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Attorneys for Plaintiff JOSE HERNANDEZ, as representative of the State of California and the Labor and Workforce Development Agency, and aggrieved employees,

IN THE SUPERIOR COURT OF STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES – SOUTHEAST JUDICIAL DISTRICT
NORWALK COURTHOUSE

JOSE HERNANDEZ,

Plaintiff,

v.

SOUTHLAND BOX COMPANY, and DOES
 1 through 50, inclusive,

Defendants.

Case No.:

**REPRESENTATIVE ACTION
 COMPLAINT FOR CIVIL FINES**

1. Violation of PAGA for Failure to Provide Meal Periods (Lab. Code, §§ 226.7, 512);
2. Violation of PAGA for Failure to Provide Rest Periods (Lab. Code, §§ 226.7, 512);
3. Violation of PAGA for Failure to Pay All Wages Including Minimum Wages and Overtime Wages (Lab. Code, §§ 510, 1194);
4. Violation of PAGA for Failure to Keep Accurate Payroll Records (Lab. Code, §§ 1174, 226, subd. (A), (E));
5. Violation of PAGA for Failure to Reimburse for Necessary Expenditures (Lab. Code, § 2802); and
6. Violation of PAGA for Waiting Time Penalties (Lab. Code, §§ 201, 202, 203);

1 Plaintiff JOSE HERNANDEZ (“Plaintiff” or “Mr. Hernandez”), as a representative of
2 the State of California and the Labor and Workforce Development Agency (“LWDA”), and on
3 behalf of himself and other current and former employees, complains and alleges as follows:

4 **PRELIMINARY STATEMENT**

5 1. This case arises out of the violation of numerous Labor Code provisions by
6 SOUTHLAND BOX COMPANY (“SOUTHLAND” or “Defendant”), a California corporation
7 owning a restaurant located in Vernon, California. Plaintiff and similarly-aggrieved employees
8 seek wages and reimbursements that Defendant has failed and/or refused to pay to their
9 employees.

10 2. This case arises out of the violation of numerous Labor Code provisions,
11 including, but not limited to, Defendant’s failure to provide meal periods, failure to provide rest
12 periods, failure to pay all wages, including minimum wage and overtime, failure to keep
13 accurate payroll records, failure to reimburse employees for business-related expenses, and
14 failure to pay waiting time penalties as set forth more fully herein. These violations concern
15 current and past employees of SOUTHLAND.

16 3. Plaintiff and other similarly situated employees seek recovery of unpaid wages,
17 including, but not limited to, overtime wages, and waiting time penalties in the State of
18 California, as a result of Defendant’s failure to provide meal and rest periods and failing to pay
19 employees all wages, including vacation time, overtime wages, and seek recovery of
20 unreimbursed job-related expenses due and owing at the time of their termination.

21 **JURISDICTION AND VENUE**

22 4. Venue is proper in Los Angeles County, because the Defendant maintains its
23 location and transacts business in this county, the obligations and liability primarily arise in this
24 county, and worked was primarily performed by Plaintiff and similarly-aggrieved employees in
25 Los Angeles County.

26 5. The California Superior Court has jurisdiction in the matter because the
27 individual claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional
28 threshold for federal court and, upon information and belief, Plaintiff and Defendant are

1 residents of and/or domiciled in the State of California. Further, there is no federal question at
2 issue as the issues herein is based solely on California Statutes and law, including the Labor
3 Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure, Rule of Court,
4 and Business and Professions Code.

5 **THE PARTIES**

6 **Plaintiff**

7 6. Individual and Representative Plaintiff JOSE HERNANDEZ is an individual
8 residing in San Bernardino County.

9 7. Plaintiff was employed by Defendant from approximately April 28, 2008 to
10 December 2019.

11 **Defendant**

12 8. Plaintiff is informed and believes, and based thereon alleges, that SOUTHLAND
13 is a California corporation organized under the laws of the State of California and is and/or was
14 Plaintiff and similarly-aggrieved employees' employer during the Relevant Time Period, herein
15 defined as the period of one (1) year plus sixty-five days preceding the filing of this complaint.

16 9. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
17 participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 50,
18 inclusive, but on information and belief allege that said Defendants are legally responsible for
19 the occurrences alleged herein, and that the damages of Plaintiff and similarly-aggrieved
20 employees were proximately caused by such Defendants. Plaintiff will amend this complaint to
21 allege the true names and capacities of the DOE Defendants when ascertained.

22 10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
23 herein was, at all times relevant to this action, the agent, employee, representing partner, and/or
24 joint venture of the remaining Defendants and was acting within the course and scope of the
25 relationship. Plaintiff is further informed and believes, based thereon alleges, that each of the
26 Defendants herein gave consent to, ratified and authorized the acts alleged herein to the
27 remaining Defendants.
28

1 11. Plaintiff is further informed and believes, and based thereon alleges, that
2 Defendants herein acted as a “single employer” at all relevant times. At all relevant times,
3 Defendants were in the business of manufacturing boxes across the state of California.
4 Defendants acted in all respects pertinent to this action as the agent of the other Defendants,
5 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
6 each Defendant are legally attributable to the other Defendants.

7 **ADMINISTRATIVE PREREQUISITE**

8 12. By this complaint, Plaintiff brings this case as a representative action seeking
9 penalties for the State of California in a representative capacity, as provided by the Private
10 Attorneys’ General Act (“PAGA”), Labor Code sections 2698 et seq., to the extent permitted by
11 law, as an aggrieved employee who was employed by Defendant and subject to alleged
12 violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in
13 his/her notice to the LWDA and the employer: violation of Labor Code sections 201, 202, 203,
14 226, 226.7, 510, 512, 1174, 1194, and 2802.

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

20 14. On November 3, 2020, prior to the filing of this complaint, Plaintiff gave written
21 notice of the specific provisions alleged to have been violated, including the facts and theories
22 to support the alleged violations, as required by Labor Code section 2699.3. The written notice
23 was given via certified mail to Defendant(s), and the LWDA by electronically filing the notice
24 via the Department of Industrial Relations website. Plaintiff was given an LWDA case number
25 of LWDA-CM-811545-20. A true and correct copy of Plaintiff’s notice to the LWDA and
26 Defendant(s), dated November 3, 2020, is attached hereto as Exhibit A.

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1 Orders, regulations or statutes, and therefore entitled Plaintiff and similarly-aggrieved
2 employees to overtime compensation at time and a half rate, and when applicable, double-time
3 rates as set forth by the applicable Wage Orders, regulations and/or statutes.

4 21. Plaintiff and similarly-aggrieved employees were not paid the above due
5 overtime compensation timely upon the termination of their employment as required by Labor
6 Code sections 201, 202, and 203, and are entitled to penalties as provided by Labor Code
7 section 203.

8 22. During the Relevant Time Period, Defendant required Plaintiff and similarly-
9 aggrieved employees to work overtime without lawful compensation, in violation of the various
10 applicable Wage Orders, regulations, and statutes, and Defendant: (1) Willfully failed and
11 refused, and continue to fail and refuse to pay lawful overtime compensation to Plaintiff and
12 similarly-aggrieved employees; and (2) willfully failed and refused, and continue to fail and
13 refuse to pay due and owing wages promptly upon termination of employment to Plaintiff and
14 similarly-aggrieved employees.

15 23. During the Relevant Time Period, Defendant failed and/or refused to schedule
16 Plaintiff and similarly-aggrieved employees in an overlapping manner so as to reasonably
17 ensure meal and/or rest breaks and/or shift relief for Plaintiff and similarly-aggrieved
18 employees, thereby causing Plaintiff and similarly-aggrieved employees to work without being
19 given paid ten (10) minute rest periods for every four (4) hours or major fraction thereof worked
20 and without being given a thirty (30) minute meal period for shifts of at least five (5) hours and
21 second thirty (30) minute meal periods for shifts of at least ten (10) hours during which Plaintiff
22 and similarly-aggrieved employees were relieved of all duties and free to leave the premises.
23 Defendant further failed and/or refused to schedule Plaintiff and similarly-aggrieved employees
24 in a manner so as to reasonably ensure meal and/or rest breaks were taken within the required
25 statutory time frame and uninterrupted as required by law. Furthermore, Defendant failed and/or
26 refused to pay Plaintiff and similarly-aggrieved employees one (1) hour's pay at the employees'
27 regular rate of pay as premium compensation for failure to provide rest and/or meal periods or
28 to providing such rest and/or meal periods within the statutory time frame as a result of their

1 scheduling policy.

2 24. During the Relevant Time Period, Defendant failed and/or refused to reimburse
3 Plaintiff and similarly aggrieved employees for business expenditures incurred in connection
4 with the performance and execution of their job duties. Specifically, Defendant had a corporate
5 practice and policy of requiring Plaintiff and similarly-aggrieved employees to shoulder the
6 burden of Defendant's cost of doing business by failing to reimburse Plaintiff and similarly-
7 aggrieved employees for necessary business expenditures. Plaintiff and similarly-aggrieved
8 employees were required to regularly use their personal cellphones to communicate with
9 Defendant. Plaintiff and similarly-aggrieved employees were not reimbursed for the telephone
10 costs associated with communicating with Defendant.

11 25. During the Relevant Time Period, Defendant failed to include on Plaintiff and
12 similarly-aggrieved employees' pay stubs all meal and rest premium wages and full
13 compensation for all regular and overtime hours worked. As such, Defendant failed to maintain
14 accurate wage statements and failed to provide Plaintiff and similarly-aggrieved employees
15 accurate wage statements.

16 26. Due to Defendant's failure to pay all wages owed to Plaintiff and similarly-
17 aggrieved employees, Defendant maintained a practice and procedure of failing to pay former
18 employees for all hours worked at the end of their employment with Defendant.

19 **FIRST CLAIM FOR RELIEF**

20 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
21 **PROVIDE MEAL PERIODS**

22 **(Lab. Code, § 226.7 and 512)**

23 **(Plaintiff against Defendant)**

24 27. Plaintiff realleges and incorporates by reference the allegations in the preceding
25 paragraphs.

26 28. Labor Code sections 226.7 and 512 provide that no employer shall employ any
27 person for a work period of more than five (5) hours without providing a meal period of not less
28 than thirty (30) minutes or employ any person for a work period of more than ten (10) hours

1 without a second meal period of not less than thirty (30) minutes.

2 29. Labor Code section 226.7 provides that if an employer fails to provide an
3 employee a meal period in accordance with this section, the employer shall pay the employee
4 one (1) hour of pay at the employee's regular rate of compensation for each workday that the
5 meal period is not provided in accordance with this section.

6 30. Defendant failed to schedule Plaintiff and similarly-aggrieved employees in an
7 overlapping manner so as to reasonably ensure Plaintiff and similarly-aggrieved employees
8 could take and/or receive uninterrupted and timely meal periods within the statutory timeframe.
9 As a result, Plaintiff and similarly-aggrieved employees were often forced to forego a meal
10 period and/or work during their meal period. In so doing, Defendant has intentionally and
11 improperly denied meal periods to Plaintiff and similarly-aggrieved employees in violation of
12 Labor Code sections 226.7 and 512 and other regulations and statutes.

13 31. At all times relevant hereto, Plaintiff and similarly-aggrieved employees have
14 worked more than five (5) hours in a workday.

15 32. At varying times relevant hereto, Plaintiff and similarly-aggrieved employees at
16 times have worked more than ten (10) hours in a workday.

17 33. By virtue of the Defendant's failure to schedule Plaintiff and similarly-aggrieved
18 employees in such a way as to provide a meal period, and/or work free meal period to Plaintiff
19 and similarly-aggrieved employees thereby causing Plaintiff and similarly-aggrieved employees
20 to suffer, and continue to suffer, damages in amounts which are presently unknown, but will be
21 ascertained according to proof at trial.

22 34. Plaintiff and similarly-aggrieved employees request recovery of civil penalties
23 pursuant to pursuant to PAGA for violations of Labor Code section 226.7 which occurred
24 during the Relevant Time Period.

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SECOND CLAIM FOR RELIEF

**VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO
PROVIDE REST PERIODS**

(Lab. Code, § 226.7 and 512)

(Plaintiff against Defendant)

35. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

36. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

37. Labor Code section 226.7(b) provides that if an employer fails to provide employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employees' regular rate of compensation for each workday that the rest period is not provided.

38. Defendant failed and or refused to implement a relief system by which Plaintiff and similarly-aggrieved employees could receive rest breaks and/or work free rest breaks. Furthermore, due to Defendant's relief system, Plaintiff and similarly-aggrieved employees did not receive his rest breaks within the required statutory time frame. By and through their actions, Defendant intentionally and improperly denied rest periods to Plaintiff and similarly-aggrieved employees in violation of Labor Code sections 226.7 and 512.

39. At all times relevant hereto, Plaintiff and similarly-aggrieved employees have worked more than four (4) hours in a workday.

40. By virtue of Defendant's unlawful failure to provide rest periods to Plaintiff and similarly-aggrieved employees as a result of their scheduling and shift relief system, Plaintiff and similarly-aggrieved employees have suffered, and will continue to suffer, damages, in amounts which are presently unknown, but will be ascertained according to proof at trial.

41. Plaintiff and similarly-aggrieved employees request recovery of civil penalties pursuant to PAGA for Labor Code section 226.7, which occurred during the Relevant Time Period.

**VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO
PAY ALL WAGES INCLUDING MINIMUM WAGE AND OVERTIME WAGES**

(Plaintiff against Defendant)

45. To the extent that such unpaid wages were for hours worked in excess of eight (8) in one day or forty (40) in one week, such wages were required to be paid at an overtime rate of one-and-a-half times each employee's base rate of pay. Any work in excess of eight (8) hours in any workday and any work in excess of forty (40) hours in a workweek, shall be compensated at a rate of no less than one and one-half times the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).) Any work in excess of twelve (12) hours in a workday shall be compensated at the rate of twice the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).)

1 46. By virtue of Defendant's unlawful failure to provide all wages owed to Plaintiff
2 and similarly-aggrieved employees, Plaintiff and similarly-aggrieved employees have suffered,
3 and will continue to suffer, damages in amounts which are presently unknown, but will be
4 ascertained according to proof at trial.

5 47. Plaintiff and similarly-aggrieved employees request recovery of civil penalties
6 pursuant to PAGA for violations of Labor Code sections 510 and 1194, which during the
7 Relevant Time Period.

8 48. Additionally, pursuant to Code of Civil Procedure section 1021.5, and any other
9 provision of law, Plaintiff requests the court award reasonable attorneys' fees and costs incurred
10 by them in this action.

11 **FOURTH CLAIM FOR RELIEF**

12 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
13 **KEEP ACCURATE PAYROLL RECORDS**

14 **(Lab. Code, § 1174, 226, subd. (a), (e))**

15 **(Plaintiff against Defendant)**

16 49. Plaintiff realleges and incorporates by reference the allegations in the preceding
17 paragraphs.

18 50. Labor Code section 1174, subdivision (d), requires an employer to keep at a
19 central location in California or at the plant or establishment at which the employees are
20 employed, payroll records showing the hours worked daily, and the wages paid to each
21 employee. Plaintiff is informed and believes, based thereon alleges, that Defendant willfully
22 failed to make or keep accurate records for Plaintiff and similarly-aggrieved employees.

23 51. Labor Code section 226, subdivision (a), requires employers to furnish each
24 employee with a statement that accurately reflects the total number of hours worked and
25 applicable hourly overtime rates in effect during the pay period at the time of each payment of
26 wages or semi-monthly. Labor Code section 226, subdivision (e), provides that if an employer
27 knowingly and intentionally fails to provide a statement itemizing, *inter alia*, the total hours
28 worked by the employee and the applicable hourly overtime rates, causing the employee injury,

1 then the employee is entitled to recover the greater of all actual damages or fifty dollars
2 (\$50.00) for each subsequent violation, up to four thousand dollars (\$4,000.00).

3 52. IWC Wage Order No.5-2001, paragraph 6(A) requires that every employer shall
4 keep accurate information with respect to each employee, including time records showing when
5 each employee begins and ends each work period, the total daily hours worked by each
6 employee and the total hours worked in each payroll period, and applicable rates of pay.
7 Plaintiff is informed and believes that Defendant willfully and intentionally failed to make
8 and/or keep records which accurately reflect the hours worked by Plaintiff and similarly-
9 aggrieved employees. Specifically, Plaintiff believes that Defendant's records do not accurately
10 reflect (1) all regular hours worked; (2) overtime hours worked; (3) number of hours worked for
11 each hourly rate; (4) gross wages earned; (5) net wages earned; and (6) premium wages earned
12 per pay period. Further, Plaintiff believes that Defendant's records do not accurately reflect
13 where Plaintiff and similarly-aggrieved employees worked during their meal and/or rest breaks
14 due to Defendant's failure to schedule Plaintiff and similarly-aggrieved employees in an
15 overlapping manner so as to provide them with a meal and/or rest break.

16 53. Plaintiff is informed and believes, and based thereon alleges, that Defendant's
17 failure to keep accurate payroll records, as described above, violated Labor Code section 1174,
18 subdivision (d), and the applicable wage order. Plaintiff and similarly-aggrieved employees are
19 entitled to penalties of one hundred dollars (\$100.00) for the initial violation and two hundred
20 dollars (\$200.00) for each subsequent violation for every pay period during which these records
21 and information were not kept by Defendant.

22 54. Plaintiff is informed and believes, and based thereon alleges, that Defendant's
23 failure to keep and maintain accurate records and information, as described above, was willful,
24 and Plaintiff and similarly-aggrieved employees are entitled to a civil penalty of five hundred
25 dollars (\$500.00) per employee pursuant to Labor Code section 1174.5.

26 55. Defendant knowingly and intentionally failed to, and continues to fail to, furnish
27 Plaintiff and similarly-aggrieved employees with timely, itemized statements that accurately
28 reflect the total number of hours worked, as required by Labor Code section 226, subdivision

1 (2), and Plaintiff and similarly-aggrieved employees suffered injury as a result. Consequently,
2 Defendant is liable to Plaintiff and similarly-aggrieved employees for the amounts provided by
3 Labor Code section 226, subdivision (e).

4 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
5 failure to keep and maintain accurate records and information and provide to Plaintiff and Class
6 Members accurate itemized wage statements, as described above, was knowing and intentional,
7 and Plaintiff and Plaintiff Class are entitled to statutory penalties for each pay period in which a
8 violation occurred. Plaintiff further seeks recovery of attorneys' fees and costs pursuant to
9 Labor Code section 226, subdivision (e), and as otherwise permitted by law.

10 **FIFTH CLAIM FOR RELIEF**

11 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
12 **REIMBURSE FOR NECESSARY EXPENDITURES**

13 **(Lab. Code, § 2802)**

14 **(Plaintiff against Defendant)**

15 57. Plaintiff realleges and incorporates by reference the allegations in the preceding
16 paragraphs.

17 58. Labor Code section 2802 states that "An 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 59. Plaintiff and similarly-aggrieved employees were not reimbursed by Defendant
21 for necessary expenditures as a direct consequence of the discharge of their duties.

22 60. Defendant knowingly, willingly, and intentionally attempted to offset the cost of
23 doing business on Plaintiff and similarly-aggrieved employees.

24 61. Defendant had a corporate practice and policy of requiring Plaintiff and
25 similarly-aggrieved employees to shoulder the burden of Defendant's cost of doing business by
26 failing to reimburse Plaintiff and similarly-aggrieved employees for necessary business
27 expenditures. Plaintiff and similarly-aggrieved employees were required to regularly use their
28 personal cellphones to communicate with Defendant. Plaintiff and similarly-aggrieved

1 employees were not reimbursed for the telephone costs associated with communicating with
2 Defendant.

3 62. Accordingly, Plaintiff and similarly-aggrieved employees request recovery of
4 reasonable attorneys' fees, costs, and civil penalties pursuant to PAGA, for all violations which
5 occurred during the Relevant Time Period.

6 **SIXTH CLAIM FOR RELIEF**

7 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
8 **PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES**

9 **(Lab. Code, § 201, 202, 203)**

10 **(Plaintiff against Defendant)**

11 63. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
12 fully set forth herein.

13 64. Plaintiff is informed and believes, and based thereon alleges, that as part of
14 Defendants' ongoing unfair business practices, Defendants failed to pay all employees all wages
15 earned during their employment at the time of their separation in violation of Labor Code
16 sections 201, 202, and 203.

17 65. Labor Code section 201 provides that employers are required to pay an employee
18 whose employment is terminated by the employer all wages earned throughout their
19 employment and unpaid immediately upon termination.

20 66. Labor Code section 202 requires employers to pay an employee who quits his or
21 her employment all wages earned and unpaid no later than 72 hours thereafter.

22 67. Labor Code section 203 provides that when an employer who fails to pay all
23 wages earned and due to an employee, who is discharged or quits within the appropriate
24 timeframes set forth in sections 201 and 202, the wages of the employee shall continue as a
25 penalty at the employee's regular rate of daily pay for each day the full amount of unpaid wages
26 is not paid, up to 30 days.

EXHIBIT A



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November 2, 2020

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA U.S. MAIL & CERTIFIED MAIL# 7019 0700 0001 7488 8558

Return Receipt Requested

Southland Box Company
4201 Fruitland Ave.
Vernon, CA 90058-3118

VIA U.S. MAIL & CERTIFIED MAIL# 7019 0700 0001 7488 8565

Return Receipt Requested

Hideya Takagi – Agent for Service of Process
Southland Box Company
4201 Fruitland Ave.
Vernon, CA 90058-3118

Re: *Jose Hernandez v. Southland Box Company*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; Southland Box Company

From: Jose Hernandez, on behalf of himself and other aggrieved employees who were subject to the Employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Jose Hernandez ("Mr. Hernandez" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA"), on behalf of himself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Southland Box Company, a California Corporation (hereinafter "Employer" or "Southland") manufactures boxes. Mr. Hernandez began his employment with Employer in or around April 28, 2008 as an hourly, non-exempt employee, where he remained employed until in/around December 2020.

Mr. Hernandez alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1174, 1194 and 2802 by failing to provide Mr. Hernandez and all other aggrieved employees with meal and rest periods or premium pay, failing to pay all wages owed, including minimum wage and overtime, failing to provide accurate wage statements and maintain accurate payroll records, failing to pay necessary business expenses, and failing to provide all wages earned at end of employment. Mr. Hernandez and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Southland Failed to Provide Mr. Hernandez and Other Aggrieved Employees with Meal and Rest Periods, or Premium Compensation in Lieu Thereof, in Violation of California Law

Mr. Hernandez alleges that he and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their shifts. Mr. Hernandez and other aggrieved employees allege that they did not receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.) When employees failed to receive their meal break, they did not receive premium pay as compensation for the missed meal break.

Mr. Hernandez further alleges that he and other aggrieved employees often did not receive at least one duty-free, uninterrupted rest period for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. Mr. Hernandez and other aggrieved employees were generally precluded from taking rest periods due to Employers' failure to sufficiently staff shifts to provide relief and thereby allow Mr. Hernandez and other aggrieved employees the opportunity to take rest breaks. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512, and Wage Order 5.

B. Southland Failed to Pay Mr. Hernandez and Other Aggrieved Employees for all Hours Worked, Including Minimum Wage and Overtime, in Violation of California Law

Employer failed to pay Mr. Hernandez and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. As can be seen from Mr.

Hernandez's wage statements, Employer rounded the hours worked by Mr. Hernandez and other aggrieved employees to a factor of 15 minutes. Mr. Hernandez alleges that on average, this rounding favored Employer and therefore resulted in lost wages to Mr. Hernandez and other aggrieved employees. As a result, Employer failed to provide compensation at least at a minimum wage rate for all hours worked as required by the Labor Code. Employer's failure to provide Mr. Hernandez and other aggrieved employees pay for all hours worked is a violation of California's minimum wage laws, as Mr. Hernandez and other aggrieved employees should have been provided at least the applicable minimum wage for all hours worked.

Further, to the extent that Mr. Hernandez and other aggrieved employees worked shifts of at least eight (8) hours per day, or forty (40) hours per week, all unpaid wages described above in excess of the hours specified herein were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. To the extent such hours exceeded twelve (12) in one day or eight (8) on the seventh consecutive day worked, such hours were required to be compensated at a rate of at least two times each employee's base rate of pay.

Employer failed to include Mr. Hernandez's and other aggrieved employees' non-discretionary bonus in the regular rate of pay for purposes of paying legally mandated overtime when they worked over eight (8) hours in a day or forty (40) hours in a week, which caused Mr. Hernandez's overtime rate to be incorrect. The incorrect overtime rate resulted in lost wages to Mr. Hernandez and other aggrieved employees.

Employer's failure conduct is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194, and Wage Order 5.

C. Southland Failed to Reimburse Mr. Hernandez and Other Aggrieved Employees for All Necessary Business Expenditures in Violation of California Law

Mr. Hernandez alleges that he and other aggrieved employees were required to use their personal cell phones to communicate with their Employer. Mr. Hernandez and the other aggrieved employees did not receive reimbursement for their telephone costs from Employer.

Employer's failure to provide complete compensation for all necessary business expenditures incurred by Mr. Hernandez and other aggrieved employees in direct consequence of their duties to Employer is actionable under PAGA as a violation of Labor Code section 2802, and Wage Order 5.

D. Southland Failed to Provide Mr. Hernandez and Other Aggrieved Employees with Compliant Wage Statements, and Failed to Timely Pay All Wages Owed Upon Severance of Employment, in Violation of California Law

By failing to include on Mr. Hernandez's and other aggrieved employees' pay stubs all meal and rest break premium wages and full compensation for all regular hours and overtime hours worked, Employer failed to keep accurate payroll records and failed to provide Mr. Hernandez and

other aggrieved employees with complete and accurate wage statements. This conduct is in violation of Labor Code sections 226 and 1174, and Wage Order 5, and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, 203, and 204, and Wage Order 5, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended.

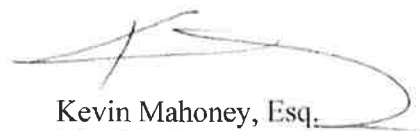
E. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Mr. Hernandez becomes aware of additional compensation owed or losses incurred by Mr. Hernandez or by any other aggrieved employee of the Employer, Mr. Hernandez expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

Mahoney Law Group, APC
Kevin Mahoney
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Tel: (562) 590-5550
Email: kmahoney@mahoney-law.net

Sincerely,



Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC