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Clerk of the Superior Court
By Melissa Valdez, Deputy Clerk

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Attorneys for Plaintiff AGUSTIN CHAVEZ-LAGUNA,

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

AGUSTIN CHAVEZ-LAGUNA, on behalf of
himself and all others aggrieved employees,

Plaintiff,

v.

HARCON PRECISION METALS, INC., a
Corporation Doing Business in California; and
DOES 1- 50, Inclusive,

Defendant,

Case No. 37-2021-00022930-CU-OE-CTL

REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL FINES

1. Civil Penalties under the Private Attorneys
General Act (PAGA)

DEMAND FOR JURY TRIAL

Plaintiff, Agustin Chavez-Laguna, as a representative of the State of California and the
Labor and Workforce Development Agency (LWDA), and on behalf of Plaintiff and other current
and former employees, complains and alleges as follows:

1 **INTRODUCTION**

2 1. This is a representative action brought by Plaintiff, as a representative of the State
3 of California and the LWDA, and on behalf of Plaintiff and other aggrieved employees, to collect
4 civil penalties for Defendant's Labor Code violations.

5 2. Defendant and employer, Harcon Precision Metals, Inc., violated numerous wage
6 and hour laws with respect to Plaintiff and other aggrieved employees by failing to provide, for
7 example: accurate and itemized wages statements, payment for all hours worked (including
8 regular wages and overtime), failure to provide a minimum wage lawful meal periods, lawful
9 rest periods, timely payment during employment, failure to reimburse for expenses incurred
10 during the course and scope of employment, and payment upon separation of employment.

11 **PARTIES**

12 **The Plaintiff**

13 3. Plaintiff is, and at all times herein mentioned was, a resident of the County of San
14 Diego.

15 **The Defendant**

16 4. Defendant Harcon Precision Metals, Inc., is a corporation which, at all-time
17 relevant hereto, existing, doing business and employing individuals in the County of San Diego,
18 State of California.

19 5. The true names and capacities, whether individual, corporate, associate, or
20 otherwise of Defendants named herein as DOES 1-50, inclusive, are unknown to Plaintiff at this
21 time and therefore said Defendants are sued by such fictitious names. Plaintiff will seek leave to
22 amend this Complaint to insert the true names and capacities of said Defendants when the same
23 become known to Plaintiff. Plaintiff is informed and believes and thereupon alleges that each of
24 the fictitiously-named Defendants are responsible for the wrongful acts alleged herein and is
25 therefore liable to Plaintiff as alleged hereinafter.

26 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times
27 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
28 supervisors, conspirators, parent corporation, joint employers, alter ego, and/or joint ventures of

1 the other Defendants, and each of them, and in doing the things alleged herein, were acting at
2 least in part within the course and scope of said agency, employment, conspiracy, joint
3 employment, alter ego status, and/or joint venture and with the permission and consent of each of
4 the other Defendants.

5 7. Plaintiff is informed and believes, and based thereupon alleges, that Defendants,
6 and each of them, including those Defendants named DOES 1-50, acted in concert with one
7 another to commit the wrongful acts alleged therein, and aided, abetted, incited, compelled,
8 and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so.
9 Plaintiff is further informed and believes, and based thereupon alleges, that the Defendants, and
10 each of them, including those Defendants named as DOES 1-50, formed and executed a
11 conspiracy or common plan pursuant to which they would commit the unlawful acts alleged
12 herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended
13 to and actually causing Plaintiff harm.
14

15 8. Whenever and wherever reference is made in this Complaint to any act or failure
16 to act by a defendant or co-defendant, such allegations and references shall also be deemed to
17 mean the acts and/or failures to act by each defendant acting individually, jointly and severally.

18 **JURISDICTION AND VENUE**

19 9. Venue is proper in San Diego County, because Defendants maintain its locations
20 and transacts business in this county, the obligations and liability primarily arise in this county,
21 and work was primarily performed by Plaintiff and other aggrieved employees in this county.

22 10. The California Superior Court has jurisdiction over this matter. The individual
23 claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for
24 federal court and PAGA penalties cannot be aggregated to meet the minimum jurisdictional
25 amount required for diversity removal. Further, there is no federal question at issue as the issues
26 herein are based solely on California statutes and law, including, but not limited to, the California
27 Labor Code, Industrial Welfare Commission Wage Orders, California Code of Civil Procedure,
28 and California Rules of Court.

GENERAL ALLEGATIONS

11. Defendant employed Plaintiff as an assembler from February 17, 2020 to the present day.

12. At all relevant times herein, Defendant employed Plaintiff and other aggrieved employees as non-exempt, hourly paid employees.

13. On many occasions, Plaintiff and aggrieved employees would work more than 8 hours per day or 40 hours per week without overtime pay.

14. Employer regularly did not have enough employees to provide sufficient coverage to maintain their business operations so Plaintiff and similarly aggrieved employees could not take complete, timely and uninterrupted meal and rest breaks.

15. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the 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 Labor Code section 2699.3.

16. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code section 2699, subdivision (f) imposes upon Defendant a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which Defendant violated these provisions of the Labor Code.

17. Defendant's conduct during the PAGA period with respect to Plaintiff and the aggrieved employees violates numerous Labor Code sections as detailed herein.

18. Plaintiff alleges that Defendant has engaged in a systematic pattern of wage and hour violations under the California Labor Code and IWC Wage Orders.

19. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known that Plaintiff and aggrieved employees were entitled to receive wages for

1 all hours worked, including the applicable minimum, regular, and overtime wages, and that they
2 were not receiving all wages earned for work that was required to be performed. In violation of
3 the Labor Code and IWC Wage Orders, Defendant failed to pay Plaintiff and aggrieved
4 employees' for all hours worked. Accordingly, Defendant failed to pay Plaintiff and aggrieved
5 employees all earned minimum, regular, and/or overtime compensation.

6 20. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
7 or should have known that Plaintiff and aggrieved employees were entitled to receive all required
8 meal periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees'
9 regular rate of pay when they did not receive a timely, uninterrupted off-duty meal period. In
10 violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy
11 of not providing timely meal periods. Defendant failed to pay an additional hour of pay to
12 Plaintiff and aggrieved employees for late meal periods. As a result of Defendant's unlawful
13 policy and practice, Plaintiff and aggrieved employees did not receive all meal periods or
14 payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of
15 pay when they did not receive a timely, uninterrupted 30 minute off-duty meal period.

16
17 21. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
18 or should have known that Plaintiff and aggrieved employees were entitled to receive all required
19 rest periods or payment of one (1) additional hour of pay at Plaintiff and aggrieved employees'
20 regular rate of pay when they did not receive a timely, uninterrupted off-duty rest period. In
21 violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice, and policy
22 of not providing timely rest periods. Defendant failed to pay an additional hour of pay to Plaintiff
23 and aggrieved employees for each rest periods was not provided or was interrupted. As a result
24 of Defendant's unlawful policy and practice, Plaintiff and aggrieved employees did not receive
25 all required rest periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
26 employees' regular rate of pay when they did not receive a timely, uninterrupted 10 minute off-
27 duty rest period.

28 22. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew

1 or should have known that Plaintiff and certain aggrieved employees were entitled to timely
2 payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiff
3 and certain aggrieved employees did not receive payment of all wages due, within permissible
4 time periods, upon separation of employment.

5 23. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
6 or should have known that Plaintiff and aggrieved employees were entitled to receive itemized
7 wage statements that accurately showed their actual hours worked, total hours worked, number
8 of hours worked at each hourly rate, gross and net wages earned, and correct employer
9 information in accordance with California law. In violation of the Labor Code, Plaintiff and
10 aggrieved employees were not provided with accurate itemized wage statements that accurately
11 reported their gross and net wages earned, total hours worked, each applicable rate of pay in
12 effect during the pay period with the corresponding number of hours worked, and the address of
13 the legal entity that is the employer, among other things.
14

15 24. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
16 should have known that Defendant was required to maintain accurate records of the hours
17 worked by Plaintiff and aggrieved employees. In violation of the Labor Code, Defendant failed
18 to maintain accurate records of hours worked by Plaintiff and aggrieved employees due to its
19 unfair rounding practices, among other things.
20

21 **FIRST CAUSE OF ACTION**

22 **(Civil Penalties Under the Private Attorneys General Act,** 23 **Labor Code § 2699 et seq., For Violations of the Labor Code)**

24 25. By this complaint, Plaintiff brings this case as a representative action seeking
25 penalties for himself, the aggrieved employees, and the State of California in a representative
26 capacity, as provided by the PAGA, Labor Code sections 2698 et seq. Plaintiff is an aggrieved
27 employee who was employed by Defendant and subject to at least one of the Labor Code
28 violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in

his notice to the LWDA and Defendants: violation of Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

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

27. Prior to filing this complaint, on October 21, 2020, Plaintiff gave written notice of the specific provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code section 2699.3. The written notice was given via certified mail to Defendants, and the LWDA by electronically filing the notice via the Department of Industrial Relations website. Plaintiff was given an LWDA case number of LWDA-CM-810323-20. A true and correct copy of Plaintiff's notice to the LWDA and Defendant(s), dated October 21, 2020, is attached hereto as Exhibit A.

28. The LWDA has not provided Plaintiff with any notice that it intends to investigate the violations as alleged in Plaintiff's October 21, 2020 notice, and more than 65 calendar days have elapsed since the postmark date on the notice.

29. California Labor Code §§2698-2699.5, in relevant part provides, "any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency...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."

30. As an aggrieved employee, Plaintiff brings this civil action to recover civil penalties for Defendant's Labor Code violations.

FIRST VIOLATION

(Failure to Provide Meal Periods, in Violation of Labor Code Section 512)

31. Under California Labor Code §512(a), "An employer may not employ an

1 employee for a work period of more than five hours per day without providing the employee
2 with a meal period of not less than 30 minutes, except that if the total work period per day of the
3 employee is no more than six hours, the meal period may be waived by mutual consent of both
4 the employer and employee.”

5 32. Defendant violated Labor Code § 512 by failing to provide Plaintiff, and other
6 qualifying employees who worked shifts of greater than five hours, meal periods within the first
7 five hours of the shifts worked. Defendant failed to pay Plaintiff one hour’s pay at Plaintiff’s
8 regular rate of pay for each day Defendant failed to provide a meal period in compliance with
9 section 512.

10 **SECOND VIOLATION**

11 **(Failure to Provide Rest Periods, in Violation of Labor Code Section 226.7)**

12 33. Under California Labor Code §226.7(b), “An employer shall not require an
13 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
14 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission”

15 34. Industrial Welfare Commission (IWC) provides, “Every employer shall authorize
16 and permit all employees to take rest periods, which insofar as practicable shall be in the middle
17 of each work period. The authorized rest period time shall be based on the total hours worked
18 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

19 35. Defendant failed to authorize and permit Plaintiff and other employee to take rest
20 periods and mandated by the Wage Order.

21 36. Under §226.7(c), an employer who violates §226.7(b), “...shall pay the employee
22 one additional hour of pay at the employee’s regular rate of compensation for each workday that
23 the meal or rest or recovery period is not provided.”

24 37. Defendant failed to pay Plaintiff and other employees who were not provided rest
25 periods one hour of pay at their regular rate of pay.

26 **THIRD VIOLATION**

27 **(Failure to Provide Complete and Accurate Wage Statements,**

1 **in Violation of Labor Code Section 226)**

2 38. Under California Labor Code §226(a), an employer is legally obligated to provide
3 its employees, semi-monthly or at the time of payment of wages, “an accurate itemized statement
4 in writing...”

5 39. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
6 for Defendant’s Labor Code violations alleged herein, as well as attorney’s fees and costs, under
7 Labor Code § 2699.

8 **FOURTH VIOLATION**

9 **(Failure to Pay Overtime Wages)**

10 40. Pursuant to California Labor Code §§ 510, 1194, and IWC Wage Orders, an
11 employer is required to compensate employees for all overtime, which is calculated at one and
12 one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours per
13 day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive
14 workday, with double time for all hours worked in excess of twelve (12) hours in any workday
15 and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in
16 any workweek.

17
18 41. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
19 for Defendant’s Labor Code violations alleged herein, as well as attorney’s fees and costs, under
20 Labor Code § 2699.

21
22 **FIFTH VIOLATION**

23 **(Failure to Pay Minimum Wages)**

24 42. Pursuant to California Labor Code §§ 1194, 1197, and IWC Wage Orders,
25 payment to an employee of less than the applicable minimum wage for all hours worked in a
26 payroll period is unlawful.

27
28 43. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties

1 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
2 Labor Code § 2699.

3 **SIXTH VIOLATION**

4 **(Failure to Timely Pay Wages During Employment)**

5 44. Pursuant to California Labor Code § 204, for all labor performed between the 1st
6 and 15th days of any calendar month, an employer is required to pay its employees between the
7 16th and 26th day of the month during which the labor was performed. California Labor Code §
8 204 also provides that for all labor performed between the 16th and 26th days of any calendar
9 month, Defendants are required to pay their employees between the 1st and 15th day of the
10 following calendar month. In addition, California Labor Code § 204 provides that all wages
11 earned for labor in excess of the normal work period shall be paid no later than the payday of the
12 next regular payroll period.

13 45. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
14 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
15 Labor Code § 2699.

16 **SEVENTH VIOLATION**

17 **(Failure to Pay All Wages Due to Discharged and Quitting Employees)**

18 46. Pursuant to California Labor Code § 201, 202, and 203, Defendants are required
19 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code §
20 201 mandates that if an employer discharges an employee, the employee's wages accrued and
21 unpaid at the time of discharge are due and payable immediately.

22 47. Plaintiff, on behalf of the State of California and the LWDA, seeks civil penalties
23 for Defendant's Labor Code violations alleged herein, as well as attorney's fees and costs, under
24 Labor Code § 2699.

25 **PRAYER FOR RELIEF**

26 **WHEREFORE**, Plaintiff prays for the following relief:
27
28

1. For penalties in an amount according to proof;
2. For reasonable attorney's fees and costs pursuant to the PAGA; and
3. For such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

Dated: May 21, 2021

WORK LAWYERS, PC

By:



Justin Lo, Esq.
Attorney for Plaintiff

Exhibit A



Work Lawyers <info@worklawyers.com>

Thank you for submission of your PAGA Case.

1 message

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "info@worklawyers.com" <info@worklawyers.com>

Wed, Oct 21, 2020 at 4:10 PM

10/21/2020

LWDA Case No. LWDA-CM-810323-20
Law Firm : Work Lawyers, PC
Plaintiff Name : Agustin Chavez-Laguna
Employer: Harcon Precision Metals, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

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