

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Lia Martin

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MICHAEL NEVAREZ,

Plaintiff,

vs.

SHRYNE GROUP, INC.; IGS
SOLUTIONS LLC; III TECH LLC; BLAZE
DELIVERY LLC; KUSHAGRAM; SAGI
SHAMAM; TONY HUANG; and DOES 1
to 25, inclusive,

Defendants.

) CASE NO: 21STCV04672

) COMPLAINT DAMAGES FOR:

-) 1) FAILURE TO COMPENSATE FOR
) ALL HOURS WORKED;
) 2) FAILURE TO PAY MINIMUM
) WAGES;
) 3) FAILURE TO PAY OVERTIME;
) 4) FAILURE TO PROVIDE
) ACCURATE ITEMIZED WAGE
) STATEMENTS;
) 5) FAILURE TO PAY WAGES WHEN
) EMPLOYMENT ENDS;
) 6) FAILURE TO PAY WAGES OWED
) EVERY PAY PERIOD;
) 7) VIOLATION OF LABOR CODE
) SECTION 558;
) 8) FAILURE TO MAINTAIN
) ACCURATE RECORDS;
) 9) FAILURE TO GIVE REST BREAKS;
) 10) FAILURE TO GIVE MEAL BREAKS
) 11) PRIVATE ATTORNEYS GENERAL
) ACT ("PAGA");
) 12) FAILURE TO REIMBURSE FOR
) BUSINESS EXPENSES;
) 13) VIOLATION OF CALIFORNIA
) BUSINESS AND PROFESSIONS
) CODE SECTION 17200.

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, MICHAEL NEVAREZ (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants SHRYNE GROUP, INC.; IGS SOLUTIONS LLC; III TECH LLC; BLAZE DELIVERY LLC; KUSHAGRAM; SAGI SHAMAM; TONY HUANG and DOES 1 to 25, inclusive do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action.

2. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

3. Plaintiff is a male resident of the County of Los Angeles, State of California.

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant SHRYNE GROUP, INC. is and was a California corporation, doing business in Los Angeles County, California, and which employed Plaintiff as a driver.

5. Plaintiff is informed and believes that at all times herein mentioned, Defendant IGS SOLUTIONS LLC is and was a California corporation, doing business in Los Angeles County, California, and which employed Plaintiff as a driver.

6. Plaintiff is informed and believes that at all times herein mentioned, Defendant III TECH LLC is and was a California corporation, doing business in Los Angeles County, California, and which employed Plaintiff as a driver.

7. Plaintiff is informed and believes that at all times herein mentioned, Defendant BLAZE DELIVERY LLC is and was a California corporation, doing business in Los Angeles County, California, and which employed Plaintiff as a driver.

1 8. Plaintiff is informed and believes that at all times herein mentioned, Defendant
2 KUSHAGRAM is and was a California corporation, doing business in Los Angeles County,
3 California, and which employed Plaintiff as a driver.

4 9. Plaintiff is informed and believes that Defendants SHRYNE GROUP, INC.; IGS

5 10. SOLUTIONS LLC; III TECH LLC; BLAZE DELIVERY LLC; and KUSHAGRAM
6 are “joint employers” in that they each controlled the hours, wages, and working conditions of
7 Plaintiff and other similarly situated aggrieved employees. Moreover, it is Plaintiff’s position
8 that the above entities are in fact an “Integrated Enterprise” under the law. The integrated
9 enterprise test sets forth four factors for assessing whether entities are considered a single
10 entity for purposes of liability: (1) interrelation of operations; (2) common management;
11 (3) centralized control of labor relations; and (4) common ownership or financial control. Even
12 though one does not have to show proof of all factors to prevail on an integrated enterprise
13 claim, here all four factors are unequivocally met as all companies have the same ownership
14 and management, including Tony Huang and Sagi Shamam, who are both listed as the
15 officers/managing agents for several of the companies. Furthermore, there is centralized
16 control of labor relations and there is interrelation of operations. The entities SHRYNE
17 GROUP, INC.; IGS SOLUTIONS LLC; III TECH LLC; BLAZE DELIVERY LLC; and
18 KUSHAGRAM are collectively referred to herein as “EMPLOYER” or “Defendant” or
19 “Defendants”.
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22 11. Plaintiff is informed and believes that at all times herein mentioned, Defendants SAGI
23 SHAMAM and TONY HUANG are residents of the County of Los Angeles and were the
24 owners and managing agents of EMPLOYER and who controlled the wages, hours, and
25 working conditions of Plaintiff and other similarly situated aggrieved employees. Defendants
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1 SAGI SHAMAM and TONY HUANG are being included in this complaint pursuant to
2 California Labor Code Section 558.1.

3 12. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
4 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
5 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
6 defendants, numbers 1 to 25, reside in the State of California and are in some manner
7 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
8 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
9 and capacities of these fictitiously named defendants.
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11 13. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
12 that information and belief, alleges that at all times herein mentioned, each of the remaining
13 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
14 under the authority of their agency, employment, or representative capacity, with the consent
15 of his/her codefendants.
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17 **GENERAL ALLEGATIONS**

18 14. Plaintiff started working for EMPLOYER as a delivery driver for Blaze Delivery
19 Service on or around 2020. Plaintiff's employment ended on or around October 2020. Plaintiff
20 was classified as an hourly, non-exempt employee and earned approximately \$15.00 per hour.
21 It is Plaintiff's position that EMPLOYER has violated the following Labor Code Sections
22 against Plaintiff and other similarly situated aggrieved employees, who include all non-exempt,
23 hourly employees who worked for EMPLOYER in the State of California during the relevant
24 PAGA period.

25 15. EMPLOYER violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to
26 pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including
27 the statutory minimum wage for all hours worked and for "off the clock" work. This is so because
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1 Plaintiff and other drivers would have to engage in preparation work before being able to work.
2 In other words, the drivers, including Plaintiff, would show up to the hub and would then have
3 to gather all the equipment necessary to deliver the cannabis products, including several
4 containers filled with the product, a money bag, and other similar items, which were referred to
5 as the “kit”. Once they secured the kit and the items were scanned in, they were ready to hit the
6 road and make the deliveries. It is our belief that there was no formal clock-in/clock-out system
7 other than the scanning in of the kit (at the beginning of the shift) and the scanning out of the kit
8 at the end of the work shift. The issue is that the scanning in and out of the “kit” does not
9 accurately reflect the true hours worked by Plaintiff and other drivers because it does not include
10 the preparation time prior to the scan and does not include the time spent wrapping up after the
11 kit was scanned out. Moreover, Plaintiff and others were advised to show up to the hub early in
12 order to make sure the vehicle was ready and loaded with the “kit” so that they can start making
13 deliveries at the start of their shift. This whole situation resulted in Plaintiff and others not being
14 paid for all hours worked and not being paid the minimum wage for all hours worked in
15 contravention of California law. Due to the above “off the clock” violations, EMPLOYER also
16 violated Labor Code §510 because it failed to pay Plaintiff and other aggrieved employees
17 overtime compensation, even though they worked more than 8 hours per day, 12 hours per day,
18 and/or 40 hours per week throughout their employment. Plaintiff’s and other aggrieved
19 employees’ actual work hours entitled them to overtime compensation, however, EMPLOYER
20 did not compensate its hourly, non-exempt employees with the correct amount of overtime.

21 16. EMPLOYER also violated Labor Code § 226.7 and the appropriate Industrial Welfare
22 Commission Wage Order no. 9 because it failed to provide Plaintiff and other similarly situated
23 aggrieved employees with 10-minute rest periods for every four hours of work, or majority
24 portion thereof, throughout their employment. EMPLOYER did not completely relieve Plaintiff
25 and others of all duty during said rest periods. EMPLOYER did not pay to Plaintiff and others
26 one additional hour of pay at Plaintiff’s regular rate of compensation for each workday that one
27 or more statutory rest periods was not provided. It was not part of the company policy for
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1 employees such as Plaintiff to take rest breaks. The concept of rest breaks was never discussed
2 with employees nor was it ever implemented as it was not company policy. Moreover, it would
3 not have been possible for employees such as Plaintiff to take such rest breaks due to having to
4 make consistent deliveries. There was no mechanism on the phone application to dictate when
5 Plaintiff and others would be able to take uninterrupted rest breaks wherein they were relieved
6 of all work duties. As such, the culture as well as the policies and procedures of EMPLOYER
7 did not lend itself to the employees receiving statutory rest breaks wherein they were relieved of
8 all work duties. The environment at EMPLOYER was not conducive to receiving statutory rest
9 breaks under California law and timely, statutory rest breaks were not authorized or enforced.
10 EMPLOYER violated Labor Code §§ 512 and 226.7 along with Industrial Welfare Commission
11 Wage Order no. 9 because it failed to provide hourly, non-exempt employees, including Plaintiff
12 and others, the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work
13 throughout their employment. EMPLOYER did not completely relieve Plaintiff and other
14 employees of all duty during said meal periods. EMPLOYER did not pay to Plaintiff and its
15 hourly, non-exempt employees one additional hour of pay at their regular rate of compensation
16 for each workday that one or more statutory meal periods was not provided. The hourly, non-
17 exempt employees would often not be able to receive their meal periods before the 5th hour
18 worked due to the nature of their work in having to make deliveries in a time crunch. Like the
19 rest breaks, receiving a thirty-minute uninterrupted and timely meal break was not part of the
20 company culture and was not enforced by EMPLOYER. Furthermore, any argument by
21 EMPLOYER that the employees signed an “On Duty Meal Period Agreement” would not hold
22 water since the nature of their job did not prevent them from being relieved of all work duties.
23 In other words, EMPLOYER could have hired additional drivers to act as “breakers” to allow
24 employees such as Plaintiff to receive uninterrupted statutory meal periods. Additionally, there
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1 was no mechanism on the phone application to dictate when Plaintiff and others would be able
2 to take uninterrupted meal breaks wherein they were relieved of all work duties. Consequently,
3 it was the normal practice and custom of EMPLOYER not to authorize, permit, and enforce
4 timely statutory meal periods.
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6 17. Furthermore, during the relevant time period and based on the above, EMPLOYER failed
7 to pay Plaintiff and others all wages due to them within any time period specified by California
8 Labor Code section 204. EMPLOYER was also in violation of California Labor Code section
9 226(a), by failing to include pertinent information on the wage statements, including but not
10 limited to, the full and correct name of the legal employer (the only employer that appeared on
11 Plaintiff's pay stubs included IGS Solutions LLC which is clearly not the correct entity as Shryne
12 Group, Inc., III Tech LLC, and Blaze Delivery LLC are all employers) along with the employers'
13 correct legal address, all hours worked (including "off the clock" hours and overtime), all
14 applicable hourly rates in effect, the correct identifying information for each employee, gross
15 wages earned, net wages earned, premium pay for the missed meal and rest breaks, the correct
16 start and end of the pay period, and all deductions, among others. As such, EMPLOYER did not
17 provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
18 itemized wage statements. During the relevant time period, EMPLOYER also failed to keep
19 accurate and complete payroll records showing the actual hours worked per day and the wages
20 paid to Plaintiff and others pursuant to California Labor Code sections 1174(d). EMPLOYER
21 also violated Labor Code § 203 because it willfully failed to pay Plaintiff and other similarly
22 situated aggrieved employees earned and due wages upon separation of employment, either
23 immediately upon involuntary termination, or within 72 hours of resignation. These earned but
24 unpaid wages include compensation for all hours worked, including minimum wages, overtime
25 compensation, and premium pay for missed meal and rest breaks.

26 18. During the relevant time period, Plaintiff and other aggrieved employees incurred
27 necessary, business-related expenses and costs that were not reimbursed by EMPLOYER. These
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costs include, but are not limited to, driving their personal vehicles for deliveries (mileage reimbursement) and use of personal phones for business-related purposes. Although Plaintiff was given a company phone, Plaintiff had to also use his personal cell phone for work purposes including navigation, etc. Furthermore, although Plaintiff did drive a company vehicle, there were several other drivers who had to use their own personal vehicles to make the deliveries. Accordingly, EMPLOYER was in violation of California Labor Code sections 2800 and 2802. Moreover, EMPLOYER failed to provide sick pay pursuant to Labor Code section 246 and also failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved employees in violation of Labor Code Section 3700.5.

FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 9-2001, California Code of Regulations Title 8 Section 11090, and California Labor Code Section 1198)

(Plaintiff against all named defendants and all DOE defendants)

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

20. At all times relevant herein, Defendants were required to compensate its employees for all hours worked upon reporting for work at the appointed time stated by the employer pursuant to Industrial Welfare Commission Order 9-2001, California Code of Regulations, Title 8, Section 11090.

21. For the three (3) years preceding filing of this action, Defendants failed to compensate Plaintiff for all hours worked as alleged above, including the "off the clock" work and "on call" time.

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

23. As a proximate result of the aforementioned violations, Plaintiff has been damaged in

1 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
2 this Court.

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4 24. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
5 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
6 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
7 reasonable attorney's fees and costs of suit.

8 25. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
9 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
10 amount known to Plaintiff once he has obtained all of his payroll records from
11 Defendants.

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PAY MINIMUM WAGES**

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

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

16 26. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

18 27. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
19 to suffer or permit a California employee to work without paying wages at the minimum wage
20 rate for all hours worked as required by the applicable Industrial Welfare Commission
21 (hereinafter "IWC") Wage Order 9-2001, codified at California Code of Regulations, Title 8,
22 Section 11090, subdivision 4.

23 28. Pursuant to IWC Wage Order no. 9-2001, subdivision 2(H), at all relevant
24 times, "hours worked" included "the time during which an employee is subject to the control of
25 an employer, and includes all the time the employee is suffered or permitted to work, whether
26 or not required to do so..."

27 29. During his employment, Plaintiff was regularly required as a matter of uniform
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1 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
2 was paid less than the minimum wage rate by Defendants for hours worked, including the “off
3 the clock” work, in violation of California Labor Code Section 1197 and the
4 applicable California Industrial Wage Commission wage order(s).

5 30. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
6 permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately
7 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
8 to believe that their acts or omissions were not contrary to California law.

9 31. For all hours worked by Plaintiff for which he was paid less than the minimum wage
10 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
11 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
12 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
13 Plaintiff is also entitled to attorney’s fees, costs and interests according to proof.

14 32. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney’s fees, and costs according to proof at
16 trial.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME**

19 **(California Industrial Welfare Commission Order 9-2001, California Code of**
20 **Regulations Title 8 Section 11090; California Labor Code Section 510)**

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

22 33. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.

24 34. Pursuant to Industrial Welfare Commission Order No. 9-2001, Cal. Code of
25 Regs., Title 8, Section 11090, for the period of Plaintiff’s employment, Defendants were
26 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
27 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
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1 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
2 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
3 week.

4 35. Plaintiff was a non-exempt employee entitled to the protections of the California
5 Industrial Welfare Commission Order No. 9-2001, California Code of Regulations,
6 Title 8, Section 11090.

7 36. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
8 single workday or forty (40) hours in a single workweek on numerous occasions.

9 37. Plaintiff was entitled to the above overtime premiums.

10 38. Defendants did not pay Plaintiff premium wages of at least one and one-half times
11 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay
12 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past
13 twelve (12) in a day.

14 39. Defendants did not pay Plaintiff premium wages of at least one and one-half times
15 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

16 40. Plaintiff worked at least one pay period in which he was not properly paid overtime
17 within the three (3) years prior to the initiation of this lawsuit.

18 41. Defendants know or should know the actual dates of overtime worked, the amount of
19 overtime worked, and the amount of unpaid overtime due.

20 42. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
21 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
22 Court.

23 43. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
24 Regulations, Title 8, Sections 11090, Plaintiff is entitled to recover damages for the
25 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
26 reasonable attorney's fees and costs of suit.

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

3 **FOURTH CAUSE OF ACTION**

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

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

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

7 45. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 44, inclusive, of this Complaint as though fully set forth herein.

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

11 47. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
12 accurately reflected all information required by Labor Code Section 226, including but not
13 limited to, gross wages earned, including overtime, minimum wages, and premium pay for
14 missed meal and rest breaks, net wages earned, total hours worked by the employee, the correct
15 name and address of the employing entity, and all deductions. Therefore, Defendants failed to
16 maintain and provide accurate itemized wage statements to Plaintiff in accordance with
17 California Labor Code Section 226(a).

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

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

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

5 **FIFTH CAUSE OF ACTION**

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

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

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

9 51. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein.

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

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

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

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

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

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

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

6 **SIXTH CAUSE OF ACTION**

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

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

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

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

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

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

16 62. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
17 informed, believes, and thereon alleges, that all times relevant during the liability period,
18 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
19 including overtime hours, the minimum wage, and premium pay for missed meal and rest
20 breaks.

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

25 64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
26 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
27 trial.
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SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE SECTION 558
(California Labor Code Section 558)

(Plaintiff against all named defendants and all DOE defendants)

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

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

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

- a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular wages, including minimum wages, and overtime wages for overtime hours worked. Defendants also failed to Plaintiff premium pay for missed meal and rest breaks. As such, Defendants violated Section 558 under which penalties are due. Plaintiff therefore prays for penalties of \$50.00 for the first pay period and \$100.00 for each subsequent violation for each pay period for which Plaintiff was underpaid in addition to an amount sufficient to recover underpaid wages.

1 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
2 relief associated with Plaintiff's prosecution of this cause of action under California
3 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
4 paying Plaintiff for his overtime hours worked and for all hours worked (including
5 the minimum wage).

6 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
7 fees for relief associated with Plaintiff's prosecution of this cause of action under
8 California Labor Code Sections 200, et seq.
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10 68. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
11 the statutes, regulations, and wage orders alleged in this cause of action along with any
12 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

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

15 **EIGHTH CAUSE OF ACTION**

16 **FAILURE TO MAINTAIN ACCURATE RECORDS**

17 **(California Labor Code Section 1174(d))**

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

19 70. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 69, inclusive, of this Complaint as though fully set forth herein.
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22 71. Labor Code section 1174(d) requires that employers, including Defendants, maintain
23 accurate records showing the hours worked daily by its employees and to whom wages were
24 paid.

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

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

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

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

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

13 **NINTH CAUSE OF ACTION**

14 **FAILURE TO GIVE REST BREAKS**

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

16 76. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 75, inclusive, of this Complaint as though fully set forth herein.

18 77. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 19 a. Title 8 of the California Code of Regulations Sections 11090(12)(A), which
20 provides that every employer shall authorize and permit all employees to take rest
21 periods, which insofar as practicable shall be in the middle of each work period.
22 The authorized rest period time shall be based on the total hours worked daily at the
23 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

- 24 b. Title 8 of the California Code of Regulations Sections 11090(12)(B), which
25 provides that if an employer fails to provide an employee a rest period in
26
27
28

1 accordance with the applicable provisions of this order, the employer shall pay the
2 employee one (1) hour of pay at employee's regular rate of compensation for each
3 workday that the rest period is not provided;

- 4 c. Title 8 of the California Code of Regulations sections 11090(20)(A), which
5 penalizes the employer \$50.00 for each initial violation, per employee, of any
6 provision of the Wage Order, and \$100.00 for each additional violation thereafter
7 per employee; and
8
9 d. California Labor Code section 226.7, which states that (a) no employer shall require
10 any employee to work during any rest period mandated by an applicable order of
11 the Industrial Welfare Commission, and (b) if an employer fails to provide an
12 employee a rest period in accordance with an applicable order of the Industrial
13 Welfare Commission, the employer shall pay the employee one (1) additional hour
14 of pay at employee's regular rate of compensation for each work day that the rest
15 period is not provided.
16

17 78. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest
18 break after every four (4) hours of work or major fraction thereof, as required by California
19 law.

20 79. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
21 regulations, and wage orders alleged in this cause of action along with any allowable interest,
22 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
23 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
24

25 80. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
26 fees as well as interest under Labor Code section 218.6.

27 81. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28

1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial.

3 **TENTH CAUSE OF ACTION**

4 **FAILURE TO GIVE MEAL BREAKS**

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

6 82. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 81, inclusive, of this Complaint as though fully set forth herein.

8 83. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 9 a. California Labor Code section 512(a), which requires that employees be given a 30-
10 minute uninterrupted meal break after five (5) hours of work, and a second
11 uninterrupted meal break after ten (10) hours of work;
12
13 b. California Labor Code section 226.7, which states that (a) no employer shall require
14 any employee to work during any meal period mandated by an applicable order of
15 the Industrial Welfare Commission, and (b) if any employer fails to provide an
16 employee a meal period in accordance with an applicable order of the Industrial
17 Welfare Commission, the employer shall pay the employee one (1) additional hour
18 of pay at the employee's regular rate of compensation for each workday that the
19 meal period is not provided;
20
21 c. California Industrial Welfare Commission Order No. 9 section 11(B), as codified
22 under Title 8 of the California Code of Regulations Section 11090, which states that
23 if an employer fails to provide an employee a meal period in accordance with the
24 applicable provisions of the Wage Order, the employer shall pay the employee one
25 (1) hour of pay at the employee's regular rate of compensation for each workday
26 that the meal period is not provided;
27
28 d. California Industrial Welfare Commission Wage Order No. 9 Section 7(A)(3), as

- 1 codified under Title 8 of the California Code of Regulations Section 11090, which
2 requires an employer to maintain records documenting its employees' meal periods;
- 3 e. California Industrial Welfare Commission wage order No. 9 Section 20(A), as
4 codified under California Code of Regulations Section 11090, which penalizes the
5 employer \$50.00 for each initial violation, per employee, of any provision of the
6 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
7
- 8 f. California Labor Code section 1171 and 1173, which have given the California
9 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 9)
10 as enforceable law.

11 84. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
12 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
13 take a second relieved meal break after ten (10) hours of work, as required by California law.
14 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
15 9, as codified under California Code of Regulations Section 11090 et. seq. requires that
16 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
17 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
18 duty. California Labor Code section 226.7 provides that employers may not require their
19 employees to work through their meal periods. California Labor Code section 226.7 and
20 California Code of Regulations section 11090 requires that if the employer fails to provide the
21 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
22 of pay for each workday that the meal period is not given.
23

24 85. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
25 regulations, and wage orders alleged in this cause of action along with any allowable interest,
26 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
27 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
28

1 86. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
2 fees as well as interest under Labor Code section 218.6.

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

6 **ELEVENTH CAUSE OF ACTION**

7 **PRIVATE ATTORNEYS GENERAL ACT**

8 **Individual and Representative Claim for PAGA penalties under California Labor Code**
9 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 232, 246, 510, 512, 558,**
10 **1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5)**

11 **(Against All Named Defendants EXCEPT TONY HUANG and all DOE Defendants)**

12 88. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 87, inclusive, of this Complaint as though fully set forth herein.

14 89. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
15 Defendants of the specific violations of the California Labor Code that Defendants
16 and DOE defendants have violated and continue to violate.

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

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

23 92. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that
24 provides for a civil penalty to be assessed and collected by the LWDA or any of its
25 departments, divisions, commissions, boards, agencies, or employees for violation of the code
26 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
27
28

1 on behalf of himself or herself and other current or former employees pursuant to the
2 procedures specified in California Labor Code section 2699.3.

3 93. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
4 violator and had one or more of the alleged violations committed against him, and therefore is
5 properly suited to represent the interests of other hourly, non-exempt current and former
6 employees who worked for EMPLOYER in the State of California during the applicable
7 PAGA Period.

8 94. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
9 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
10 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

11 95. Plaintiff therefore has exhausted all administrative remedies required of him under
12 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
13 cause of action and pursue penalties in a representative action for Defendants’ violations of the
14 Labor Code.

15 96. California Labor Code section 2699 et seq. imposes penalties upon culpable
16 Defendants for violating the Labor Code.

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

25 98. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
26 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
27 seeking individual/victim specific relief or underpaid wages under this particular cause of
28

1 action.

2 99. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
3 the following:

4 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
5 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5 via
6 2698 and 2699 and any other Labor Codes and Industrial Welfare Commission Wage
7 Orders (Order no. 9 violated based on the facts alleged in this Complaint.

8 100. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
9 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
10 employees as alleged herein in an amount to be shown according to proof at trial and within the
11 jurisdictional limits of this Court.

12 **TWELFTH CAUSE OF ACTION**

13 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

14 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

15 101. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 100, inclusive, of this Complaint as thought fully set forth herein.

17 102. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
18 employee for all necessary expenditures or losses incurred by the employee in direct
19 consequence of the discharge of his or her duties."
20

21 103. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
22 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
23 of completing his job duties, which were not reimbursed by Defendant. These expenses
24 include, but are not limited to, driving their personal vehicles for deliveries (mileage
25 reimbursement) and use of personal phones for business-related purposes. Although Plaintiff
26 was given a company phone, Plaintiff had to also use his personal cell phone for work purposes
27 including navigation, etc. Furthermore, although Plaintiff did drive a company vehicle, there
28 were several other drivers who had to use their own personal vehicles to make the deliveries.

1 104. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
2 and attorney's fees and costs, under Labor Code section 2802.

3
4 **THIRTEENTH CAUSE OF ACTION**

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

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

7 **(Plaintiff against All Named Defendants except SAGI SHAMAM and TONY HUANG**
8 **and all DOE defendants)**

9 105. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 104, inclusive, of this Complaint as though fully set forth herein.

11 106. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
12 constitutes unfair and unlawful business practices under California Business and Professions
13 Code Section 17200, et seq.

14 107. Defendant's violations of California labor laws and the Labor Code constitutes a
15 business practice because it was done repeatedly over a significant period of time in a
16 systematic manner that was detrimental to Plaintiff and other similarly situated aggrieved
17 employees.

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

22 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
23 follows:

- 24 1. For compensatory damages;
25 2. For special and consequential damages to the extent allowed by law;
26 3. For damages for minimum wages and overtime not paid to Plaintiff in an amount
27 subject to proof at trial;
28

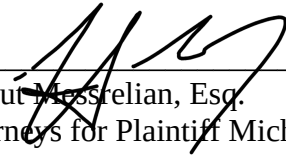
4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
5. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
6. For restitution and disgorgement for all unfair business practices by Defendants (except SAGI SHAMAM AND TONY HUANG) against Plaintiff in an amount subject to proof at trial;
7. For an order enjoining Defendants (except SAGI SHAMAM AND TONY HUANG) from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
10. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim.
11. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;
12. For the imposition of civil penalties and/or statutory penalties;
13. For all interest as allowed by law;
14. For all costs and disbursements incurred in this suit;
15. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., the California Labor Code;

and/or other applicable laws; and

16. For such other and further relief as this Court may deem proper.

DATED: February 5, 2021

MESSRELIAN LAW INC.

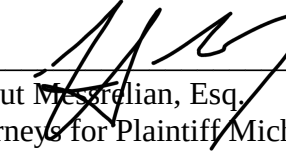
By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Michael Nevarez

DEMAND FOR JURY TRIAL

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

DATED: February 5, 2021

MESSRELIAN LAW, INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Michael Nevarez