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10 on behalf of himself and other aggrieved employees

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF SAN MATEO**

13 PRINCE BANZOUZI MALGHA

14 on behalf of himself and other aggrieved
15 employees,

16 Plaintiff,

17 vs.

18 WILINE NETWORKS INC., a

19 Delaware Corporation; and DOES 1
20 through 100, inclusive,

21 Defendants.

CASE NO. 20-CIV-04862

REPRESENTATIVE ACTION

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

1. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO PAY
MINIMUM WAGES AND/OR
OVERTIME WAGES**
2. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO PROVIDE
MEAL PERIODS**
3. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO PROVIDE
REST PERIODS**
4. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO PROVIDE
ACCURATE ITEMIZED WAGE
STATEMENTS**
5. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO TIMELY
PAY ALL WAGES DUE UPON
TERMINATION OF EMPLOYMENT**
6. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO RECORD
HOURS WORKED**
7. **CIVIL PENALTIES UNDER THE
PAGA FOR REQUIRING EMPLOYEES
TO AGREE TO UNLAWFUL TERMS**

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8. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO REIMBURSE
EXPENSES**
9. **CIVIL PENALTIES UNDER THE
PAGA FOR UNLAWUL RELEASE
AGREEMENTS**
10. **CIVIL PENALTIES UNDER THE
PAGA FOR FAILURE TO PAY SICK
PAY**

1 Plaintiff PRINCE BANZOUZI MALGHA (“Plaintiff”), on behalf of others aggrieved
2 and as a Representative of the State of California’s Labor and Workforce Development Agency
3 (“LWDA”), hereby alleges as follows:

4 I.

5 **INTRODUCTION**

6 1. Plaintiff brings this proposed PAGA Representative Action against his former
7 employers and Defendants Wiline Networks Inc. (referred to as “Wiline”) and DOES 1-100
8 (Wiline and DOES 1-100 are collectively referred to as “Defendants”) under the California
9 Labor Code to recover civil penalties arising out of Defendants’ multiple labor code violations
10 as described herein.

11 2. Specifically, during all or a significant part of the applicable limitations period
12 for the time period covered by the Private Attorneys General Act of 2004 (“PAGA”), Labor
13 Code sections 2698, *et seq.*, Plaintiff alleges Defendants did not pay him or other hourly
14 employees all minimum and overtime wages. Defendants also failed to provide off-duty meal
15 and rest periods, failed to provide reimbursement for costs and expenses, failed to provide sick
16 pay, failed to provide compliant wage statements and failed to timely pay all wages during and
17 upon termination of employment. Plaintiff seeks to recover penalties for Defendants’ violations
18 of the labor code.

19 3. Plaintiff brings this lawsuit as a PAGA Representative Action on behalf of the
20 state of California, and aggrieved current and former employees. Pursuant to Labor Code
21 sections 2698, *et seq.*, Plaintiff seeks to recover civil penalties and reasonable attorney’s fees
22 and costs. Plaintiff, by operation of law, has standing and capacity to sue as a representative of
23 the State of California. Plaintiff mailed written notice of the specific provisions of the Labor
24 Code that Defendants violated, including the facts and theories to support the alleged violations,
25 to the LWDA and to Defendant Wiline Networks, Inc. pursuant to Labor Code section 2699.3
26 on September 1, 2020. A true and correct copy of the notice is attached as **Exhibit A** and
27 incorporated by this reference. Defendant did not provide notice of cure and the LWDA did not
28 provide notice of investigation in the 65 days after the mailing of the PAGA notice.

II.

JURISDICTION AND VENUE

4. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure section 395. Defendants conduct business in the city and county of San Mateo in the state of California and each Defendant is within the jurisdiction of this Court for service of process purposes. The unlawful acts alleged have a direct effect on Plaintiff and other employees within the State of California and San Mateo County. Defendants employ numerous employees in San Mateo County and in California generally. There is no federal question at issue for removal under 28 U.S.C. section 1331, as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure.

5. Plaintiff alleges, on information and belief, that no federal question is raised and that the Class Action Fairness Act ("CAFA"), 28 U.S.C. section 1332(d), does not apply, or in the alternative, that exceptions for local case or controversy under the CAFA do apply and prohibit removal of the action the federal court. Plaintiff is also informed and believes that based on his rate of pay, his individual PAGA claims do not arise to the necessary amount in controversy so as to implicate traditional jurisdiction under 28 U.S.C. section 1332(a) or jurisdiction under the CAFA. Further as a representative action under the PAGA, the matter is not subject to removal under 28 U.S.C. sections 1332(a)-(d). PAGA civil penalty actions are not subject to federal jurisdiction.

III.

THE PARTIES

6. Plaintiff PRINCE BANZOUZI MALGHA is a former employee of Defendants. At all relevant times, he was employed by Defendants as a non-exempt hourly employee in San Mateo County from approximately December 2019 to his discharge in or around March 2020.

7. Plaintiff alleges that all other non-exempt hourly employees in the State of California worked under Defendants' policies and as a result, suffered the same violations of the California Labor Code as alleged herein.

1 8. Plaintiff is an “aggrieved employee” because he was employed by the alleged
2 violators and had one or more of the alleged violations committed against him and, therefore, is
3 properly suited to represent the interests of all other current and former employees of
4 Defendants.

5 9. Pursuant to Cal Labor Code section 2698, *et seq.*, Plaintiff seeks to represent all
6 current and former aggrieved employees who suffered one or more of the alleged violations
7 (“aggrieved employees”) as described herein during the applicable limitations period for the
8 time period covered by the PAGA (which is defined as any time from one year and 65 days
9 prior to the commencement of this action until the commencement of trial in the matter). The
10 applicable limitations period is referred herein as “the PAGA Period.”

11 10. Plaintiff is informed and believes, and alleges Defendant Wiline Networks Inc. is
12 an internet service provided. Wiline connects its internet customers through a state-of-the-art
13 network of Data Centers throughout all major metro areas in California, including San Diego,
14 Orange County, Los Angeles, San Jose, San Francisco, Oakland, and Sacramento.

15 11. Pursuant to California Labor Code sections 558 and 558.1, Defendants are
16 employers of Plaintiff, and/or a person acting on behalf of Plaintiff’s employer, who violated, or
17 caused to be violated, any provision regulating minimum wages or hours and days of work in
18 the applicable order of the Industrial Welfare Commission, as well as California Labor Code
19 sections 203, 226, 226.7, 1193.6, 1194, and 2802, and as such, are liable as an employer of
20 Plaintiff for such violations pursuant to California Labor Code sections 558 and 558.1.

21 12. At all times relevant, Defendants did, and do, transact and conduct business in
22 the state of California, including, but not limited to, within the jurisdiction of the Court. At all
23 times relevant, Defendants, and each of them, were Plaintiff’s and aggrieved employees’
24 employer for purposes of the California wage and hour laws at issue in this action.

25 13. Plaintiff is unaware of the true names, capacities, relationships, and extent of
26 participation in the conduct alleged of Defendants sued as DOES 1 through 100, but is informed
27 and believes, and based on that alleges, DOE Defendants are legally responsible for the
28 wrongful conduct alleged, and sues these Defendants by such fictitious names. Plaintiff will

1 amend this complaint when their true names and capabilities are ascertained.

2 14. Plaintiff is informed and believes and, based thereon alleges, that each
3 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
4 other aggrieved employees, and exercised control over their wages, hours, and working
5 conditions. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
6 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a
7 joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each
8 Defendant is legally attributable to the other Defendants.

9 IV.

10 **GENERAL ALLEGATIONS**

11 15. At all times during the liability period, Plaintiff and other aggrieved current and
12 former employees were employed by Defendants and each of them, including Doe Defendants,
13 within the state of California.

14 16. At all relevant times, Plaintiff and other aggrieved employees of Defendants
15 worked under the same policies, practices, and procedures relating to their employment,
16 including those governing wage statements, recordkeeping, payment of wages, and provision of
17 rest and meal periods applicable to Defendants' facilities.

18 17. The California Labor Code and applicable IWC Wage Order and portions of the
19 California Code of Regulations provide that all persons employed in the State of California
20 shall be (1) presumed to be an hourly or non-exempt employee, and (2) that all "hours worked"
21 and subject to the control of the employer, whether exercised or not, are to be paid at least the
22 minimum wage as determined by the State of California, and for overtime wages at either 1.5x
23 the regular rate of pay or 2.0x the regular rate of pay when "hours worked" exceeds 8 hours in a
24 single day or shift, or over 40 hours in a 168-total hour workweek.

25 18. Plaintiff and each aggrieved employee were non-exempt employees covered
26 under one or more IWC Wage Orders ("Wage Orders"), and Labor Code section 510, and/or
27 other applicable wage orders, regulations and statutes, and each aggrieved employee was not
28 subject to an exemption for executive, administrative, professional employees, or any other

1 exemption, which imposed an obligation on the part of the Defendants to pay Plaintiff and each
2 aggrieved employee lawful minimum and overtime compensation, as well as to provide
3 statutory meal periods.

4 19. Plaintiff and each aggrieved employee worked in excess of the maximum regular
5 rate hours set by the IWC in the above Wage Orders, regulations, or statutes, and are therefore
6 entitled to appropriate overtime compensation at time and a half (1½) rate of their regular pay,
7 and when applicable, double-time rates as set forth by the above Wage Orders, regulations,
8 and/or statutes.

9 20. During the PAGA Period, Defendants maintained common policies and practices
10 of failing to pay all required wages for all hours worked.

11 21. Plaintiff and each PAGA represented employee regularly worked overtime hours
12 exceeding 8 hours per day, but were not paid at the correct overtime rate of pay because not all
13 non-discretionary pay, including commissions and bonuses, were included in their regular rate
14 of pay, as required by Labor Code sections 510 and 1194, and section 3 of the applicable IWC
15 wage order. Plaintiff and other aggrieved employees earned incentive pay and hourly rates
16 under Defendants' compensation plans. The additional compensation was not included in the
17 employees' regular rate of pay for purposes of calculating the proper overtime payment.

18 22. During the PAGA Period, Defendants maintained a common policy and practice
19 of unlawfully rounding hours worked. This rounding policy operated unilaterally to the benefit
20 of Defendants and to detriment of Plaintiff and other aggrieved employees.

21 23. Upon information and belief, Plaintiff and other aggrieved employees worked in
22 non-exempt, hourly positions, and during the relevant time period, each was subject to the
23 Defendants' rounding policy that resulted in underpayment of all minimum, regular, and
24 overtime wages owed.

25 24. Defendants' rounding policy also resulted in the failure to pay all required
26 overtime wages when the rounding deduct time worked from shifts in excess of 8 hours in one
27 day, or 40 hours in one work week and when the rounding deducted from shifts which
28 otherwise would have exceeded 8 hours in length or totaled 40 hours in one workweek.

1 25. Defendants did not maintain a compliant meal and rest period policy applicable
2 to Plaintiff and other aggrieved employees, nor did they inform their employees, including
3 Plaintiff, that they were permitted to take meal and rest periods as provided under the California
4 Labor Code.

5 26. Defendants failed to provide Plaintiff and other aggrieved employees an
6 opportunity to take 30-minute, uninterrupted off-duty meal periods for days in which they
7 worked more than 5 hours.

8 27. During the PAGA Period, Plaintiff and other aggrieved employees were
9 regularly prevented from taking timely meal periods, were required to miss their meal periods
10 completely, and/or were required to take meal periods that were less than 30 minutes due to the
11 working conditions imposed by Defendants.

12 28. Plaintiff and other aggrieved employees were required to complete all work for
13 their clients prior to taking any meal periods. If an employee was servicing a client, he or she
14 were not permitted to stop their assignment during their service call to take a meal or rest
15 period. As a result, the demands of the job and customer needs forced Plaintiff and other
16 aggrieved employees to take late meal periods, skip their meal periods, or take meal periods
17 which were less than thirty minutes and/or not off duty. As a result, employees were unable to
18 take timely meal periods, or were forced to entirely skip his or her meal periods.

19 29. Even if an employee was unable to take a compliant meal period, Defendants
20 required employees to falsely record their time to reflect a meal period. As a result, employees
21 did not receive pay for this compensable time worked. Defendants therefore failed to pay all
22 applicable minimum and overtime wages.

23 30. For the same reasons set forth herein, Plaintiff and other aggrieved employees
24 were also not provided an opportunity to take a second meal period when they worked shifts
25 greater than 10 hours.

26 31. During the PAGA Period, the Defendants, and each of them, required Plaintiff
27 and other aggrieved employees to work without taking statutory meal periods and failed to pay
28 aggrieved employees an hour's pay in lieu thereof.

1 32. Additionally, Defendants failed to provide all required rest periods. Instead,
2 Defendants did not relieve employees of all work in order to take off-duty rest periods and
3 instead, required him or her to continue work throughout his or her shift. As described above,
4 Plaintiff and other aggrieved employees were not permitted to stop an assignment in order to
5 take a rest period. As a result, Plaintiff and other aggrieved employees were not authorized and
6 permitted to take compliant off-duty rest periods.

7 33. Furthermore, Defendants failed to provide sick pay at the proper accrual rates as
8 required by Cal. Labor Code section 246, nor did they pay the sick pay the correct regular rate
9 of pay as required by law.

10 34. During the relevant time period, Defendants failed to provide reimbursement to
11 aggrieved employees for all reasonable costs and expenses incurred in direct consequence to
12 their job duties. Defendants failed to maintain an adequate reimbursement policy and further
13 failed to inform aggrieved employees of their right to seek reimbursement for all costs and
14 expenses.

15 35. Plaintiff and other aggrieved employees were required to use their personal cell
16 phones and vehicles in the discharge of their duties for Defendants without receiving all proper
17 reimbursement.

18 36. Plaintiff and other aggrieved employees were required to drive their personal
19 vehicles to and from customer's locations, incurring mileage expenses. However, Plaintiff and
20 other aggrieved employees were not reimbursed for all mileage, and/or were not reimbursed at
21 the legally required rates. Plaintiff and other aggrieved employees often requested
22 documentation substantiating what they were reimbursed for, but these requests were ignored.

23 37. Plaintiff and other aggrieved employees were also required to use their personal
24 cell phone for business calls and messaging and other work-related communications.
25 Defendants did not reimburse Plaintiff and other aggrieved employees for these necessary
26 expenditures incurred in the direct consequence of the discharge of their duties in violation of
27 California law.

28 38. Furthermore, Defendants failed to record (and maintain records reflecting) when

1 the employees begin and end each work period, including meal periods. Defendants further
2 failed to record the total hours worked. Indeed, Defendants manipulated and falsified time
3 records to reflect the beginning and ending of meal periods which were not correct and not
4 based in fact.

5 39. As a result of the failures to pay all minimum, regular, and overtime wages, as
6 described herein, Defendants further failed to pay Plaintiff and all other aggrieved employees
7 timely during employment as required by Cal. Labor Code section 204.

8 40. Additionally, and independent from the claims described above, during the
9 applicable time period, Defendants failed to pay all wages timely pursuant to the time frames
10 set forth in Cal. Labor Code sections 204(a) or (d). Payment of wages occurred more than seven
11 days after the close of the pay period as well as after the days set forth in Section 204(a).

12 41. During the PAGA Period, the Defendants, and each of them, failed to provide
13 accurate, itemized wage statements to Plaintiff and other aggrieved employees.

14 42. During the PAGA Period, the Defendants, by virtue of centralized and uniform
15 pay policies, failed to provide accurate, itemized wage statements to Plaintiff, and other
16 aggrieved employees, as required by Labor Code section 226. The wage statements did not
17 accurately state the number of hours worked due to the deduction of hours worked on account
18 of rounding, nor did they include the accurate amount of wages actually earned.

19 43. Additionally, separate and independent from the claims for derivate violations of
20 Section 226, the wage statements were non-compliant and did not contain all the necessary
21 information because they did not state the full name of the employer. The wage statements only
22 stated "Wiline Networks," instead of the full name, "Wiline Networks Inc."

23 44. Plaintiff's employment ended in or around March 2020. At the time of his
24 separation from employment, he was owed minimum wages, regular wages, and overtime
25 wages from Defendants for all hours worked, including all shifts where the rounding resulted in
26 underpayment of wages during the PAGA Period. Defendants therefore did not timely pay
27 Plaintiff all wages within the time required by California Labor Code sections 201 and/or 202.
28 Similarly, during the PAGA Period, the Defendants, and each of them, failed to pay all wages

owed to aggrieved employees whose employment was terminated in violation of Labor Code sections 201 and 202.

45. Additionally, Defendants failed to pay terminated employees, including Plaintiff, all applicable waiting time penalties in violation of Labor Code section 203.

46. Defendants also unlawfully required employees to sign a release agreement upon termination of employment in order to receive is or her final wages in violation of Labor Code section 206.5.

47. Defendants further knowingly required aggrieved employees to sign agreements containing unlawful terms, including terms purporting to broadly assign rights to inventions to the Defendants, to unlawfully restrict their rights to seek gainful employment, to waive their right to initiate representative actions, and to agree to release all claims in order to receive their final wages. Defendants knew these terms were unlawful, but nevertheless required aggrieved employees to sign agreements containing these terms.

V.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PAGA Penalties for Failure to Pay Minimum and Overtime Wages in Violation of Labor Code §§ 510, 1194, and 1197, and the applicable IWC Wage Order (On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)

48. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in full herein.

49. Labor Code section 1197 provides: “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

50. Labor Code section 1198 provides: “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

1 51. Labor Code section 1194(a) provides: “(a) Notwithstanding any agreement to
2 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
3 overtime compensation applicable to the employee is entitled to recover in a civil action the
4 unpaid balance of the full amount of this minimum wage or overtime compensation, including
5 interest thereon, reasonable attorney’s fees, and costs of suit.”

6 52. Labor Code section 510, states in pertinent part: “Any work in excess of eight
7 hours in one workday and any work in excess of 40 hours in any one workweek and the first
8 eight hours worked on the seventh day of work in any one workweek shall be compensated at
9 the rate of no less than one and one-half times the regular rate of pay for an employee. Any
10 work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the
11 regular rate of pay for an employee. In addition, any work in excess of eight hours on any
12 seventh day of a workweek shall be compensated at the rate of no less than twice the regular
13 rate of pay of an employee.”

14 53. Labor Code section 2699(a) provides: “Notwithstanding any other provision of
15 law, any provision of this code that provides for a civil penalty to be assessed and collected by
16 the Labor and Workforce Development Agency or any of its departments, divisions,
17 commissions, boards, agencies, or employees, for a violation of this code, may, as an
18 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
19 himself or herself and other current or former employees pursuant to the procedures specified in
20 Section 2699.3.”

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

27 55. At all relevant times, Defendants subjected all hourly employees, including
28 Plaintiff, to a rounding system that resulted in the failure to pay all applicable minimum,

1 regular, and overtime wages for all hours worked. Defendants used a uniform rounding system
2 that rounded hours worked in a manner that unilaterally benefited Defendants and disregarded
3 actual work time to the detriment of the employee. Defendants rounded Plaintiff's and other
4 aggrieved employees' hours worked to the nearest quarter of an hour, which over time,
5 unlawfully favored Defendants and resulted in time lost to the employees, including Plaintiff.
6 This rounding policy was not neutral on its face or in application, and resulted in a cumulative
7 loss of time to the employees. Defendants had the ability to pay for the precise hours worked,
8 but opted instead to utilize the rounding policy with no apparent benefit other than to benefit
9 Defendants and deprive employees of payment for all hours worked.

10 56. This use of the rounding system during at least one year prior to the filing of the
11 PAGA notice (see Ex. A) resulted in unpaid worktime for which Plaintiff and other aggrieved
12 employees did not receive minimum and/or regular wages. For some shifts that would have
13 required payment of overtime due to these hours actually worked, Defendants rounded to their
14 benefit and thus failed to pay all overtime wages otherwise due.

15 57. Defendants further failed to pay all overtime wages when they failed to properly
16 calculate the regular rate of pay by including all remuneration paid thereto.

17 58. Defendants' conduct violates Labor Code sections 510, 1194, and 1197 as well
18 as the "Hours and Days of Work" and "Minimum Wages" sections of the applicable Wage
19 Order.

20 59. As a result, Defendants violated the Labor Code and are liable to Plaintiff, and
21 other aggrieved employees, for penalties as required by Labor Code sections 558(a)(1)-(2),
22 1197.1, and 2699(a) or, in the alternative, section 2699(f)(2), as well as attorney's fees and costs
23 all recoverable in an amount according to proof.

24 60. Plaintiff, as a representative of the general public, will and does seek to recover
25 any and all penalties for each and every violation, in an amount according to proof, as to those
26 penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance
27 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
28 of California.

SECOND CAUSE OF ACTION

**PAGA Penalties for Failure to Provide Meal Periods in Violation of Labor Code §§
226.7, 512, and 558, and the applicable IWC Wage Order
(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

61. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in full herein.

62. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection of civil penalties for violations of the labor code, to be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.

63. Labor Code section 226.7 provides in pertinent part:

(b) An employer 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.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited 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, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

64. Labor Code section 512(a) provides in pertinent part:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

65. Plaintiff and other aggrieved employees were not provided all meal periods as required by law and were never paid a meal period premium for non-compliance with Labor

1 Code section 226.7.

2 66. Defendants' conduct violates Labor Code sections 226.7, 512, and 1198, as well
3 as the "Meal Periods" section of the applicable IWC wage Order. As a result, Plaintiff is
4 entitled to recover, civil penalties and pursuant to Labor Code sections 558(a)(1)-(2) and
5 2699(a) or, in the alternative, section 2699(f)(2), attorney's fees, expenses, and costs of suit.

6 67. Plaintiff, as a representative of the general public, will and does seek to recover
7 any and all penalties for each and every violation, in an amount according to proof, as to those
8 penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance
9 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
10 of California.

11
12 **THIRD CAUSE OF ACTION**

13 **PAGA Penalties for Failure to Provide Rest Periods in Violation of Labor Code §§ 226.7**
14 **and 558, and the Applicable IWC Wage Order**
(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)

15 68. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in
16 full herein.

17 69. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
18 of civil penalties for violations of the labor code, to be recovered through a civil action brought
19 by an aggrieved employee on behalf of himself or herself and other current or former employees
20 pursuant to the procedures specified in Section 2699.3.

21 70. Labor Code section 226.7 provides in pertinent part:

22 (b) An employer shall not require an employee to work during a meal
23 or rest or recovery period mandated pursuant to an applicable statute, or
24 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.

25 (c) If an employer fails to provide an employee a meal or rest or
26 recovery period in accordance with a state law, including, but not
27 limited to, an applicable statute or applicable regulation, standard, or
28 order of the Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one additional hour of
pay at the employee's regular rate of compensation for each workday

that the meal or rest or recovery period is not provided.

71. Defendants failed to authorize and permit all rest periods as required by law. Plaintiff and other aggrieved employees were never paid a rest period premium for non-compliance with Labor Code section 226.7 and aggrieved employees were not provided rest period premium for non-compliance with Labor Code section 226.7.

72. Defendants violated Labor Code sections 226.7 and 1198 as well as the “Rest Periods” section of the applicable Wage Order. As a result, Plaintiff is entitled to recover, civil penalties and pursuant to Labor Code sections 558(a)(1)-(2) and 2699(a) or, in the alternative, section 2699(f)(2), attorney’s fees, expenses, and costs of suit.

73. Plaintiff, as a representative of the general public, will and does seek to recover any and all penalties for each and every violation, in an amount according to proof, as to those penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State of California.

FOURTH CAUSE OF ACTION

PAGA Penalties for Failure to Provide Accurate Itemized Wages Statements in Violation of Labor Code § 226 and the applicable IWC Wage Order (On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)

74. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in full herein.

75. Section 226(a) of the California Labor Code requires Defendants to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff and the other aggrieved employees.

76. Labor Code section 226(a) states in pertinent part: “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, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime

1 under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
2 Commission; (3) the number of piece-rate units earned and any applicable piece rate if the
3 employee is paid on a piece-rate basis; (4) All deductions, provided that all deductions made on
4 written orders of the employee may be aggregated and shown as one item; (5) net wages earned;
5 (6) the inclusive dates of the period for which the employee is paid; (7) the name of the
6 employee and only the last four digits of his or her social security number or an employee
7 identification number other than a social security number; (8) the name and address of the legal
8 entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and
9 the corresponding number of hours worked at each hourly rate by the employee. "The
10 deductions made from payment of wages shall be recorded in ink or other indelible form,
11 properly dated, showing the month, day, and year, and a copy of the statement and the record of
12 the deductions shall be kept on file by the employer for at least three years at the place of
13 employment or at a central location within the State of California."

14 77. Defendants have knowingly and intentionally failed to comply with Labor Code
15 section 226(a) on each and every wage statement provided to Plaintiff and other aggrieved
16 employees, by failing to provide accurate information in each of the required categories,
17 including failing provide the correct name of the employer, the net wages earned, all applicable
18 hourly rates and the corresponding number of hours worked at each rate, and all gross wages
19 earned.

20 78. Labor Code section 226.3 provides for civil penalties for violations of the Labor
21 Code section 226. The civil penalty is \$250 for the initial violation and \$1,000 for each
22 subsequent violation.

23 79. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
24 of civil penalties for violations of the labor code, to be recovered through a civil action brought
25 by an aggrieved employee on behalf of himself or herself and other current or former
26 employees pursuant to the procedures specified in Section 2699.3.

27 80. As alleged herein, Defendants failed to provide any all adequate wage statements
28 violated Labor Code section 226(a).

83. As a result, Defendants willfully violated the Labor Code and are liable to Plaintiff, and other aggrieved employees, for civil penalties as required by Labor Code section 226.3 and 2699(a) or, in the alternative, section 2699(f)(2), as well as attorney's fees and costs, all recoverable in an amount according to proof.

84. Plaintiff, as a representative of the general public, will and does seek to recover any and all penalties for each and every violation, in an amount according to proof, as to those penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State of California.

**PAGE Penalties for Failure to Pay All Wages Owed During and Upon Termination of
Employment in Violation of Labor Code §§ 201-203 and 204.
(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

86. Labor Code section 204(a) states, in pertinent part: “All wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Section 204(d) states: “The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” The “Minimum Wages” Section of the applicable Wage Order further states “every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period.”

1 87. Labor Code section 210(a) provides: “(a) In addition to, *and entirely independent*
2 *and apart from*, any other penalty provided in this article, every person who fails to pay the
3 wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205,
4 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one
5 hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent
6 violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to
7 pay each employee, plus 25 percent of the amount unlawfully withheld.” [Emphasis added.]

8 88. California Labor Code section 256 states that a civil penalty shall be imposed “in
9 an amount not exceeding 30 days’ pay as waiting time under the terms of Section 203.”

10 89. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
11 of civil penalties for violations of the labor code, to be recovered through a civil action brought
12 by an aggrieved employee on behalf of himself or herself and other current or former employees
13 pursuant to the procedures specified in Section 2699.3.

14 90. As set forth herein, Defendants failed to pay all wages and penalties owed to
15 Plaintiff and other aggrieved employees within the timeline required by Cal. Labor Code
16 sections 201-203 and 204. Defendants further failed to pay all waiting time penalties as required
17 by Labor Code section 203.

18 91. As a result, Defendants willfully violated the Labor Code and are liable to
19 Plaintiff, and other aggrieved employees, for penalties as required by Labor Code sections 210,
20 256, and 2699(a) or, in the alternative, section 2699(f)(2), and recoverable in an amount
21 according to proof.

22 92. Plaintiff, as a representative of the general public, will and does seek to recover
23 any and all penalties for each and every violation, in an amount according to proof, as to those
24 penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance
25 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
26 of California.

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28 ///

SIXTH CAUSE OF ACTION

**PAGA Penalties for Failure to Maintain Accurate Records in Violation of Labor Code §§
1174 and 1198**

(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)

93. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in full herein.

94. Labor Code section 1174(d) requires each employee to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.”

95. The “Records” section of the applicable IWC wage order requires each employer to maintain “[t]ime records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded.”

96. California Labor Code section 1174.5 imposes a \$500 civil penalty for any failure to maintain records required by Section 1174(d).

97. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection of civil penalties for violations of the labor code, to be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.

98. Defendants failed to maintain all records as required by law, including but not limited to the beginning and ending time of each work period and meal period.

99. As a result, Defendants willfully violated the Labor Code and are liable to Plaintiff, and other aggrieved employees, for penalties as required by Labor Code sections 1174.5 and 2699(a) or, in the alternative, section 2699(f)(2), and recoverable in an amount according to proof.

100. Plaintiff, as a representative of the general public, will and does seek to recover any and all penalties for each and every violation, in an amount according to proof, as to those penalties available pursuant to the PAGA. Funds recovered will be distributed in accordance

1 with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State
2 of California.

3 **SEVENTH CAUSE OF ACTION**

4 **PAGA Penalties for Requiring Employees to Agree to Unlawful Terms**
5 **(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

6 101. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in
7 full herein.

8 102. Labor Code section 432.5 states: “No employer, or agent, manager,
9 superintendent, or officer thereof, shall require any employee or applicant for employment to
10 agree, in writing, to any term or condition which is known by such employer, or agent,
11 manager, superintendent, or officer thereof to be prohibited by law.”

12 103. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
13 of civil penalties for violations of the labor code, to be recovered through a civil action brought
14 by an aggrieved employee on behalf of himself or herself and other current or former employees
15 pursuant to the procedures specified in Section 2699.3.

16 104. As set forth herein, Defendants violated Section 432.5 by knowingly requiring
17 aggrieved employees to sign agreements containing unlawful terms, including terms purporting
18 to broadly assign rights to inventions to the Defendants, to unlawfully restrict their rights to
19 seek gainful employment, to waive their right to initiate representative actions, and to agree to
20 release all claims in order to receive their final wages. Defendants knew these terms were
21 unlawful, but nevertheless required aggrieved employees to sign agreements containing these
22 terms.

23 105. As a result, Defendants willfully violated the Labor Code section 432.5 and are
24 liable to Plaintiff, and other aggrieved employees, for civil penalties as required by Labor Code
25 sections 2699(a) and/or 2699(f)(2) as well as attorney’s fees, expenses, and costs of suit, all in
26 an amount according to proof.

27 106. Plaintiff, as a representative of the general public, will and does seek to recover
28 any and all civil penalties for each and every violation of the California Labor Code, in an
amount according to proof, as to those penalties that are otherwise available pursuant to the

1 PAGA. Funds recovered will be distributed in accordance with the PAGA, with 75% of the
2 penalties recovered being reimbursed to the State of California and the Labor and the LWDA.

3 **EIGHTH CAUSE OF ACTION**

4 **PAGA Penalties for Failure to Provide Reimbursement**
5 **(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

6 107. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in
7 full herein.

8 108. Labor Code section 2802(a) states: "An employer shall indemnify his or her
9 employee for all necessary expenditures or losses incurred by the employee in direct
10 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
11 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
12 believed them to be unlawful."

13 109. Labor Code sections 2699(a) and 2699(f) provide for assessment and collection
14 of civil penalties for violations of the labor code, to be recovered through a civil action brought
15 by an aggrieved employee on behalf of himself or herself and other current or former employees
16 pursuant to the procedures specified in Section 2699.3.

17 110. As set forth herein, Defendants failed to provide Plaintiff and other aggrieved
18 employees with reimbursements for costs and expenses incurred.

19 111. As a result, Defendants willfully violated the Labor Code section 2802 and are
20 liable to Plaintiff, and other aggrieved employees, for civil penalties as required by Labor Code
21 sections 2699(a) and/or 2699(f)(2) as well as attorney's fees, expenses, and costs of suit, all in
22 an amount according to proof.

23 112. Plaintiff, as a representative of the general public, will and does seek to recover
24 any and all civil penalties for each and every violation of the California Labor Code, in an
25 amount according to proof, as to those penalties that are otherwise available pursuant to the
26 PAGA. Funds recovered will be distributed in accordance with the PAGA, with 75% of the
27 penalties recovered being reimbursed to the State of California and the Labor and the LWDA.

28 ///

NINTH CAUSE OF ACTION

**PAGA Penalties for Unlawful Release Agreements in Violation of Labor Code § 206.5
(On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)**

113. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in full herein.

114. Labor Code sections 206.5 states:

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, execution of a release includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

115. As set forth herein, Defendants violated Cal. Labor Code sections 206.5(a) and (b), when they required employees to sign a release in order to receive their final wages.

116. Additionally, Defendants also required Plaintiff and other employees to attest to receiving meal periods in order to receive their paychecks during their employment even if he or she did not receive their meal periods. As a result, Defendants violated Section 206.5 of the labor code.

117. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

118. Labor Code section 2699(f)(2) provides for civil penalties for violations of the Labor Code, for which there is no corresponding civil penalty. The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each underpaid employee in addition to “an amount sufficient to recover underpaid wages.” Labor Code § 2699(f)(2).

119. As set forth herein, Defendants unlawfully required employees to sign agreements and releases in order to receive his or her pay.

120. As a result, Defendants willfully violated the Labor Code and are liable to Plaintiff, and other aggrieved employees, for penalties as required by Labor Code section 2699(f)(2) and recoverable in an amount according to proof.

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

122. Plaintiff, as a representative of the general public, will and does seek to recover any and all penalties for each and every violation, in an amount according to proof, as to those penalties that are otherwise only available in public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with 75% of penalties recovered provided to the LWDA on behalf of the State of California.

TENTH CAUSE OF ACTION

PAGA Penalties for Failure to Provide Sick Pay in Violation of Labor Code § 246 (On Behalf of Plaintiff and each Aggrieved Employee Against All Defendants)

123. Plaintiff incorporates and re-alleges the preceding paragraphs as if set forth in full herein.

124. Labor Code section 246 grants the right to employees to paid sick days. Specifically, Cal. Labor Code section 246(b) states that:

(1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(3) An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.

(4) An employer may satisfy the accrual requirements of this section by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of his or her 120th calendar day of employment.

125. Paid sick time should be calculated shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

126. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3."

127. Labor Code section 2699(f)(2) provides for civil penalties for violations of the Labor Code, for which there is no corresponding civil penalty. The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each underpaid employee in addition to "an amount sufficient to recover underpaid wages." Labor Code § 2699(f)(2).

128. As set forth herein, Defendants did not provide paid sick time as required by law, including paying employees at the applicable regular rate of pay.

129. As a result, Defendants willfully violated the Labor Code and are liable to Plaintiff, and other aggrieved employees, for penalties as required by Labor Code section 2699(f)(2) and recoverable in an amount according to proof.

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

131. Plaintiff, as a representative of the general public, will and does seek to recover any and all penalties for each and every violation, in an amount according to proof, as to those penalties that are otherwise only available in public agency enforcement actions. Funds

1 recovered will be distributed in accordance with the PAGA, with 75% of penalties recovered
2 provided to the LWDA on behalf of the State of California.

3 **VII.**

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, on behalf of himself and all other aggrieved employees and as
6 a Representative of the Labor and Workforce Development Agency, prays for judgment as
7 follows:

8 a. For maintenance of this claim as a Representative Action under the PAGA, and
9 providing Plaintiff and his counsel with all enforcement capability as if this action has been
10 instituted by the Department of Labor Standards enforcement ("DLSE");

11 b. For recovery of civil penalties as permitted by Labor Code sections 2699.3,
12 1197.1, and 558(a)(1)-(2), in an amount according to proof;

13 c. For recovery of civil penalties as permitted by Labor Code section 226.3, for
14 failing to provide accurate itemized wage statements, in an amount to be assessed and according
15 to proof;

16 d. For recovery of civil penalties as permitted by Labor Code sections 210, for
17 failing to pay wages timely during employment;

18 e. For recovery of civil penalties as permitted by Labor Code section 225.5, for the
19 failure to pay all rates required by contract and statute;

20 f. For recovery of civil penalties as permitted by Labor Code section 256 for
21 failing to provide wages timely to terminated employees upon separation of employment;

22 g. For recovery of civil penalties as permitted by Labor Code section 1174 and
23 1174.5 for failing to maintain records;

24 h. For recovery of civil penalties pursuant to Labor Code section 2699(f)(2), to the
25 extent that Section 2699(a) does not apply and/or where a statutory civil penalty is not provided,
26 for failing to comply with Labor Code sections 201-203, 204, 206.5, 226, 226.7, 246, 432.5,
27 1198, 1174, 1194, and 2802.

28 i. For Pre-Judgment and Post-Judgment interest, to the extent permitted by law as

1 to any restitution recovery;

2 j. For Attorneys' fees and costs of suit, including expert fees and fees pursuant to
3 California Labor Code sections 218.5, 226(e), 1194, 2802, the PAGA, and/or Code of Civil
4 Procedure section 1021.5 on a public benefit theory; and all other applicable state laws;

5 k. For injunctive relief; and

6 l. Such other legal equitable relief as this Court deems necessary, just, equitable
7 and proper.

8 **COHELAN KHOURY & SINGER**

9
10 Dated: November 6, 2020

By: 

Michael D. Singer, Esq.

Kristina De La Rosa, Esq.

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13 Counsel for Plaintiff PRINCE BANZOUZI MALGHA
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EXHIBIT A

COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

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JEFF GERACI
J. JASON HILL†
MARTA MANUS
KRISTINA DE LA ROSA
ROSEMARY C. KHOURY

(† Also admitted in Illinois)

September 1, 2020

NOTICE VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency

VIA CERTIFIED MAIL (RETURN RECEIPT)

WiLine Networks Inc.
104 Carnegie Center, Suite 201
Princeton, NJ 08540

WiLine Networks Inc.
C/O CSC-Lawyers Incorporating Service
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833

**Re: NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR
CODE SECTION 2699.3**

This letter shall serve as Prince Banzouzi Malgha's (hereafter "Claimant") *Notice* pursuant to the California Private Attorneys General Act ("PAGA"), California Labor Code sections 2698, *et seq.* regarding his wage and hour claims against WiLine Networks, Inc. (collectively referred to herein as "the Employer."). Claimant submits this notice on behalf of himself and all current and former exempt and/or non-exempt employees in California who during the one year preceding the date of this notice suffered one or more of the violations described herein (collectively referred to as "aggrieved employees").

Claimant and other aggrieved employees were subject to the same policies and practices alleged herein which impermissibly denied aggrieved employees their rights pursuant to the California Labor Code and caused violation of the Labor Code as set forth below.

FACTUAL ALLEGATIONS

Claimant worked for the Employer as a Field Service Technician from approximately December 2019 until March 2020. He and other aggrieved employees were required to sign a severance agreement in order to receive his final pay. Because he refused to sign the severance agreement, he did not receive all of his final wages owed.

At all relevant times at least one year prior to the date of this Notice, the Employer subjected Claimant and aggrieved employees to policies and practices which caused the violations of the Labor Code as described herein.

The Employer failed to pay Claimant and aggrieved employees all minimum, regular, and overtime wages for all applicable hours of work, including the time spent working during purported meal periods, but which were deducted. As a result, the time spent working during purported meal periods was not paid at the correct minimum, regular, and overtime wage rates.

The Employer further failed to pay all overtime wages for all overtime hours worked because it failed to properly calculate the regular rate of pay for purposes of calculating overtime rates (time and a half- and double-time rates). Claimant and other aggrieved employees were eligible to earn, and did earn, more than one base hourly rate in the same workweek, non-discretionary compensation, including non-discretionary incentive pay, commissions, production bonuses, referral bonuses, and flat sum bonuses. Claimant and aggrieved employees worked overtime during the same workweek in which they worked at more than one base hourly rate and/or earned additional non-discretionary compensation. However, this additional remuneration was not properly calculated into the regular rate of pay and as a result the overtime wages were not calculated using the correct regular rate of pay. Accordingly, the Employer failed to pay all overtime wages.

At all times during his employment and at least one year prior to the date of this notice, Claimant was subjected to a uniform policy and practice of unlawful time rounding. That is, the Employer did not pay Claimant and other aggrieved employees precisely for all hours worked. Instead, it rounded his and other aggrieved employees' hours worked to the nearest quarter of an hour, which over time, unlawfully favored the Employer and resulted in time lost to the employees, including Claimant. This rounding policy was not neutral on its face or in application, and resulted in a cumulative loss of time to the employees. The Employer had the ability to pay for the precise hours worked, but opted instead to utilize the rounding policy with no apparent benefit other than to benefit the Employer and deprive employees of payment for all hours worked. Strict rules regarding punctuality and rules favoring meal periods of less than thirty minutes further affected the rounding policy to result in more favorable results to the Employer. As a result, Claimant and other employees were not paid all minimum and regular wages for all hours worked. When the employees worked overtime, the rounding policy also resulted in the failure to pay all overtime wages for all overtime hours worked.

The Employer subjected all aggrieved employees to policies and practices which failed to provide compliant meal and rest periods. The Employer did not maintain a legally compliant meal and rest period policy applicable to Claimant and other aggrieved employees. Claimant and other aggrieved employees were not authorized and permitted to take all lawful rest and meal periods.

Claimant and other aggrieved employees were not provided an opportunity for each shift to take off-duty, timely, uninterrupted meal periods lasting at least 30 minutes. If they were provided a "meal period," Claimant and other aggrieved employees' meal periods were on-duty, late, interrupted, and/or shorter than thirty minutes. Claimant and other aggrieved employees were not always provided timely meal periods of at least thirty minutes because they were required to complete all duties before taking any breaks. For example, if an employee was servicing a client, he or she were not permitted to stop their assignment during their service call to take a meal or rest period. As a result, the demands of the job and customer needs forced employees to take late meal periods, skip their meal periods, or take meal periods which were less than thirty minutes and/or not off duty. For the same reasons, Claimant and other aggrieved employees were not provided an opportunity to take a second uninterrupted, off-duty, thirty-minute meal period on shifts lasting more than 10 hours. Even though Claimant and other aggrieved employees were unable to take compliant meal periods, the Employer never paid one hour of wages at a regular rate of pay for non-compliant meal periods, as required by Labor Code section 226.7 and Section 11 of the applicable IWC Wage Order. Indeed, Claimant at times reported to his manager of his inability to

take meal periods. His manager responded by instructing Claimant to nevertheless edit his own time sheet or the manager would auto-deducted his time, and/or unilaterally edited Claimant's time records. This resulted in a failure to pay the applicable minimum and/or overtime wage. Claimant believes this practice extended to other employees as well.

Claimant and other aggrieved employees were not informed of their right to take rest periods and they were not authorized or permitted to take off-duty rest periods of at least 10 minutes for every four hours or major fraction thereof worked. The Employer never paid one hour of wages at a regular rate of pay for non-compliant rest periods, as required by Labor Code section 226.7 and Section 12 of the applicable IWC Wage Order.

Furthermore, the Employer failed to provide sick pay at the proper accrual rates as required by Cal. Labor Code section 246, nor did it pay the sick pay the correct regular rate of pay as required by law.

The Employer further failed to pay all vacation wages. The Employer did not pay all vacation wages earned and vested pursuant to their policy at termination of employment. As a result, the Employer failed to pay all vacation wages.

Furthermore, the Employer failed to record (and maintain records) reflecting when the employees begin and end each work period, including meal periods. The Employer further failed to record the total hours worked. Indeed, the Employer often manipulated and falsified time records to reflect the beginning and ending of meal periods which were not correct and not based in fact.

During the relevant time period, the Employer failed to provide reimbursement for all reasonable costs and expenses incurred by aggrieved employees in direct consequence to their job duties. The Employer failed to maintain an adequate reimbursement policy and further failed to inform aggrieved employees of their right to seek reimbursement for all costs and expenses.

Claimant and other aggrieved employees were required to use their personal cell phones and vehicles in the discharge of their duties for the Employer without receiving all proper reimbursement. Claimant and other aggrieved employees were required to drive their personal vehicles to and from customer's locations, incurring mileage expenses. However, Claimant and other aggrieved employees were not reimbursed for all mileage, and/or were not reimbursed at the legally required rates. Claimant and other employees often requested documentation substantiating what they were reimbursed for, but these requests were ignored.

Claimant and other aggrieved employees were also required to use their personal cell phone for business calls and messaging and other work-related communications. The Employer did not reimburse Claimant and other aggrieved employees for these necessary expenditures incurred in the direct consequence of the discharge of their duties in violation of California law.

The Employer failed to provide accurate wage statements to Claimant and other aggrieved employees. The paystubs provided to Claimant and other aggrieved employees did not contain all accurate information as required by Labor Code section 226(a). Because, as described above, the Employer failed to pay all minimum, regular, overtime, and vacation wages, and all meal and rest

premium wages, it failed to accurately set forth the total gross wages earned, net wages earned, total hours worked, and all applicable hourly rates and the corresponding number of hours worked at each rate.

Additionally, separate and independent from the claims for derivate violations of Labor code section 226, the wage statements were non-compliant and did not contain all the necessary information because they did not state the full name of the Employer. They only stated “Wiline Networks,” instead of the full name, “Wiline Networks, Inc.”

During his employment, Claimant was not paid all wages within the time set forth in Labor Code section 204 due to the failure to pay all minimum, regular, and overtime wages, and all meal and rest period premium wages as described herein.

Additionally, and independent from the claims described above, during Claimant’s employment, the Employer failed to pay all wages timely pursuant to the time frames set forth in Cal. Labor Code sections 204(a) or (d). Specifically, payment of wages always occurred more than 7 days after the close of the pay period as well as after the days set forth in Section 204(a).

Additionally, the Employer failed to pay Claimant and aggrieved employees within the time required because it did not pay all wages earned as set forth herein. Claimant is informed and believes that the Employer has no policy and/or practice to comply with Labor Code sections 201, 202, and 203 as to all separated employees in California by timely paying final wages and paying waiting time penalty wages when failing to timely pay final wages. On information and belief, Claimant maintains that the Employer maintained a regular practice of failing to pay separated employees within the time requirements of Labor Code sections 201- 202. Even if it did provide employees with the final pay check within the time frame required, it nevertheless failed to pay timely because it did not pay all wages earned as set forth herein. As a result, the Employer is liable for civil penalties for its violation of Sections 201 and 202.

The Employer also did not pay a day’s wages for every day final pay was not paid through the date final wages were paid, as required by Labor Code section 203. Thus, aggrieved employees are owed civil penalties due to the Employer’s violation of Cal. Labor Code section 203.

Additionally, the Employer improperly required Claimant and other aggrieved employees to sign a release and/or severance agreement in order to receive their final pay.

The Employer further knowingly required aggrieved employees to sign agreements containing unlawful terms, including terms purporting to broadly assign rights to inventions to the Employer, to unlawfully restrict their rights to seek gainful employment, to waive their right to initiate representative actions, and to agree to release all claims in order to receive their final wages. The Employer knew these terms were unlawful, but nevertheless required aggrieved employees to sign agreements containing these terms.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code §§ 510, 1194, 1197, 1197.1, and 1198, and the “Minimum Wages” and “Hours and Days of Work” Sections of the Applicable Wage Order)

The Employer failed to pay all minimum, regular, and overtime wages required by law.

Labor Code section 510 provides in pertinent part: “Eight hours of labor constitutes a day’s work. Any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

Labor Code section 1197 states: “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity.”

Labor Code section 1198 states: “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Pursuant to the “Minimum Wages” and “Hours & Days of Work” Sections of the applicable Wage Order, an employer may not pay employees less than the applicable minimum wage for all hours worked, and provides that an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

Pursuant to the “Reporting Time Pay” section of the applicable Wage Order, “Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

As set forth in detail above, the Employer violated Labor Code sections 510, 1197, and 1198, and the “Minimum Wages” and “Hours and Days of Work” Sections of the Applicable Wage Order because it did not pay Claimant and other aggrieved employees all minimum, regular, and overtime wages for all hours worked.

FAILURE TO PROVIDE MEAL AND REST PERIODS

(Labor Code §§ 226.2, 226.7, 512(a), and 1198, and the “Meal Periods” and “Rest Periods” Sections 11 and 12 of the Applicable Wage Order)

As set forth herein, Claimant and other aggrieved employees were not provided with compliant meal and rest periods, nor were they provided with meal and rest premiums due to them under the law.

Labor Code section 226.7(c) states: “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited 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, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided." Consequently, Claimant is entitled to receive a one-hour wage premium for each day a compliant meal period was not provided and a one-hour wage premium for each day a compliant rest period was not provided. Claimant intends to pursue all remedies, including recovery of wages, interest, attorney's fees and costs, and penalties to the extent allowed by law.

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

Labor Code section 226.7(b) states: "An employer 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."

Labor Code section 1198 states: "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Pursuant to the "Meal Period" Section of the applicable IWC Wage Order, no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period will be waived by mutual consent of the employer and the employee. If an employer fails to provide an employee a meal period in accordance with the applicable provision of the order, 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.

Pursuant to the "Rest Period" Section of the applicable Wage Order, every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. If an employer fails to provide an employee a rest period in accordance with the applicable provision of the order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation of each workday that the rest period is not provided.

As set forth above, the Employer denied Claimant and employees meal and rest periods due to them under the law. Consequently, the Employer must pay one hour of wages for each day a proper meal period was not properly provided and one hour of wages for each day a rest period

was not properly provided. This applies to Claimant and all other aggrieved employees who were not provided with legally compliant meal periods and rest breaks.

FAILURE TO PAY ALL VACATION WAGES
(Labor Code §§ 218.5, 218.6, 227.3, and 2698, *et seq.*)

California Labor Code section 227.3 states, in pertinent part: “Whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.”

The Employer did not pay its aggrieved employees all appropriate vacation wages pursuant to its policies and as required by California Labor Code.

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS
(Labor Code §§ 246(i), 226(a), 226.3, 1198, and 2699, and the
“Records” Section of the Applicable Wage Order)

Labor Code section 226(a) states in pertinent part: “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, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (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 as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer. . .; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee... and if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. ”

Furthermore, Labor Code section 226(e)(2)(A) states: “An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.”

Labor Code section 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code section 226(a) in an initial citation and \$1,000.00 per employee for each violation in a subsequent citation. In addition, Labor Code section 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not

exceeding an aggregate penalty of \$4,000, and Claimant is entitled to an award of costs and reasonable attorney's fees.

Labor Code section 246(i) further requires that an employer provide employees written notice setting forth the amount of paid sick leave available either on an employee's wage statement pursuant to Section 226 or in a separate writing on the designated pay date.

The Employer failed to provide Claimant with an accurate, timely itemized wage statement complying with the requirements of the Labor Code and applicable IWC Wage Order. Claimant will pursue all remedies, including recovery of wages, interest, attorneys' fees and costs, penalties and those provided by the PAGA, to the extent allowed by law, on behalf of himself and other aggrieved employees of the Employer.

FAILURE TO PROVIDE PAID SICK LEAVE
(Labor Code §§ 246, 248.5)

Labor Code section 246 grants the right to employees to paid sick days. Specifically, Cal. Labor Code section 246(b) states that:

(1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(3) An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.

(4) An employer may satisfy the accrual requirements of this section by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of his or her 120th calendar day of employment.

Section 246 (l) requires that paid sick time be calculated at the regular rate of pay for the workweek in which the employee uses the paid sick time. Labor Code section 246(i) further requires that an employer provide employees written notice setting forth the amount of paid sick leave available either on an employee's wage statement pursuant to Section 226 or in a separate writing on the designated pay date.

The Employer violated Cal. Labor Code section 246 because it did not provide sick pay to aggrieved employees at the correct regular rate of pay, nor did it provide them written notice of

their paid sick leave available.

**FAILURE TO TIMELY PAY WAGES DUE DURING
AND UPON TERMINATION OF EMPLOYMENT**

(Labor Code §§ 201, 201.3, 202, 203, 204, 256, 1198, and 2699, and the “Minimum Wages”
Section of the Applicable Wage Order)

Labor Code section 204(a) states, in pertinent part: “All wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Section 204(d) states, “The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” The “Minimum Wages” Section of the applicable Wage Order further states “every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period.”

Labor Code section 201 states: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202 states “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.”

Labor Code section 203(a) states, in relevant part: “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 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 himself or herself to avoid payment to his or her, or who refuses to receive the payment when fully tendered to his 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 payment.”

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

Labor Code section 256 states: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.”

The Employer failed to timely pay Claimant and aggrieved employees all wages due and owing during and upon termination of employment. The Employer willfully failed to pay all wages and penalties when required by Sections 201, 201.3, 202, and 204 of the Labor Code. Therefore, the penalties to all affected employees, including Claimant.

FAILURE TO REIMBURSE EXPENSES
(Labor Code §§ 2802 and 2804)

California Labor Code section 2802(a) states: “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

Labor Code section 2802(b) states: “All awards made by a Court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” The exact amount of interest is in an amount to be proven at time of trial.

Furthermore, Labor Code section 2802(c) states: “For the purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee in enforcing the rights granted by this section.”

“Any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” Cal. Labor Code § 2804.

The Employer failed to fulfill these obligations when it failed to reimburse Claimant and other aggrieved employees for all costs and expenses they incurred while working for the Employer, including but not limited to cell phone and internet costs, and mileage.

UNLAWFUL RELEASE
(Labor Code § 206.5)

Labor Code sections 206.5 states:

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, execution of a release includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

As set forth herein, the Employer violated Cal. Labor Code sections 206.5(a) and (b), when it required employees to sign a release in order to receive their final wages. Additionally, the Employer also required Claimant and other employees to attest to receiving meal periods in order to receive their paychecks during their employment even if he or she did not receive their meal periods. As a result, the Employer violated Section 206.5 of the labor code.

UNLAWFUL AGREEMENTS
(Labor Code §§ 96(k), 98.6, and 432.5)

Labor Code section 432.5 states: “No employer, agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree in writing, to any term or condition, which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

The Employer further required Claimant and other current and former employees to agree in writing to an inventions assignment agreement, release agreements, non-solicitation agreements and an arbitration agreement, all of which it knew was unlawful. Claimant will pursue all remedies, including recovery of wages, interest, attorney’s fees and costs, penalties and those provided by PAGA, to the extent allowed by law, on behalf of himself and other aggrieved employees of the Employer.

**CIVIL PENALTIES FOR VIOLATION OF
THE LABOR CODE AND IWC WAGE ORDERS**
(Labor Code §§ 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of Part 2, Chapter 1, of the Labor Code or any provision regulating hours and days of work in any IWC Wage Order to a civil penalty in the amount of \$50 for any initial violation for each pay period in which an employee is underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation in addition to an amount sufficient to recover underpaid wages, which shall be paid to each affected employee.

Labor Code section 558.1(a) states: “Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.”

Labor Code section 1197.1 states that any employer or other person acting either individually or as an officer, agent or employee of another person, which pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty and restitution of wages payable to the employee in an amount of \$100 for the initial violation for each pay period in which an employee underpaid in addition to an amount sufficient to recover underpaid wages, and \$250 for each subsequent violation in addition to an amount sufficient to recover underpaid wages, which shall be paid to each affected employee.

As set forth above, the Employer violated the IWC Wage Order regulating the hours and days of work, Labor Code sections 510, 1197, and 1198, and caused the employees to be paid less than the minimum set by the IWC Wage Order. As a result, the Employer is liable for civil penalties under Labor Code sections 558, 558.1, and 1197.1.

As set forth above, WiLine Networks, Inc. was the employer, or other person acting on behalf the employer, and violated, or caused to be violated the IWC Wage Order regulating the hours and days of work, Labor Code sections 203, 226, 226.7, 1194, 2802, 510, 512, 1197, and 1198, and caused the employees to be paid less than the minimum set by the IWC Wage Order. As a result, the Employer is liable for civil penalties under Labor Code sections 558, 558.1, and 1197.1.

DUTIES OF EMPLOYER

(Labor Code §§ 246(i), 1174, 1174.5, 2810.5, 2751, and 1198 and § 7 of the Applicable IWC Wage Order)

Labor Code section 1174 describes certain duties of every employer in this state. Subsection (d) of this labor code section requires that payroll records show the hours worked daily by employees and the corresponding wages to be paid for the hours worked. The Employer violated this requirement by its failure to accurately record employee hours worked and/or paid. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records. This civil penalty is addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d). Furthermore, Claimant and all other current and former employees are entitled to collect 25% of the penalty imposed pursuant to Section 2699.

Labor Code section 2810.5 further requires an employer to provide to each employee a written notice containing certain information, including rates of pay, meal or lodging allowances, designated payday, name of employer, physical address of employer's main office or principal place of business, contact information of the employer, and worker's compensation carrier contact information. The Employer entirely failed to comply with this requirement.

Labor Code section 2751 further requires that an employer provide its commissioned employees with a written agreement detailing how their commissions will be calculated and paid. The employers must also provide a copy of all commission agreements and obtain from each employee a signed receipt.

Labor Code section 246(i) states: "An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

The Employer violated Sections 1174, 246, 2810.5, and 2751 by failing to maintain time records and failing to provide the requisite notices.

ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES

(Labor Code §§ 218.6, 226(e), 1194, 1194.2, 2699, *et seq.*, and 2802)

Labor Code sections 218.6, 226(e), 1194, 1194.2, and 2699, *et seq.* give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular

wages, overtime compensation, vacation wages, reimbursements, damages, liquidated damages and penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

Pursuant to Labor Code section 2699, *et seq.*, aggrieved employees are entitled to collect 25% of the penalty assessment and 100% of the underpaid wages. Accordingly, WiLine Networks, Inc. is liable for these items in addition to the unpaid wages and reimbursements. Prince Banzouzi Malgha has already incurred in actual damages, costs and attorney's fees and will continue to incur costs as a result of WiLine Networks, Inc.'s unlawful actions.

CONCLUSION

The Employer violated labor code sections as set forth herein. Claimant will pursue all remedies on behalf of himself and other aggrieved employees, including recovery of attorney's fees, costs, damages and penalties to the extent allowed by law. 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, Claimant becomes aware of additional claims, he 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 in the complaint for damages. Should you have any questions, please feel free to contact me at your convenience.

Sincerely,
COHELAN KHOURY & SINGER



Kristina De La Rosa, Esq.

/kdlr

cc:

Via First Class Mail

Richard Neely, Esq.

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