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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

03/11/2021 at 07:23:04 PM
Clerk of the Superior Court
By Candace Schaeffer, Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO

12 WESLEY PARRY, individually and as a
13 Private Attorney General,

14 Plaintiff,

15 v.

16 TRILLIUM USA COMPANY, LLC, and
17 DOES 1-20, inclusive,

18 Defendants.

Case No.: 37-2021-00010929-CU-OE-CTL

**COMPLAINT FOR DAMAGES,
PENALTIES, AND INJUNCTIVE
RELIEF**

**PRIVATE ATTORNEY GENERAL
ACTION**

DEMAND FOR JURY TRIAL

1 Plaintiff Wesley Parry (“Plaintiff” or “Parry”) brings the following claims against Trillium
2 USA Company, LLC (“Trillium,” the “Company,” or “Defendant”), and Does 1-20, inclusive (each
3 a "Defendant" and collectively "Defendants"):

4 **INTRODUCTION**

5 1. After months of reporting hazardous working conditions to his supervisors, on
6 September 11, 2019, Wesley Parry drafted an email to the Trillium Human Resources Department.
7 Through that email, Parry described potentially hazardous risks created by a negligent co-worker that
8 had been left unattended, issues regarding his pay, and documented his months old reports of black
9 mold growing at “site offices at Oceanside, Kearny Mesa, and Imperial Avenue MTS.”

10 2. Defendant never substantively responded to that email. They never addressed the
11 negligent work of Parry’s co-worker that created potentially hazardous working conditions for all
12 Trillium employees, they never addressed Parry’s concerns regarding his pay, and they never
13 addressed the black mold.

14 3. Instead, Defendant responded by concocting a pretext for Parry’s termination. Less
15 than a month after Parry sent his email, on October 8, 2019, Defendant ordered Parry to report to its
16 El Cajon office. When he arrived, Parry’s manager immediately terminated him. He then ordered
17 Parry to go with another Trillium employee to unload his tools from the Defendant’s van. Defendant
18 never paid Parry for the work he performed on October 8th, never provided him any documentation
19 supporting the pretext for his termination, and has still never addressed the issues Parry raised in his
20 September 11 email.

21 4. On behalf of all aggrieved employees, Parry also brings this action to recover penalties
22 for Defendant’s:

- 23 • Failure to pay aggrieved employees the mandatory prevailing wage;
- 24 • Failure to timely pay all wages owed;
- 25 • Attempt to require employees sign a release to receive undisputed earned wages;
- 26 • Mandated use of direct deposit without authorization;
- 27 • Illegal deductions from earned wages;
- 28 • Failure to pay earned but unused vacation at termination;

- Failure to provide compliant meal and rest breaks;
- Failure to provide necessary tools and equipment;
- Failure to pay overtime wages;
- Failure to provide compliant wage statements;
- Misclassification of employees as independent contractors; and
- Failure to maintain and provide access to employee records.

5. To protect his rights, the rights of Defendants' current and former employees, and on behalf of the State of California to enforce its laws, Parry brings this action.

JURISDICTION AND VENUE

6. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the California Superior Court and will be established according to proof at trial.

7. In addition, this is a private attorney general action for recovery of civil penalties under the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. ("PAGA"). *See Arias v. Superior Court* 46 Cal. 4th 969 (2009). Plaintiff seeks PAGA penalties on behalf of himself, Defendants' other current and former California employees, and the State of California.

8. This Court has jurisdiction over this action under the California Constitution Article VI §10, which grants the California Superior Court original jurisdiction in all causes except those given by statute to other courts. The statutes under which this action is brought do not give jurisdiction to any other court.

9. This Court has jurisdiction over Defendants because, upon information and belief, each Defendant is either a resident of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market to render the exercise of jurisdiction over it by the California Courts consistent with traditional notions of fair play and substantial justice.

10. Venue is proper in this Court because, upon information and belief, one or more of the Defendants, reside, transact business, or have offices in this County and the acts or omissions alleged took place in this County.

PARTIES

11. Plaintiff is and, during the times mentioned in this Complaint, was a resident of San Diego County, California who performed work for Defendants in California, and was based in San Diego County.

12. Plaintiff is informed and believes, that during the times referenced in this Complaint, Defendant was licensed and qualified to do business in California. On information and belief, Plaintiff alleges that Defendant did and continues to transact business throughout California.

13. Whenever reference is made to any act, deed, or conduct of Defendant, the allegation means that Defendant engaged in the act, deed, or conduct by or through one or more of its managers, members, officers, directors, agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the ordinary business and affairs of Defendant.

14. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued as Does 1 through 20, inclusive and therefore sues said defendants (the "Doe Defendants") by such fictitious names. Plaintiff will amend this complaint to insert the true names and capacities of the Doe Defendants at such time as the identities of the Doe Defendants have been ascertained.

15. Plaintiff is informed and believes that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each other; that Defendants and the Doe Defendants performed the acts and conduct alleged directly, aided and abetted their performance, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendants.

16. Plaintiff is further informed and believes that each Defendant was completely dominated and controlled by its co-Defendants and each was the alter ego of the other. Whenever reference is made to any conduct by a Defendant, such references also mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever reference is made to individuals who are not named as Defendants in this complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times acted on behalf of Defendants named in this complaint within the scope of their respective employment.

1 **ALLEGATIONS RELEVANT TO ALL CLAIMS**

2 17. On or about July 11, 2016, Defendant hired Plaintiff as a Field Service Technician. In
3 this role, Plaintiff would visit, maintain, and repair, compressed natural gas sites throughout San
4 Diego County. Many of these sites related to government operations, like city bus refueling.

5 18. Throughout his employment, Plaintiff was a model employee. In his last employment
6 review before his termination, Defendant noted that Plaintiff was on target with expectations.
7 Specifically related to Plaintiff's safety performance, Defendant noted "Safety first in everything we
8 do. No speeding events, tickets, accidents or unsafe behavior in our daily duties. Always wears PPE
9 and follows the Trillium code of Conduct."

10 19. In achieving those safety goals that were supposed to be "first in everything"
11 Defendant did, Plaintiff would report safety issues to the company and would not sweep those issues
12 under the rug. Generally, he would report these issues to his supervisor, orally.

13 20. But on September 11, 2019, Plaintiff sent a detailed email regarding ongoing problems
14 in his workplace. Plaintiff noted that the pride he took in his work and that he hoped to continue his
15 success with the company. That said, Plaintiff had concerns regarding past and present issues that
16 Defendant had overlooked or disregarded.

17 21. Through that email, Plaintiff raised concerns regarding his working conditions.
18 Specifically, Plaintiff was concerned about the negligence of a particular employee that resulted in
19 an excessive amount of work falling to Plaintiff. Because Plaintiff's job maintaining and repairing
20 compressed natural gas sites required special attention to safety, Plaintiff noted that the unchecked
21 negligence he reported created potential hazards in the workplace. Plaintiff also raised fairness
22 concerns regarding his pay in relation to the negligent employee.

23 22. Through that email, Plaintiff repeated his previously reported concern that there was
24 black mold in the floors of three site offices at Oceanside, Kearny Mesa, and Imperial Avenue MTS.

25 23. When Plaintiff reported the negligence of another employee which created potential
26 hazards in the workplace, raised concerns that he was not being paid fairly, and that there was black
27 mold in the offices where he worked, Plaintiff had a good-faith belief that he was reporting that
28 Defendants were violating the California Labor Code and California public policy.

1 24. Defendant did not substantively respond to Plaintiff's email. Instead, less than a month
2 after he had sent the email, on October 8, 2019, Defendant instructed Plaintiff to report to Defendant's
3 office in El Cajon, CA. When he arrived, Defendant's manager immediately terminated him.

4 25. Defendant's manager then ordered Plaintiff to go with another Trillium employee to
5 unload Plaintiff's tools from the Defendant's van. Defendant never paid Parry for the work he
6 performed on October 8th, never provided him any documentation supporting the pretext for his
7 termination, and has still never addressed the issues Parry raised in his September 11 email.

8 26. Plaintiff is informed and believes that Defendant is and was advised by skilled lawyers
9 and other professionals, employees, and advisors with knowledge of the requirements of California's
10 laws, including California's wage and employment laws.

11 27. On or about October 8, 2019, and as of the date of this filing, Defendant willfully did
12 not pay and has not paid Plaintiff for all earned wages. During his employment, Defendant did not
13 pay Plaintiff wages within California Labor Code § 204's timing requirements.

14 28. In response to a request for his employment and payroll records, Defendant did not
15 timely produce complete copies of those records.

16 **ALLEGATIONS RELEVANT TO CALIFORNIA LABOR CODE PAGA ACTION**

17 29. Plaintiff references and realleges all above allegation.

18 30. California Labor Code § 2698, et seq. PAGA permits an "aggrieved employee" to
19 bring a lawsuit on behalf of themselves and the state of California to address an employer's violations
20 of the California Labor Code. In this case, Defendants violated California Labor Code §§ 201, 202,
21 203, 204, 206.5, 213, 226(a), 226(c), 226(f), 221, 226.7, 227.3, 400-410, 510, 512, 558, 1182 et seq.,
22 1194, 1197, 1197.1, 1198, 1198.5(g), 1771, 1774, 1776, 1811, 1812, 1815, and 2802.

23 31. Plaintiff is an "aggrieved employee" because he was employed by Defendants and had
24 one or more of the alleged violations committed against him.

25 32. Plaintiff seeks to recover civil penalties under PAGA for Labor Code violations that
26 would otherwise be assessed and collected by the Labor and Workforce Development Agency or any
27 of its departments, divisions, commissions, boards, agencies, or employees. Plaintiff seeks these
28 PAGA penalties on behalf of himself, Defendants' other current and former California employees,

1 and the State of California.

2 33. Plaintiff has complied with the requirement to commence a civil action under Labor
3 Code § 2699.3.

4 34. Plaintiff has complied with the exhaustion requirements of PAGA by providing notice
5 on October 8, 2020 via electronic submission to the LWDA and by certified letter to Defendants
6 concerning his PAGA claims. More than sixty-five days have passed since Plaintiff provided the
7 PAGA notice and the LWDA has not taken any action.

8 35. "Current and Former Employees" for the purposes of the PAGA claims include all
9 persons who are or were employed by Defendants in the state of California.

10 36. During the year immediately preceding April 6, 2020, Defendant failed to timely pay
11 all wages owed on termination in accordance with Labor Code §§ 201 and 202 to Plaintiff and its
12 other aggrieved employees. Instead, Trillium withheld payment of final wages to Mr. Parry and its
13 other aggrieved employees whose employment was terminated. In addition, the final wages were
14 incorrect so not all wages due and owing were paid to Mr. Parry and other aggrieved employees. On
15 behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for these
16 violations of Labor Code §§ 201, 202 and 203, including under Labor Code § 256.

17 37. During the year immediately preceding April 6, 2020, Trillium did not pay all wages
18 owed under the timing required by Labor Code § 204 to Mr. Parry and its other aggrieved employees.
19 In addition, the wages paid were incorrect so not all wages due and owing were paid to Mr. Parry and
20 other aggrieved employees under the timing required by Labor Code § 204. These wages were
21 incorrect, for among other reasons, because Trillium did not include all non-discretionary incentive
22 payments in the regular rate when calculating overtime premiums to be paid. On behalf of himself,
23 other aggrieved employees, and the State, Mr. Parry seeks civil penalties for these violations of Labor
24 Code § 204 including under Labor Code § 210.

25 38. Labor Code § 206.5 prohibits employers from requiring "the execution of a release of
26 a claim or right on account of wages due, or to become due, or made as an advance on wages to be
27 earned, unless payment of those wages has been made."

28 39. During the year immediately preceding April 6, 2020, Trillium required aggrieved

1 employees to execute a release of claim or right on account of wages that were due, had become due,
2 and in advance of being paid earned wages. On behalf of himself, other aggrieved employees, and the
3 State, Mr. Parry seeks civil penalties under Labor Code § 2699(f)(2) for Trillium's violations of Labor
4 Code § 206.5.

5 40. Labor Code § 213 requires an employer obtain a voluntary authorization before it may
6 fulfill its obligation to pay earned wages through direct deposit. During the year immediately
7 preceding April 6, 2020, Trillium did not obtain a voluntary authorization to direct deposit before
8 paying its employees through direct deposit. On behalf of himself, other aggrieved employees, and
9 the State, Mr. Parry seeks civil penalties under Labor Code § 2699(f)(2) for Trillium's violations of
10 Labor Code § 213.

11 41. Labor Code § 221 prohibits employers from deducting from an employee's earned
12 wages. During the year immediately preceding April 6, 2020, Trillium maintained a policy permitting
13 deductions from Mr. Parry's earned incentive payments that should have been fully paid in his final
14 paycheck. During that time, Trillium also made unexplained deductions from Mr. Parry's earned
15 incentive payments. Based on Trillium's incentive payment policies in effect during the year
16 immediately preceding the date of this letter, Mr. Parry alleges Trillium made similar impermissible
17 deductions from aggrieved employees.

18 42. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil
19 penalties under Labor Code § 2699(f)(2) for Trillium's violations of Labor Code § 221.

20 43. Labor Code § 227.3 requires that vacation wages be earned as labor is rendered and
21 any accrued but unused vacation wages be paid at termination. During the year immediately preceding
22 April 6, 2020, Trillium maintained a vacation policy that did not allow vacation wages be earned as
23 labor was rendered and did not pay all accrued but unused vacation wages at termination. On behalf
24 of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties under Labor
25 Code § 2699(f)(2) for Trillium's violations of Labor Code § 227.3.

26 44. Labor Code §§ 400-410 prohibit employers from making deductions from employees
27 for general costs associated with running a business or losses not caused by dishonesty, willful act,
28 or by the culpable negligence of the employee. During the year immediately preceding April 6, 2020,

1 Trillium maintained a policy that permitted and resulted in deductions from Mr. Parry's earned wages
2 that should have been fully paid in his final paycheck. During that time, Trillium also made
3 unexplained deductions from Mr. Parry's earned incentive payments. Based on Trillium's incentive
4 payment policies in effect during the year immediately preceding the date of this letter, Mr. Parry
5 alleges Trillium made similar impermissible deductions from aggrieved employees.

6 45. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil
7 penalties under Labor Code § 2699(f)(2) for Trillium's violations of Labor Code §§ 400-410.

8 46. Trillium did not pay required overtime compensation in accordance with Labor Code
9 § 510. Specifically, during the year immediately preceding April 6, 2020, Trillium did not compensate
10 Mr. Parry and other aggrieved employees a proper overtime rate for all hours worked more than eight
11 (8) in a day or forty (40) in a week. These violations occurred in part because of Trillium's systematic
12 practice of not paying Mr. Parry and other aggrieved employees for all hours worked, because
13 Trillium did not include all non-discretionary incentive payments in the regular rate when calculating
14 overtime premiums to be paid, and did not pay employees the mandatory prevailing wage. On behalf
15 of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties under Labor
16 Code § 2699(f)(2) for Trillium's violations of Labor Code §510.

17 47. Labor Code § 1198 provides that "the employment of an employee ... under conditions
18 of labor prohibited by the [wage] order is unlawful." Labor Code § 558 provides for a penalty where
19 "[a]ny employer ... violates ...any provision regulating hours and days of work in any order of the
20 Industrial Welfare Commission..."

21 48. During the year immediately preceding April 6, 2020, Trillium did not pay and
22 appropriately calculate Mr. Parry's and its other aggrieved employees' overtime pay in violation of
23 Paragraph 3 of the applicable IWC Wage Order. Additionally, based on information and belief,
24 Trillium improperly classified employees as independent contractors to avoid the payment of
25 overtime. By not paying or calculating Mr. Parry's and other aggrieved employees' overtime pay,
26 Trillium violated Paragraph 3 of the applicable IWC Wage Order and therefore violated Labor Code
27 §§ 1198 and/or 558.

28 49. During the year immediately preceding April 6, 2020, Trillium did not pay minimum

1 wages to Mr. Parry and its other aggrieved employees in violation of Paragraph 4 of the applicable
2 IWC Wage Order. By failing to pay minimum wages to Mr. Parry and other aggrieved employees,
3 Trillium violated Paragraph 4 of the applicable IWC Wage Order and therefore violated Labor Code
4 §§ 1198 and/or 558. These violations occurred because of Trillium's systematic practice of not paying
5 Mr. Parry and other aggrieved employees for all hours worked and Trillium's misclassification of
6 employees as independent contractors.

7 50. During the year immediately preceding April 6, 2020, Trillium did not provide paid
8 rest periods to Mr. Parry and other aggrieved employees in violation of Paragraph 12 of the applicable
9 IWC Wage Order. By failing to provide paid rest periods to Mr. Parry and its other aggrieved
10 employees, Trillium violated Paragraph 12 of the applicable IWC Wage Order and therefore violated
11 Labor Code §§ 1198 and/or 558.

12 51. During the year immediately preceding April 6, 2020, Trillium did not provide tools
13 or equipment necessary to perform Mr. Parry's job and did not pay employees wages that are at least
14 two time the minimum wage to Mr. Parry and other aggrieved employees in violation of Paragraph 9
15 of the applicable IWC Wage Order. By failing to provide such Tools and Equipment and not pay two
16 times the minimum wage, to Mr. Parry and its other aggrieved employees, Trillium violated Paragraph
17 9 of the applicable IWC Wage Order and therefore violated Labor Code §§ 1198 and/or 558.

18 52. During the year immediately preceding April 6, 2020, Trillium did not pay Mr. Parry
19 and its other aggrieved employees for all hours that they worked and failed to pay Mr. Parry and other
20 aggrieved employees at least minimum wage for all hours that they worked in violation of Labor
21 Code §§ 1182 et seq., 1197, and 1194, as well as the applicable IWC minimum wage order(s). These
22 violations occurred because Trillium did not pay Mr. Parry and other aggrieved employees their
23 statutorily mandated overtime rate, for all hours worked, provide rest breaks, or meal breaks.
24 Additionally, Trillium did not pay Mr. Parry and other aggrieved employees all earned incentive
25 payments and impermissibly made deductions from earned incentive payments. On behalf of himself,
26 other aggrieved employees, and the State, Mr. Parry seeks civil penalties for such violations under
27 Labor Code § 1197.1. In the alternative, on behalf of himself, other aggrieved employees, and the
28 State, Mr. Parry seeks civil penalties for Trillium's violations under 2699(f)(2) for Trillium's

1 violations of Labor Code §§ 1182 et seq., 1197, and 1194.

2 53. Labor Code § 226.7 provides that "[n]o employer shall require any employee to work
3 during any rest period mandated by an applicable order of the Industrial Welfare Commission."
4 During the year immediately preceding April 6, 2020, Trillium did not provide paid rest periods to
5 Mr. Parry and its other aggrieved employees in violation of Paragraphs 11 and 12 of the applicable
6 IWC Wage Order. By failing to provide paid rest periods to Mr. Parry and its other aggrieved
7 employees in violation of Paragraph 11 and 12 of the applicable IWC Wage Order, Trillium violated
8 Labor Code § 226.7. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks
9 civil penalties under Labor Code § 2699 (f)(2) for Trillium's violations of Labor Code §226.7.

10 54. During the year immediately preceding April 6, 2020, in violation of Labor Code §
11 226.8, Trillium willfully misclassified aggrieved employees as independent contractors. On behalf of
12 other aggrieved employees, and the State, Mr. Parry seeks civil penalties under Labor Code § 226.8
13 for Trillium's violation of Labor Code § 226.8.

14 55. Labor Code § 512 provides that no employer shall employ an employee for a work
15 period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes
16 in which the employee is relieved of all his or her duties. An employer may not employ an employee
17 for a work period of more than 10 hours per day without providing the employee with a second meal
18 period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the
19 second meal period may be waived by mutual consent of the employer and the employee only if the
20 first meal period was not waived. During the year immediately preceding April 6, 2020, Trillium
21 failed to provide required meal periods to Mr. Parry and its other aggrieved employees. By failing to
22 provide these required meal periods to Mr. Parry and its other aggrieved employees, Trillium violated
23 Labor Code § 512. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks
24 civil penalties under Labor Code § 2699(f)(2) for Trillium's violations of Labor Code §512.

25 56. Labor Code § 2802(a) states that "An employer shall indemnify his or her employee
26 for all necessary expenditures or losses incurred by the employee in direct consequence of the
27 discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
28 unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

1 Labor Code § 2802(a), requires Trillium to indemnify its employees for all expenditures and losses
2 incurred by its employees in direct consequence of the discharge of their duties or obedience to the
3 directions of Trillium, including but not limited to travel, phone, internet, tools, equipment, and
4 related necessary business expenses.

5 57. During the year immediately preceding April 6, 2020, Trillium did not provide
6 indemnification to Mr. Parry and its other aggrieved employees for these expenditures in violation of
7 Labor Code § 2802. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks
8 civil penalties under Labor Code § 2699(f)(2) for Trillium's violations of Labor Code § 2802.

9 58. Labor Code § 226(a) provides in relevant part that "[e]very employer shall ... at the
10 time of each payment of wages, furnish each of his or her employees ... an accurate itemized statement
11 in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
12 employee whose compensation is solely based on a salary and who is exempt from payment of
13 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
14 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee
15 is paid on a piece-rate basis [this section has been interpreted by Department of Labor Standards
16 Enforcement to also require the same information for commissioned employees, i.e., commission rate
17 and amount of sales], (4) all deductions, provided that all deductions made on written orders of the
18 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of
19 the period for which the employee is paid, (7) the name of the employee and the last four digits of his
20 or her social security number or an employee identification number other than a social security
21 number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable
22 hourly rates in effect during the pay period and the corresponding number of hours worked at each
23 hourly rate by the employee."

24 59. During the year immediately preceding April 6, 2020, the itemized wage statements
25 that Trillium provided to Mr. Parry and other aggrieved employees did not meet the requirements of
26 Section 226(a) by failing to: (1) accurately report gross wages earned; (2) accurately report total hours
27 worked; (3) accurately report all deductions; (4) accurately report net wages earned; (5) accurately
28 report all hourly rates (including the legally mandated overtime rate) in effect during the pay period

1 and the corresponding number of hours worked at each hourly rate by the employee, and (6) provide
2 employees the ability to easily access the information and convert the electronic statements into hard
3 copies at no expense to the employee. On behalf of himself, other aggrieved employees, and the State,
4 Mr. Parry seeks civil penalties for Trillium's violations of Section 226(a) under Labor Code § 226.3.
5 In the alternative, on behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks
6 civil penalties for Trillium's violations of Section 226(a) under Section 2699(f)(2).

7 60. Labor Code § 226(c) provides: "An employer who receives a written or oral request
8 to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former
9 employee shall comply with the request as soon as practicable, but no later than 21 calendar days
10 from the date of the request. A violation of this subdivision is an infraction."

11 61. During the year immediately preceding April 6, 2020, Trillium did not provide Mr.
12 Parry and other aggrieved employees access to payroll records, within 21 calendar days, after the date
13 of a request. A failure by an employer to permit a current or former employee to inspect or receive a
14 copy of records within the time set forth in subdivision (c) entitles the current or former employee or
15 the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.
16 On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for
17 Trillium's violations of Section 226(c) under Labor Code § 226(f). In the alternative, on behalf of
18 himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for Trillium's
19 violations of Section 226(a) under Section 2699(f)(2).

20 62. Labor Code § 1198.5 provides: "Every current and former employee, or his or her
21 representative, has the right to inspect and receive a copy of the personnel records that the employer
22 maintains relating to the employee's performance or to any grievance concerning the employee."
23 These records must be made available within 30 days of the request. The Labor Code does not permit
24 an employer to redact information from the personnel record or otherwise withhold information from
25 the personnel record.

26 63. During the year immediately preceding April 6, 2020, Trillium did not provide Mr.
27 Parry and other aggrieved employees access to full and unredacted access to their personnel records.
28 If an employer fails to permit a current or former employee, or his or her representative, to inspect or

copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for Trillium's violations of Section 1198.5 under Labor Code § 1198.5(k). In the alternative, on behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for Trillium's violations of Section 1198.5 under Section 2699(f)(2).

64. During the year immediately preceding April 6, 2020, Trillium did not pay Mr. Parry and other aggrieved employees all wages owed under California's prevailing wage laws, including Labor Code §§ 1771, 1774, 1776, 1811, 1812, 1815. This includes not paying Mr. Parry and other aggrieved employees the applicable prevailing wages and corresponding overtime, travel time, holiday pay. For these violations, Trillium will be liable for penalties under Labor Code §§ 1775, 1777.7, and 1813. On behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for Trillium's violations of California's prevailing wage laws, including Labor Code §§ 1771, 1774, 1776, 1811, 1812, 1815 under Labor Code §§ 1775, 1777.7, and 1813. In the alternative, on behalf of himself, other aggrieved employees, and the State, Mr. Parry seeks civil penalties for Trillium's violations of California's prevailing wage laws, including Labor Code §§ 1771, 1774, 1776, 1811, 1812, 1815 under Section 2699(f)(2).

65. As an aggrieved employee, Mr. Parry has standing on behalf of the State, pursue civil penalties against Trillium for all Trillium's violations of the Labor Code committed against any aggrieved employee. *See, Huff v. Secuirtas Security Services USA, Inc.*, 25 Cal.App.5th 745 (2018). As an aggrieved employee affected by at least one of Trillium's Labor Code violations, on behalf of other aggrieved employees and the State, Mr. Parry seeks civil penalties for all of Trillium's Labor Code violations.

FIRST CAUSE OF ACTION

(Retaliation)

66. Plaintiff references and realleges all above allegations.

67. During his employment with the corporate Defendant, California Labor Code section

1 1102.5 was binding on Plaintiff.

2 68. California Labor Code section 1102.5(b) prohibits employers from retaliating against
3 an employee for disclosing information to a person with authority over the employee or an employee
4 who has the authority to investigate, discover, or correct the violation or noncompliance.

5 69. Regulation of wages, hours, and working conditions is critical for protecting
6 employees in California as well as integral to maintaining the general welfare of the State's
7 population. The full payment of all earned wages is one of California's fundamental public policies.
8 *See, e.g., Ramirez v. Yosemite Water Co., Inc.* (1999) 20 Cal.4th 785, 794; *Gould v. Maryland Sound*
9 *Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1148 (1995). Labor Code sections 201, 204, 216, require
10 an employer to promptly pay employees their earned wages. Labor Code section 232 prohibits an
11 employer from discriminating against an employee that discusses their wages. Labor Code section
12 232.5 protects an employee's right to discuss working conditions. Labor Code section 142.3 permits
13 the State Occupational Safety and Health Standards Board to adopt standards regulating workplace
14 safety that will be published in Title 8 of the California Code of Regulations. Cal. Code Regs. tit. 8
15 section 3362 requires employers ensure workplaces are clean, orderly, and in sanitary conditions.
16 Those same regulations require employers to correct the accumulation, intrusion, or leakage of water
17 "because of the potential for these conditions to cause the growth of mold." Cal. Code Regs. tit. 8 §
18 3362 (g).

19 70. When Plaintiff reported the negligence of another employee which created potential
20 hazards in the workplace, raised concerns that he was not being paid fairly, and that there was black
21 mold in the offices where he worked, Plaintiff had a good-faith belief that he was reporting that
22 Defendants were violating the California Labor Code, California's Code of Regulations, and
23 California public policy.

24 71. Plaintiff's reporting of such information was a substantial motivating factor in
25 Defendants' decision to terminate Plaintiff.

26 72. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has
27 sustained and continues to sustain substantial losses in earnings, employment benefits, employment
28 opportunities, and Plaintiff has suffered other economic losses in an amount to be determined at time

1 of trial. Plaintiff has sought to mitigate these damages.

2 73. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has
3 suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
4 physical pain and anguish, all to his damage in a sum to be established according to proof.

5 74. As a result of Defendant's deliberate, outrageous, despicable conduct, Plaintiff is
6 entitled to recover punitive and exemplary damages in an amount commensurate with Defendant's
7 wrongful acts and sufficient to punish and deter future similar reprehensible conduct, as well as
8 attorneys' fees under California Code of Civil Procedure section 1021.5.

9 **SECOND CAUSE OF ACTION**

10 **(Wrongful Termination)**

11 75. Plaintiff references and realleges all above allegations.

12 76. In retaliation for making his protected complaint Defendant terminated Plaintiff.

13 77. When an employer's discharge of an employee violates fundamental principles of
14 public policy, the discharged employee may maintain a tort action and recover damages traditionally
15 available in such actions. *Tameny v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167, 170.

16 78. Regulation of wages, hours, and working conditions is critical for protecting
17 employees in California and is integral to maintaining the welfare of the State's population. The full
18 payment of all earned wages is one of California's fundamental public policies. *See, e.g., Ramirez v.*
19 *Yosemite Water Co., Inc.* (1999) 20 Cal.4th 785, 794; *Gould v. Maryland Sound Industries, Inc.*,
20 (1995) 31 Cal.App.4th 1137, 1148 (1995). Labor Code sections 201, 204, 216, require an employer
21 to promptly pay employees their earned wages. Labor Code section 232 prohibits an employer from
22 discriminating against an employee that discusses their wages. Labor Code section 232.5 protects an
23 employee's right to discuss working conditions. Labor Code section 142.3 permits the State
24 Occupational Safety and Health Standards Board to adopt standards regulating workplace safety that
25 will be published in Title 8 of the California Code of Regulations. Cal. Code Regs. tit. 8 section 3362
26 requires employers ensure workplaces are clean, orderly, and in sanitary conditions. Those same
27 regulations require employers to correct the accumulation, intrusion, or leakage of water "because of
28 the potential for these conditions to cause the growth of mold." Cal. Code Regs. tit. 8 § 3362 (g).

1 79. When Plaintiff reported the negligence of another employee which created potential
2 hazards in the workplace, raised concerns that he was not being paid fairly, and that there was black
3 mold in the offices where he worked, Plaintiff had a good-faith belief that he was reporting that
4 Defendants were violating the California Labor Code, California's Code of Regulations, and
5 California public policy.

6 80. Plaintiff's reporting of such information was a substantial motivating factor in
7 Defendant's decision to terminate Plaintiff.

8 81. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has
9 sustained and continues to sustain substantial losses in earnings, employment benefits, employment
10 opportunities, and Plaintiff has suffered other economic losses in an amount to be determined at time
11 of trial. Plaintiff has sought to mitigate these damages.

12 82. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has
13 suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
14 physical pain and anguish, all to his damage in a sum to be established according to proof.

15 83. As a result of Defendant's deliberate, outrageous, and despicable conduct, Plaintiff is
16 entitled to recover punitive and exemplary damages in an amount commensurate with Defendant's
17 wrongful acts and sufficient to punish and deter future similar reprehensible conduct, as well as
18 attorneys' fees under California Code of Civil Procedure section 1021.5.

19 **THIRD CAUSE OF ACTION**

20 **(Failure to Pay Earned Wages at Termination)**

21 84. Plaintiff references and realleges all above allegations.

22 85. At termination, California law requires employers pay all wages due. An employee
23 that is willfully not paid all wages due is owed a daily wage until all wages are paid or 30 days has
24 passed, whichever occurs first.

25 86. Here, Defendants willfully failed to pay Plaintiff all wages due at termination. More
26 than 30 days has passed since Plaintiff's termination and Defendants still has not paid Plaintiff in full
27 for all earned wages. Therefore, Plaintiff seeks 30-days wages under Labor Code section 203.
28

87. Additionally, California Labor Code §§ 201 and 202 state timing requirements for the payment of wages to employees who are separating employment with an employer. A willful violation of California Labor Code §§ 201 and/or 202 results in payment waiting time penalties under California Labor Code § 203.

88. Defendants further willfully did not pay Plaintiff all earned wages under the timing requirements in California Labor Code §§ 201 and 202, as applicable. For this violation, Plaintiff is entitled to unpaid wages, and further seeks recovery of any and all available remedies to the extent permissible including recovery of penalties, interest, attorneys' fees, and costs. Further, Plaintiff is entitled to recovery of waiting time penalties under California Labor Code § 203.

FOURTH CAUSE OF ACTION

(Unfair Competition)

89. Plaintiff references and realleges all above allegations.

90. A violation of California Business and Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. Here, Defendants' employment policies and procedures including their failure to pay Plaintiff all wages earned at termination, wages under Labor Code § 226.7, violations of the applicable IWC Wage Orders and California Labor Code §§ 226.7, 510, and 1198 and constitutes unfair competition and unlawful business acts and practices in violation of California Business and Professions Code §§ 17200, *et seq.*

91. Defendants' conduct has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, Defendants' competitors, and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of the California Code of Civil Procedure §1021.5.

92. Plaintiff was personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein by the loss of money and property.

93. Under California Business and Professions Code §§ 17200, *et seq.*, Plaintiff is entitled to declaratory and injunctive relief for Defendants' unlawful conduct, disgorgement of wrongfully retained gratuities, and restitution of the same. Plaintiff is entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5, and an award of costs.

1 **FIFTH CAUSE OF ACTION**

2 **(Violation of Labor Code §§ 201, 202, 203, 204, 206.5, 213, 226(a), 226(c), 226(f), 221, 226.7,**
3 **227.3, 400-410, 510, 512, 558, 1182 et seq., 1194, 1197, 1197.1, 1198, 1198.5(g), 1771, 1774,**
4 **1776, 1811, 1812, 1815, and 2802, Under The California PAGA of 2004)**

5 94. Plaintiff realleges every allegation stated above.

6 95. Plaintiff seeks civil penalties for Defendants' violations of the California Labor Code
7 under § 2699(a) for sections of the Labor Code that provide their own civil penalties and under Labor
8 Code § 2699(f) for Labor Code sections that do not contain their own civil penalties.

9 96. Because Labor Code §§ 2802, 400-410, 221, 206.5, 227.3 226.7, 1182, et seq., 1997,
10 1197.1, 1194, 204, 510, and 512 do not provide their own civil penalties, and Trillium is an employer
11 that currently employs one or more employees in California, the civil penalties set forth in Labor
12 Code § 2699(f)(2) apply to Trillium's violations of these provisions.

13 97. In addition, Mr. Parry seeks civil penalties specifically assigned to violations of Labor
14 Code §§ 201-203, including civil penalties under Labor Code §§ 226(f), 226.3, 226.8, 221, 210, 256,
15 1198.5, and the civil penalties specifically assigned to violations of Labor Code §§ 558, 1198, and
16 the applicable IWC Wage order available under Labor Code § 558, and the Prevailing Wage Laws
17 under Labor Code §§ 1775, 1777.7, and 1813. In the alternative, if any of the above sections are found
18 not to provide for an applicable civil penalty, Mr. Parry seeks penalties under Labor Code § 2699(f)
19 for all such violations. All the civil penalties set forth in this letter are sought on behalf of Mr. Parry,
20 other aggrieved employees, and the State of California.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays judgment as follows:

- 23 A. For compensatory damages, including unpaid wages, back pay, front pay, promotional
24 opportunities, benefits, and other opportunities of employment, according to proof;
- 25 B. For special damages in an amount according to proof;
- 26 C. For mental and emotional distress damages;
- 27 D. For punitive damages;
- 28 E. For civil and statutory penalties, including under Labor Code §§ 203;
- F. For costs of suit, including attorney fees as permitted by law, including those available

1 under California Code of Civil Procedure §1021.5, and California Labor Code §§ 201,
2 202, 218, 218.5, and 218.6, 226(e), and 1194.6;

3 G. For an award of interest, including prejudgment interest, at the legal rate as permitted
4 by law;

5 H. For such other and further relief as the Court deems proper and just under all the
6 circumstances.

7 **California Private Attorneys General Act of 2004**

8 I. For statutory penalties according to proof;

9 J. For reasonable attorneys' fees and costs; and

10 K. For such other and further relief as the Court deems proper.

11 **Demand for Jury Trial**

12 Plaintiff demands a jury trial on all triable issues.

13
14 Dated: March 11, 2021

MORELLO LAW, P.C.

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16
17 By: /s/ Justin A. Morello
JUSTIN A. MORELLO (SB# 239250)

18 Attorney for Plaintiff Wesley Parry
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