

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Tuvia Korobkin (SBN 268066)
tkorobkin@haineslawgroup.com
Joseph R. Holmes (SBN 312381)
jholmes@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

GUADALUPE DAVILA, on behalf of
himself, other aggrieved employees, and the
State of California,

Plaintiff,

vs.

HALLIBURTON ENERGY SERVICES,
INC., a Delaware corporation; and DOES 1
through 100,

Defendants.

Case No.: BCV-21-100124

**REPRESENTATIVE ACTION
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, et seq.)**

UNLIMITED CIVIL CASE

1 Plaintiff Guadalupe Davila (“Plaintiff”), on behalf of himself, all other aggrieved
2 employees, and the State of California, hereby brings this Representative Action Complaint
3 (“Complaint”) against Defendant Halliburton Energy Services, Inc., a California corporation, and
4 DOES 1 to 100, inclusive (collectively, “Defendants”), and on information and belief allege as
5 follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself, all other aggrieved employees, and the State of
8 California, hereby brings this Complaint for recovery of civil penalties under the Private
9 Attorneys General Act, Labor Code § 2698, *et seq.* (“PAGA”), and Industrial Welfare
10 Commission Wage Order 16 (“Wage Order 16”). The monetary damages that Plaintiff seeks
11 exceed this Court’s jurisdictional minimum.

12 **VENUE**

13 2. Venue is proper in this judicial district pursuant to California Code of Civil
14 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
15 occurred in Kern County. Defendants own, maintain offices, transact business, have an agent or
16 agents within Kern County, and/or otherwise are found within Kern County, and Defendants are
17 within the jurisdiction of this Court for purposes of service of process.

18 **PARTIES**

19 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
20 Plaintiff was, and currently is, a California resident. Within the statute of limitations periods
21 applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-
22 exempt employee.

23 4. Plaintiff is informed and believes, and based thereon alleges, that within the statute
24 of limitations period applicable to each cause of action pled herein and continuing to the present,
25 Defendants did (and continue to do) business by providing products and services to the energy
26 industry, including but not limited to oil drilling, and employed Plaintiff and other non-exempt
27 employees within Kern County and the state of California and, therefore, were (and are) doing
28 business in Kern County and the State of California.

1 5. Plaintiff does not know the true names or capacities, whether individual, partner,
2 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
3 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
4 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
5 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
6 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
7 and proximately caused Plaintiff and other aggrieved employees to be subject to the unlawful
8 employment practices, wrongs, injuries and damages complained of herein.

9 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
10 herein, Defendants were and are the employers of Plaintiff and other aggrieved employees.

11 7. At all times herein mentioned, each of said Defendants participated in the doing
12 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
13 Defendants, and each of them, were the agents, servants, and employees of each and every one of
14 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
15 were acting within the course and scope of said agency and employment. Defendants, and each
16 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
17 omissions complained of herein.

18 8. At all relevant times, Defendants, and each of them, were members of and engaged
19 in a joint venture, partnership, and common enterprise, and acted within the course and scope of
20 and in pursuance of said joint venture, partnership, and common enterprise. Further, all
21 Defendants were joint employers for all purposes of Plaintiff and other aggrieved employees.

22 **REPRESENTATIVE ACTION ALLEGATIONS**

23 9. Plaintiff was employed by Defendant as a non-exempt employee from
24 approximately May 2017 through approximately August 2020. During his employment with
25 Defendants, he worked as an operator for both the hydraulic fracturing (“fracking”) department,
26 and the cement department. The fracking department was responsible for all aspects of
27 Defendants’ fracking operations, including transporting equipment into and out of the job site,
28 and maintaining and operating the on-site machinery.

1 10. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations
2 of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020.
3 Accordingly, for purposes of this Complaint, “aggrieved employees” refers to all of Defendants’
4 California non-exempt employees who worked for Defendant at any time in the one-year plus
5 178 days preceding the submission of Plaintiff’s PAGA notice to the LWDA through the present.

6 11. During Plaintiff’s employment with Defendants, Plaintiff and other aggrieved
7 employees were not provided with all required meal periods to which they were entitled due to
8 Defendants’ unlawful meal period policies/practices, which failed to provide uninterrupted, duty-
9 free 30-minute meal periods for every 5 hours worked. Specifically, when Plaintiff worked in
10 fracking, Plaintiff and other aggrieved employees worked 12-17-hour days without receiving
11 second or third uninterrupted meal breaks. In addition, Plaintiff and other aggrieved employees’
12 first meal periods were often late, as they were often not provided until after 5 hours of work.
13 When Plaintiff worked in cement, Plaintiff and other aggrieved employees worked 12-24-hour
14 days but were instructed to only take a single meal period per day, and only when they had down
15 time. Moreover, the singular meal break was almost always after the fifth hour of work (as they
16 would not have down time before then), and they were never provided with second, third or fourth
17 meal breaks.

18 12. On those workdays when Plaintiff and other aggrieved employees were not
19 provided with all legally-compliant meal periods to which they were entitled, Defendants failed
20 to pay Plaintiff and other aggrieved employees with the required meal period premiums for each
21 workday in which a meal period violation occurred, as required by Labor Code § 226.7. Upon
22 information and belief, during at least a portion of Plaintiff’s employment with Defendants,
23 Defendants maintained no payroll code for the payment of meal period premium payments as
24 required by Labor Code § 226.7.

25 13. Additionally, Plaintiff and other aggrieved employees were not authorized and
26 permitted to take all required rest periods due to Defendants’ rest period policies/practices.
27 Defendants’ rest period policies/practices fail to authorize and permit all rest periods for every
28 four hours worked, or major fraction thereof. Specifically, Plaintiff and other aggrieved

employees regularly worked 3.5 hours or more on a work shift, yet rarely, if ever, took any breaks at all during the workday, in violation of California law. Nor did they receive second rest periods when they worked over 6 hours, third rest breaks when they worked over 10 hours, fourth rest breaks when they worked over 14 hours, etc. Instead, Plaintiff and other aggrieved employees were expected to be working at all times when present on a job site, and there were no rest breaks scheduled for them. Further, Defendants failed to pay Plaintiff and other aggrieved employees with the required rest period premium for each workday in which a rest period violation occurred, as required by Labor Code § 226.7. Upon information and belief, during at least a portion of Plaintiff's employment with Defendants, Defendants maintained no payroll code for the payment of rest period premium payments as required by Labor Code § 226.7.

14. Defendants also failed to pay Plaintiff and other aggrieved employees all wages owed for "on call" time. During Plaintiff's employment with Defendants, Defendants required Plaintiff and other aggrieved employees to work on-call shifts, during which Plaintiff and other aggrieved employees had to be available to receive a call at any point during the workday. On information and belief, if Plaintiff and other aggrieved employees received a call during an on-call shift, they only had a limited amount of time to respond to the call and arrive at the worksite. If the employee failed to answer the call and/or arrive at the worksite within a specified amount of time, he or she would be disciplined. On occasions when Plaintiff and other aggrieved employees were required to work scheduled on-call shifts, they were not paid for their on-call time, except for time that they were actually called in to work, and thus failed to pay at least the minimum wage for all hours worked.

15. Additionally, on information and belief, throughout Plaintiff's employment with Defendants, Plaintiff and other aggrieved employees would receive additional "Per Diem" payments while on location at one of Defendants' drill sites, as well as other payments that cannot be excluded from the regular rate of pay as a matter of law (collectively "Incentive Pay"). Despite receiving Incentive Pay and working overtime hours during the corresponding pay period, Defendants failed to correctly calculate Plaintiff's and other aggrieved employees' regular rates of pay for overtime purposes.

1 16. Additionally, on information and belief, throughout Plaintiff's employment with
2 Defendants, Plaintiff and other aggrieved employees worked seven consecutive days in a
3 workweek in violation of Labor Code §§ 551 and 552 ("Every person employed in any occupation
4 of labor is entitled to one day's rest therefrom in seven.") Moreover, Plaintiff and other aggrieved
5 employees worked more than 30 hours in the workweeks where they worked seven consecutive
6 days, so the exemption in Labor Code § 556 does not apply.

7 17. Defendants also failed to reimburse Plaintiff and aggrieved employees for the use
8 of their personal cellular phones for a variety of work activities, including but not limited to
9 communicating with coworkers and/or supervisors. Plaintiff and aggrieved employees were
10 required to use their personal cellular phones for such work activities; however, Plaintiff and
11 aggrieved employees were never reimbursed for their personal cellular phone expenses.
12 Defendants' policy of not providing reimbursement for necessary work expenditures violates Cal.
13 Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary
14 expenditures or losses incurred by the employee in direct consequence of the discharge of his or
15 her duties, or of his obedience to the directions of the employer.")

16 18. As a result of Defendants' failure to compensate Plaintiff and other aggrieved
17 employees for all overtime wages, reporting time pay, and meal and rest period premium wages
18 earned, Defendants maintained inaccurate payroll records, issued inaccurate wage statements to
19 Plaintiff and other employees, and failed to pay Plaintiff and other aggrieved former employees
20 all wages due at their separation of employment.

21 19. Additionally, Defendants issued facially deficient wage statements that failed to
22 include all applicable hourly rates in effect during the period and the corresponding number of
23 hours worked at each hourly rate, as Defendants' wage statements failed to include the applicable
24 hourly rate for on-call hours as well as the corresponding number of on-call hours worked during
25 the pay period. The wage statements also failed to include the accurate overtime or double-time
26 rate for Plaintiff or other aggrieved employees, instead listing a "weekly premium" or "daily
27 premium" of half the hourly rate, and a "double-time premium" of the hourly rate.

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1 **FIRST CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **(AGAINST ALL DEFENDANTS)**

4 20. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
5 fully set forth herein.

6 21. Defendants have committed Labor Code violations against Plaintiff and other
7 aggrieved employees. Plaintiff is an “aggrieved employee” within the meaning of the PAGA and,
8 acting on behalf of himself, other aggrieved employees, and the State of California, brings this
9 representative action against Defendants to recover the civil penalties due to Plaintiff and other
10 aggrieved employees against whom one or more of the violations has been committed, and the
11 State of California according to proof, pursuant to Labor Code § 2699, including, but not limited
12 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for
13 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for
14 each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
15 each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
16 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
17 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
18 initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to
19 Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation
20 and \$200.00 for each subsequent violation per employee per pay period for those violations of
21 the Labor Code for which no civil penalty is specifically provided pursuant to Labor Code §
22 2699(f), based on the following Labor Code violations:

- 23 a. Failing to compensate Plaintiff and other aggrieved employees all overtime wages
24 earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 25 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
26 wage for all hours worked in violation of Labor Code §§ 558, 1182.12, 1194,
27 1194.2, 1197, and 1198;

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- c. Failing to pay Plaintiff and other aggrieved employees all agreed-upon compensation for all hours worked in violation of Labor Code §§ 221-223;
- d. Failing to provide all legally required meal periods, and failing to pay meal period premium pay, to Plaintiff and other aggrieved employees in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- e. Failing to authorize and permit all legally required rest periods, and failing to pay rest period premiums, to Plaintiff and other aggrieved employees in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- f. Failing to reimburse and/or indemnify Plaintiff and other aggrieved employees for all required work-related expenses incurred, in violation of Labor Code §§ 1198 and 2802;
- g. Unlawfully requiring Plaintiff and other aggrieved employees to work more than six days in a workweek and failing to provide one day's rest in seven, in violation of Labor Code §§ 551 and 552;
- h. Failing to furnish Plaintiff and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- i. Failing to timely pay all final wages earned by aggrieved former employees at the time of separation of employment, in violation of Labor Code §§ 201-203;
- j. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month, in violation of Labor Code § 204; and
- k. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code § 1174.

22. On or about November 11, 2020, Plaintiff notified Defendant Halliburton Energy Services, Inc. via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under the PAGA with respect to violations of the California Labor Code identified in Paragraph 21 (a)-(k) above. Now that sixty-five (65) days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, Plaintiff

1 has exhausted his administrative requirements for bringing a claim under the PAGA with respect
2 to these violations.

3 23. Plaintiff was compelled to retain the services of counsel to file this court action to
4 protect his interests and the interests of other aggrieved employees, and to assess and collect the
5 civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which
6 he is entitled to recover under California Labor Code § 2699(g).

7 **PRAYER**

8 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
9 this suit is brought against Defendants, jointly and severally, as follows:

10 24. Upon the First Cause of Action, for civil penalties due to Plaintiff, other aggrieved
11 employees, and the State of California according to proof pursuant to Labor Code § 2699,
12 including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
13 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant
14 to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully
15 withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to
16 Labor Code § 558 per employee per pay period; (3) \$100 for each initial violation and \$250 for
17 each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4)
18 \$250 for each initial violation of Labor Code § 226 and \$1,000 for each subsequent violation,
19 pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100 for each initial
20 violation and \$200 for each subsequent violation per employee per pay period for those violations
21 of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code §
22 2699(f);

23 25. On all causes of action, for attorney's fees and costs as provided by Labor Code §
24 2699(g) and Code of Civil Procedure § 1021.5; and

25 26. For such other and further relief the Court may deem just and proper.

26 Dated: January 19, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

27 By: 
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Paul K. Haines
Attorneys for Plaintiff