggrieved employees' pay stubs, all rest and meal break premium wages, and full compensation for all hours worked, Employers failed to keep accurate payroll records and failed to provide Mr. Castellanos and other aggrieved employees with complete and accurate wage statements with the accurate number of hours worked, accurate rate of pay for each hour worked, accurate number of premium wage earned, accurate reimbursements owed, and accurate net and gross wages earned. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Employers' failure to pay all wages owed as described herein, Employers also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Mr. Castellanos becomes aware of additional compensation owed or losses incurred by Mr. Castellanos or by any other aggrieved employee of the Employer, Mr. Castellanos expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Mr. Castellanos will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise Mahoney Law Group at the address below if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Mahoney Law Group, APC
Kevin Mahoney
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Telephone: (562) 590-5550
Email: kmahoney@mahoney-law.net

Sincerely,



Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC