

1 GRAHAMHOLLIS APC  
Graham S.P. Hollis (SBN 120577)  
2 ghollis@grahamhollis.com  
Vilmarie Cordero (SBN 268860)  
3 vcordero@grahamhollis.com  
Hali M. Anderson (SBN 261816)  
4 handerson@grahamhollis.com  
Monique R. Rodriguez (SBN 304223)  
5 mrodriguez@grahamhollis.com  
3555 Fifth Avenue, Suite 200  
6 San Diego, California 92103  
Telephone: 619.692.0800  
7 Facsimile: 619.692.0822

8 *Attorneys for Plaintiff Orlando Robles*

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**04/07/2021** at 11:48:26 AM  
Clerk of the Superior Court  
By Carolina Miranda, Deputy Clerk

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN DIEGO**

12 ORLANDO ROBLES, as an individual, on  
behalf of himself, and all persons similarly  
13 situated,

14 Plaintiff,

15 v.

16 JETRO HOLDINGS, LLC, a Delaware  
17 limited liability company authorized to do  
business in California; and DOES 1 through  
18 50 inclusive,

19 Defendants.

Case No.: 37-2021-00015414-CU-OE-CTL

**REPRESENTATIVE ACTION FOR CIVIL  
PENALTIES PURSUANT TO THE  
PRIVATE ATTORNEYS GENERAL ACT  
OF 2004 (Labor Code §§ 2698 et seq.)**

20  
21 Plaintiff Orlando Robles ("Plaintiff") brings this enforcement action in his representative  
22 capacity against Defendants Jetro Holdings, LLC, and DOES 1 through 50, inclusive (collectively,  
23 "Jetro" or "Defendants"), on the following grounds:

24 **INTRODUCTION**

25 1. Plaintiff brings this enforcement action under the Private Attorneys General Act of 2004  
26 (codified in California Labor Code §§ 2698 et seq., "PAGA") on behalf of himself and all other current  
27 or former non-exempt employees of Jetro in California (referred to herein as "Jetro Employees").  
28

2. Plaintiff alleges that during the relevant time period Jetro engaged in a common pattern and practice of wage and hour violations under the California Labor Code (“Labor Code”) and the Industrial Welfare Commission (“IWC”) Wage Orders to decrease their employment related costs by, among other things:

- a. Failing to timely pay all minimum, regular, and/or overtime wages;
- b. Failing to provide legally compliant meal periods and/or pay premium wages for non-compliant meal periods;
- c. Failing to provide legally compliant rest periods and/or pay premium wages for non-compliant rest periods;
- d. Failing to timely pay all wages due and owing at the time of separation and/or the required waiting time penalties;
- e. Failing to furnish accurate itemized wage statements;
- f. Failing to maintain accurate records; and
- g. Failing to maintain a safe and healthful place of employment.

3. By and through this action, Plaintiff seeks to recover all available remedies including, but not limited to, civil penalties, reasonable attorneys' fees and litigation costs, as provided under California law.

4. All allegations in this Compliant are based upon information and belief except those allegations specifically pertaining to Plaintiff and/or his counsel, which are based upon personal knowledge. Each allegation in this Compliant has evidentiary support and/or is likely to have evidentiary support after reasonable opportunity for further investigation and formal discovery.

## JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure (“Code of Civil Procedure”) § 410.10 and Labor Code §§ 2698 *et seq.* Pursuant to §§ 2698 *et seq.*, Plaintiff brings this action on behalf of himself and all other Jetro Employees.

6. This Court has personal jurisdiction over Jetro because Jetro conducts business in the state of California and has caused injuries in the county of San Diego, as well as throughout the state of California, through its acts, omissions, and violations of the Labor Code and relevant IWC Wage

1 Order.

2 7. Venue as to Jetro is proper in this judicial district pursuant to Code of Civil Procedure  
3 §§ 395(a) and 395.5. Jetro transacts business in San Diego County and is otherwise within this Court's  
4 jurisdiction for purposes of service of process. The unlawful acts alleged herein have a direct effect on  
5 Plaintiff and all other Jetro Employees within the county of San Diego and throughout the state of  
6 California.

7 **THE PARTIES**

8 **I. PLAINTIFF**

9 8. Plaintiff Orlando Robles at all material times mentioned herein:

- 10 a. Was and is a resident of the county of San Diego, California;
- 11 b. Has been employed by and/or has otherwise performed work for Jetro as a  
12 forklift driver and aisle stocker from September 8, 2009 through the present;
- 13 c. Engages in work for Jetro in San Diego County, California;
- 14 d. Is classified by Jetro as a non-exempt employee for purposes of the Labor Code  
15 and the IWC Wage Orders;
- 16 e. Earns an hourly wage and is paid on a biweekly basis;
- 17 f. Earns night shift differential pay in the amount of seventy-five (75) cents for  
18 hours worked between 4:00 p.m. and 12:00 a.m.;
- 19 g. Regularly works five (5) days per week, Monday through Friday, from 3:00 p.m.  
20 to 11:30 p.m., plus an additional day on Sunday every two weeks from 3:00 p.m.  
21 to 11:30 p.m.;
- 22 h. Has not been timely compensated the appropriate minimum, regular, and/or  
23 overtime wages for all time worked;
- 24 i. Has not been provided with the opportunity to take legally compliant meal  
25 periods and/or paid premium wages for non-compliant meal periods;
- 26 j. Has not been authorized and permitted to take legally compliant rest periods  
27 and/or paid premium wages for non-compliant rest periods;

- k. Contends former Jetro Employees have not been timely paid all wages due and payable upon separation of employment, and/or the necessary waiting time penalties;
- l. Has not been furnished with itemized wage statements that show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee;
- m. Contends his records are not accurately maintained by Jetro;
- n. Has not been provided with a safe and healthful place of employment;
- o. Has not been provided with toilet and handwashing facilities that are accessible, kept clean, and maintained in good working order;
- p. Is an “aggrieved employee” within the meaning of Labor Code § 2699(c); and
- q. Has complied with all requirements outlined in Labor Code §§ 2698 *et seq.*

## **II. DEFENDANTS**

9. Defendant Jetro Holdings, LLC (“Jetro”) is a Delaware limited liability company authorized to do business, and actually doing business, in the state of California. Jetro is a holding company that owns, operates, and/or manages thousands of companies in the wholesale food industry across the United States. Jetro is believed to own, operate, and/or manage Restaurant Depot, a wholesale cash and carry foodservice supplier with numerous locations nationwide, including California.

10. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate, or otherwise of defendant Does 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues these defendants by such fictitious names pursuant to Code of Civil Procedure § 474. Plaintiff will amend this Complaint, setting forth the true names and capacities of these fictitiously named defendants when their true names are ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitious defendants have participated in the acts and/or omissions alleged in this Complaint.

11. At all times mentioned herein, the acts alleged to have been done and/or caused by the named defendant is also alleged to have been done and/or caused by each of the fictitiously named

defendants, and by each of their agents and/or employees who acted within the scope of their agency and/or employment.

12. At all times mentioned herein, each named defendant, including each fictitiously named defendant, is believed to have acted individually or as an officer, agent, or employee of the other defendants.

13. At all times mentioned herein, each named defendant, including each fictitiously named defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint venture of the other defendants, and in doing the things alleged herein acted within the course and scope of such agency, employment, alter-ego and/or in furtherance of the joint venture.

14. At all times mentioned herein, the acts and/or omissions of each of the named defendants, including each fictitiously named defendant, concurrently contributed to the various acts and/or omissions of each and every one of the other defendants, including each fictitiously named defendant, in proximately causing the wrongful conduct, harm, and/or damages alleged herein. Each of the named defendants, including each fictitiously named defendant, approved of, condoned, and/or otherwise ratified each and every one of the acts and/or omissions complained herein. Each named defendant, including each fictitiously named defendant, was and is acting with authority of each and every other defendant and/or are acting as agents of each and every other defendant or Doe defendant.

15. At all times mentioned herein there was a unity of interest and ownership between each named defendant, including each fictitiously named defendant, such that all defendants acted as a single employer of Plaintiff and all other Jetro Employees.

16. At all times mentioned herein, each named defendant, including each fictitiously named defendant, exercised supervision and control over the wages, hours, and/or working conditions of Plaintiff and all other Jetro Employees, including, but not limited to, implementing standard policies and procedures.

17. At all times mentioned herein, each named defendant, including each fictitiously named defendant, caused Jetro Employees, including Plaintiff, to work and/or prevented Plaintiff and other Jetro Employees from working.

///

18. At all times mentioned herein, each named defendant, including each fictitiously named defendant, had control over Jetro Employees.

19. Each named defendant, including each fictitiously named defendant, is alleged to have caused each of the violations alleged herein.

20. Each named defendant, including each fictitiously named defendant, is jointly and severally liable for each of the violations alleged herein.

## FACTUAL ALLEGATIONS

21. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all paragraphs of this Complaint.

22. Plaintiff has been employed by, or has otherwise performed work for, Jetro since September 8, 2009 at Jetro's Restaurant Depot warehouse located in San Diego, California. Plaintiff initially performed work for Jetro as a forklift driver, but most recently has performed work as a stocker in the aisle department. As an aisle stocker, Plaintiff's job duties include, but are not limited to, removing products from pallets, placing items on shelves, keeping aisles clean, eliminating safety hazards, and assisting customers. At all times during his employment, Plaintiff has been classified by Jetro as a non-exempt employee, earns an hourly wage, and is paid on a biweekly basis. Plaintiff is also to receive night shift differential pay in the amount of seventy-five (75) cents for hours worked between 4:00 p.m. and 12:00 a.m. Plaintiff typically works five (5) days per week, Monday through Friday, from 3:00 p.m. to 11:30 p.m. Every two weeks, Plaintiff also works an additional day on Sunday from 3:00 p.m. to 11:30 p.m.

23. Plaintiff asserts that Jetro has employed, and will continue to employ, several individuals in various non-exempt positions, including, but not limited to, cashiers, loaders, order pullers, deli workers, and freezer workers, in San Diego County and throughout the state of California. Plaintiff further asserts that throughout the relevant time period all Jetro Employees earned an hourly wage, were paid on a weekly basis, and worked at least eight (8) hours a day and/or forty (40) hours per week.

24. Plaintiff contends that he and all other Jetro Employees were subject to, and continue to be subject to, the same and/or similar policies, practices, procedures, guidelines, and/or culture

described herein.

25. Plaintiff further alleges that he and all other Jetro Employees have suffered, and will continue to suffer, the same and/or similar violations of law described herein.

26. Plaintiff contends that Jetro had, and continues to have, a policy, practice, procedure, guideline, and/or culture of not timely compensating him and all other Jetro Employees minimum, regular, and/or overtime wages for all time engaged in work on behalf of Jetro and/or time spent under the control of Jetro.

27. Plaintiff asserts that he and other Jetro Employees are entitled to earn a night shift differential of seventy-five (75) cents for hours worked after 4:00 p.m. Plaintiff and other Jetro Employees typically work after 4:00 p.m., however, Jetro does not regularly pay Jetro Employees, including Plaintiff, night shift differential pay for all hours worked after 4:00 p.m. Thus, Jetro Employees are not paid all wages earned on the days designated in advance by Jetro as the regular pay day.

28. Plaintiff also asserts that Jetro had, and continues to have, a policy, practice, procedure, guideline and/or culture of failing to pay him and other Jetro Employees for the time they spent working during their meal periods. Plaintiff contends he and other Jetro Employees are directed, pressured, compelled and/or otherwise coerced by management to perform their job duties while clocked out for their meal periods. Moreover, Jetro requires Plaintiff and other Jetro Employees to use the toilet facilities during their meal periods in violation of California law. Subsequently, Jetro improperly considered time spent by Jetro Employees working through meal periods as non-compensable and failed to provide any remuneration on the days designated in advance by Jetro as the regular pay day.

29. Plaintiff further contends that Jetro had, and continues to have, a policy, practice, procedure, guideline, and/or culture of failing to include night shift differential pay into Jetro Employees' regular rate of pay for purposes of computing overtime. Thus, Jetro Employees are not paid all overtime wages by the next regular pay period.

30. Plaintiff alleges that Jetro did not, and does not, have a policy, practice, procedure, guideline, and/or culture of providing all Jetro Employees with the opportunity to take an

1 uninterrupted, thirty (30) minute off-duty meal period before the end of their fifth (5<sup>th</sup>) hour of work  
2 when they work five (5) or more hours in a day. Similarly, Plaintiff contends that Jetro did not, and  
3 does not, have a policy, practice, procedure, guideline and/or culture of providing all Jetro Employees  
4 with the opportunity to take a second uninterrupted, thirty (30) minute off-duty meal period when they  
5 work more than ten (10) hours in a day.

6         31. Plaintiff alleges that he and other Jetro Employees are not provided with the opportunity  
7 to take lawful meal periods because Jetro has a policy, practice, procedure, guideline, and/or culture of  
8 assigning workloads that cannot reasonably be completed within their scheduled hours. Plaintiff  
9 further alleges that Jetro Employees are often interrupted by management about work related tasks  
10 during their meal periods. Likewise, Plaintiff alleges that Jetro Employees are often are directed,  
11 compelled and/or otherwise coerced by management to perform work-related tasks during their meal  
12 periods. Moreover, Plaintiff contends Jetro had, and continues to have, a policy, practice, procedure,  
13 guideline, and/or culture of requiring Plaintiff and other Jetro Employees to use toilet facilities during  
14 their meal periods.

15         32. Plaintiff asserts that Jetro knew or should have known that Plaintiff and other Jetro  
16 Employees were not provided with the opportunity to take legally compliant meal periods due in part  
17 to Jetro's policy, practice, procedure, guideline, and/or culture of assigning workloads that could not  
18 reasonably be completed within their scheduled hours. Furthermore, Jetro's management consistently  
19 interrupts meal periods and instructs Plaintiff and other Jetro Employees to perform work duties while  
20 they were clocked out for their meal periods. Additionally, Jetro had, and continues to have, a policy,  
21 practice, procedure, guideline and/or culture of requiring Jetro Employees, including Plaintiff, to use  
22 toilet facilities during their meal periods.

23         33. Despite not being provided with legally compliant meal periods, Plaintiff alleges that  
24 Jetro did not, and does not, have a policy, practice, procedure, guideline and/or culture of paying meal  
25 period premiums to Plaintiff and other Jetro Employees for all meal periods that do not comply with  
26 California law on the days designated in advance by Jetro as the regular payday.

27         34. Plaintiff further alleges that Jetro did not, and does not, have a policy, practice,  
28 procedure, guideline, and/or culture of authorizing and permitting Plaintiff and other Jetro Employees

1 to take uninterrupted off-duty rest periods of at least ten (10) minutes for every four (4) hours worked  
2 or major fraction thereof.

3 35. Plaintiff alleges that he and other Jetro Employees are not provided with the opportunity  
4 to take lawful rest periods because Jetro Employees are interrupted during the rest periods and are  
5 directed, compelled, and/or otherwise coerced by management to perform work-related tasks during  
6 their rest periods. Plaintiff also asserts that Jetro had, and continues to have, a policy, practice,  
7 procedure, guideline, and/or culture of requiring Jetro Employees to remain on the work premises at all  
8 times during their rest periods and to take their rest periods in a designated break room area inside the  
9 warehouse. Consequently, Jetro Employees, including Plaintiff, are not free from Jetro's control over  
10 how they spend their rest periods. Moreover, Plaintiff contends Jetro had, and continues to have, a  
11 policy, practice, procedure, guideline, and/or culture of requiring Plaintiff and other Jetro Employees  
12 to use toilet facilities during their rest periods.

13 36. Plaintiff asserts that Jetro knew or should have known that Plaintiff and other Jetro  
14 Employees were not authorized and permitted to take legally compliant rest periods because Jetro's  
15 management frequently interrupts rest periods and directs Jetro Employees, including Plaintiff, to  
16 perform work duties during their rest periods. Additionally, Jetro had, and continues to have, a policy,  
17 practice, procedure, guideline, and/or culture of requiring Plaintiff and other Jetro Employees to  
18 remain on the work premises at all times during their rest periods, to take their rest periods in a  
19 designated area, and to use toilet facilities during their rest periods.

20 37. Despite not being provided with legally compliant rest periods, Plaintiff alleges that  
21 Jetro did not, and does not, have a policy, practice, procedure, guideline, and/or culture of  
22 compensating Plaintiff and other Jetro Employees for all unlawful rest periods on the days designated  
23 in advance by Jetro as the regular payday.

24 38. Plaintiff alleges that Jetro had, and continues to have, a policy, practice, procedure,  
25 guideline, and/or culture of willfully failing to timely pay former Jetro Employees with all wages due  
26 and owing upon separation of employment and/or the mandated waiting time penalties for the late  
27 payment of such wages. Plaintiff alleges, based on information and belief, that former Jetro Employees  
28 were not timely paid all wages due and owed upon separation of employment and/or paid the required

1 waiting time penalties, in large part due to Jetro's policy, practice, procedure, guideline, and/or culture  
2 of failing to properly pay all minimum, regular, overtime, and/or premium wages.

3         39. Plaintiff asserts that Jetro had, and continues to have, a policy, practice, procedure,  
4 guideline and/or culture of furnishing Jetro Employees, including Plaintiff, with wage statements that  
5 do not comply with California law. Claimant contends that the wage statements furnished to him and  
6 other Jetro Employees do not include, for instance, the total hours worked by the employee, all  
7 applicable hourly rates in effect during the pay period and the corresponding number of hours worked  
8 at each hourly rate by the employee, the actual gross and net wages earned, and the pay period  
9 information for each wage statement. For instance, the wage statements furnished to Jetro Employees,  
10 including Plaintiff, do not include the applicable hourly rate and/or corresponding number of hours  
11 worked for night shift differential pay. The wage statements furnished also do not include Jetro  
12 Employees' rate of pay for overtime wages, sick and vacation leave, personal leave, and holiday  
13 earnings. The wage statements also do not include the night shift differential pay in the Jetro  
14 Employees' regular rate for overtime wages.

15         40. Due to the lack of information on the furnished wage statements, Jetro Employees, such  
16 as Plaintiff, are unable to promptly and easily determine the total number of hours worked, the  
17 applicable hourly rates in effect during the pay period and/or the corresponding number of hours  
18 worked at each hourly rate, among other things.

19         41. Plaintiff contends that Jetro has, and continues to have, a policy, practice, procedure,  
20 guideline, and/or culture of failing to keep and maintain accurate records reflecting, for example, all of  
21 Plaintiff's and other Jetro Employees' actual hours worked, meal periods taken, and wages earned and  
22 paid. For instance, Jetro had, and continues to have, a policy, practice, procedure, and/or guideline of  
23 failing to record the actual hours worked by Jetro Employees, including all meal periods, resulting in  
24 non-payment of earned wages and inaccurate wage statements. Moreover, Jetro had, and continues to  
25 have, a policy, practice, procedure, guideline, and/or culture of failing to include night shift differential  
26 pay into Jetro Employees' regular rate for purposes of computing overtime, resulting in inaccurate  
27 records of overtime wages earned and paid to Jetro Employees.

1           42.     Plaintiff contends that Jetro has, and continues to have, a policy, practice, procedure,  
2 and/or guideline of failing to furnish Jetro Employees, including Plaintiff, with a safe and healthful  
3 place of employment. For instance, Plaintiff alleges Jetro allows employees to smoke tobacco products  
4 inside the warehouse and other enclosed workplace areas. Plaintiff further contends that Jetro does not  
5 maintain working video surveillance at the warehouse to protect Plaintiff and other Jetro Employees  
6 who work late at night against violence, theft, and other harms.

7           43.     Plaintiff also contends that Jetro has, and continues to have, a policy, practice,  
8 procedure, and/or guideline of failing to correct unsafe and unhealthy conditions in the workplace  
9 caused by the COVID-19 pandemic. For example, Plaintiff alleges Jetro has failed to take protective  
10 measures during the pandemic, including, but not limited to, enforcing social distancing guidelines and  
11 ensuring all employees are wearing masks in the warehouse, particularly those employees working in  
12 the dock area.

13          44.     Plaintiff further alleges that Jetro did not, and does not, furnish him and other Jetro  
14 Employees with toilet and handwashing facilities that comply with California law. For instance,  
15 Plaintiff alleges Jetro provides toilet facilities that are not kept clean or maintained in good working  
16 order. Plaintiff also contends Jetro failed, and continues to fail, to provide enough toilet facilities for all  
17 Jetro Employees to use. Despite Plaintiff's numerous verbal complaints to managers about the  
18 unhygienic condition and lack of availability of the toilet facilities, Jetro failed to correct the unsafe  
19 situation as mandated by California law. Furthermore, Plaintiff alleges Jetro had, and continues to  
20 have, a policy, practice, procedure, guideline, and/or culture of illegally restricting access to toilet  
21 facilities by requiring Plaintiff and other Jetro Employees to use the toilet facilities exclusively during  
22 their meal and/or rest periods.

23          45.     Consequently, Jetro has failed, and continues to fail to perform its obligations to take  
24 any action reasonably necessary to protect the life, safety, and health of its employees as mandated by  
25 California law.

26          46.     On January 22, 2021, Plaintiff submitted written notice to the California Labor and  
27 Workforce Development Agency ("LWDA"), the California Division of Occupational Health and  
28 Safety ("DOHS"), and Jetro as required by the PAGA informing them of Jetro's alleged violations of

1 the Labor Code. A true and correct copy of the January 22, 2021 written notice is attached hereto as  
2 **Exhibit 1** and is incorporated herein by reference.

3 47. To date, the LWDA and the DOHS have not provided notice of whether they intend to  
4 investigate Plaintiff's alleged violations of the Labor Code.

5 48. Plaintiff further believes that additional violations may be discovered and therefore  
6 reserves his right to allege additional violations of the law as investigation and discovery warrants. In  
7 the event Plaintiff discovers additional violations, Plaintiff will seek to amend the operative complaint  
8 as necessary.

### 9 **DEFINITION OF PAGA CLASS**

10 49. By and through this representative action, Plaintiff intends to represent the following  
11 class of putative aggrieved employees, which is defined as:

12 All current or former non-exempt employees of Defendants, individually  
13 and/or collectively, in California during the period commencing on the  
14 date that is within one year and sixty-five days prior to the filing of this  
15 Complaint through and including the last date of trial (hereinafter the  
16 "PAGA Period"). To the extent that California Rules of Court, Appendix  
I, Emergency Rule 9 and/or equitable tolling operates to toll the claims by  
the PAGA class against Defendants, the PAGA Period should be adjusted  
accordingly.

17 50. Members of the PAGA class are all "employees" as the term is used in the Labor Code  
18 and the IWC Wage Orders regulating wages, hours, and working conditions in the state of California.

19 51. A more precise definition of the class may be determined after further investigation and  
20 discovery. Plaintiff reserves his right to redefine the class and/or create additional sub-classes as  
21 permitted by California law.

### 22 **PAGA DESIGNATION**

23 52. Plaintiff realleges and incorporates by reference, as though fully set forth herein, all  
24 paragraphs of this Complaint.

25 53. Pursuant to Labor Code § 2699, any provision of the Labor Code that provides for a  
26 civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,  
27 commissions, boards, agencies or employees for violation of the code may, as an alternative, be  
28 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and

1 other current or former employees pursuant to the procedures specified in Labor Code § 2699.3. Such  
2 civil penalties are in addition to any other relief provided for under the Labor Code and must be  
3 allocated seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the aggrieved  
4 employees, pursuant to § 2699(i).

5       54. During all, or a portion of, the one-year and sixty-five day period before Plaintiff filed  
6 notice of his claims with LWDA, Jetro was Plaintiff's and all other Jetro Employees' employer or  
7 person acting on behalf of Jetro Employees' employer, either individually or as an officer, agent, or  
8 employee of another person, within the meaning of Labor Code §§ 558(a) and 1197.1, who paid or  
9 caused to be paid to any employee a wage less than the minimum fixed by California state law, and as  
10 such, is subject to civil penalties for each underpaid employee, as well as liquidated damages pursuant  
11 to Labor Code § 1194.2, and any applicable penalties imposed pursuant to Labor Code § 203.

12       55. Plaintiff is an "aggrieved employee" under the PAGA because he was employed by the  
13 alleged violator, Jetro, and had one or more of the alleged violations committed against him, and  
14 therefore is properly suited to represent the interests of other Jetro Employees. (See *Huff v. Securitas*  
15 *Security Services, USA, Inc.* (2018) 23 Cal.App.5th 745, 751, 761; *Carrington v. Starbucks Corp.*  
16 (2018) 30 Cal.App.5th 504, 519.)

17       56. Plaintiff alleges that all other Jetro Employees are also "aggrieved employees" under  
18 the PAGA as Jetro employed them and all Jetro Employees experienced one or more of the alleged  
19 violations outlined herein.

20       57. Pursuant to Labor Code §§ 2698 *et seq.*, Plaintiff has exhausted his administrative  
21 remedies because he complied with the notice requirements outlined in Labor Code § 2699.3. On  
22 January 22, 2021, Plaintiff submitted notice to the LWDA, the DOHS, and Jetro informing them of the  
23 Jetro's alleged Labor Code violations pursuant to the PAGA. (See Exh. 1.) Pursuant to the PAGA, the  
24 LWDA and the DOHS had 65 days to provide notice of whether they intended to investigate the  
25 alleged violations. To date, the LWDA and the DOHS have not provided notice of whether they intend  
26 to investigate the alleged violations. Plaintiff thus has the right to pursue, and does pursue, his claims  
27 under PAGA in a representative capacity pursuant to Labor Code § 2699.

1           58.     As set forth herein, Jetro has committed, and continues to commit, numerous violations  
2 for which the Labor Code and applicable IWC Wage Order entitles Plaintiff, in his representative  
3 capacity, to recover, on behalf of himself, all other Jetro Employees, the state of California, and the  
4 general public, civil penalties as well as attorneys' fees and costs from Jetro for the alleged violations,  
5 described herein.

6           59.     Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for  
7 the initial violation, and \$200 per pay period, per employee for each subsequent violation for all Labor  
8 Code provisions for which a civil penalty is not specifically provided, including, but not limited to,  
9 Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1174(d), 1194, 1197, 1197.1, 1198, and  
10 6400 *et seq.* Plaintiff and other Jetro Employees are entitled to, and therefore seek, the civil penalties  
11 described in Labor Code § 2699(f) for the violations of law described herein.

12                               **CAUSES OF ACTION**

13                               **FIRST CAUSE OF ACTION**

14                   **(By Plaintiff in his Representative Capacity against Defendant and Does 1-50)**

15                               **PRIVATE ATTORNEYS GENERAL ACT OF 2004**

16                               [Labor Code §§ 2698 *et seq.*]

17           60.     Plaintiff realleges and incorporates by reference, as though fully set forth herein, all  
18 paragraphs of this Complaint.

19           61.     Plaintiff, in his representative capacity on behalf of himself and all other Jetro  
20 Employees, is entitled to and thus seeks to recover civil penalties through a representative action based  
21 on violations of the following Labor Code and/or IWC Wage Order provisions:

- 22                   a.     Failure to timely pay all minimum, regular, and/or overtime wages in violation of  
23                               Labor Code §§ 204, 210, 510, 1194, 1197, 1197.1, 1198, and the "Minimum  
24                               Wages" and "Hours and Days of Work" sections of the IWC Wage Order No. 7-  
25                               2001;
- 26                   b.     Failure to provide legally compliant meal periods and/or pay premium wages for  
27                               non-compliant meal periods in violation of Labor Code §§ 204, 226.7, 512, and  
28                               the "Meal Periods" section of the IWC Wage Order No. 7-2001;

- c. Failure to provide legally compliant rest periods and/or pay premium wages for non-compliant rest periods in violation of Labor Code §§ 204, 226.7, and the “Rest Periods” section of the IWC Wage Order No. 7-2001;
- d. Failure to timely pay all wages due and owing upon separation of employment and/or the necessary waiting time penalties in violation of Labor Code §§ 201-203 and 210;
- e. Failure to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 226.3, and the “Records” section of the IWC Wage Order No. 7-2001;
- f. Failure to maintain accurate records in violation of Labor Code §§ 226, 1174, 1174.5, and the “Records” section of the IWC Wage Order No. 7-2001; and
- g. Failure to maintain a safe and healthful place of employment in violation of Labor Code §§ 6400 *et seq.*

62. Labor Code § 210 provides that any person who fails to pay wages as provided in Labor Code §§ 201.3, 204, 204(b), 204.1, 204.2, 205, 205.5, and 1197.5 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25% of the amount unlawfully withheld, in addition to any other penalty. Plaintiff and all other Jetro Employees are entitled to, and do seek, such civil penalty.

63. Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation for violations of Labor Code § 226(a). Plaintiff and all other Jetro Employees are thus entitled to, and seek, the described civil penalty.

64. For violations of Labor Code §§ 510 and 512, in addition to any other recovery provided by law, Labor Code § 558 imposes a civil penalty of \$50 per pay period for each underpaid employee for the initial violation and \$100 per pay period for each underpaid employee for each subsequent violation of any section of Labor Code Division 2, Part 2, Chapter 1, or any provision

1 regulating hours and days of work in any order of the IWC.<sup>1</sup> Therefore, Plaintiff and all other Jetro  
2 Employees are entitled to, and do seek, the described civil penalty.

3         65. Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer's failure to  
4 maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100  
5 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a  
6 violation of Labor Code § 1174(d). Plaintiff, in his representative capacity, seeks the civil penalty  
7 imposed by Labor Code § 1174.5 on behalf of himself and all other Jetro Employees.

8         66. Labor Code § 1197.1 imposes a civil penalty of \$100 for each underpaid employee for  
9 each pay period for which the employee is underpaid and a subsequent civil penalty of \$250 for each  
10 underpaid employee for each pay period for which the employee is underpaid for paying or causing an  
11 employee to be paid a wage less than the minimum wage. Plaintiff and all other Jetro Employees are  
12 entitled to, and do seek, such civil penalty.

13         67. Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for  
14 the initial violation, and \$200 per pay period, per employee for each subsequent violation for all Labor  
15 Code provisions for which a civil penalty is not specifically provided, including, but not limited to,  
16 Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1174(d), 1194, 1197, 1197.1, 1198, and  
17 6400 *et seq.* Plaintiff and other Jetro Employees are entitled to, and therefore seek, the described civil  
18 penalty.

19         68. For violations of Labor Code §§ 6400 *et seq.*, Labor Code § 6317 permits California  
20 Division of Occupational Health and Safety to impose civil penalties against employers as specified in  
21 § 6423, which states the following:

22                 Every employer and every officer, management official, or supervisor  
23                 having direction, management, control, or custody of any employment,  
24                 place of employment, or of any other employee, who . . . (1) [k]nowingly  
25                 or negligently violates any standard, order, or special order, or any  
26                 provision of this division, or of any part thereof in. . . [i]s punishable by .  
27                 . . a fine not to exceed five thousand dollars (\$5,000).

28 <sup>1</sup> Plaintiff expressly disclaims the recovery of underpaid wages on behalf of himself and all other Jetro Employees.

1 Plaintiff and all other Jetro Employees are entitled to and therefore seek the civil penalties outlined in  
2 Labor Code §§ 6317 and 6423.

3 69. Labor Code § 2699(g)(1) provides that an employee who prevails in a civil action  
4 brought pursuant to PAGA shall be entitled to an award of reasonable attorneys' fees and costs. As  
5 such, Plaintiff, in his representative capacity on behalf of himself and all other Jetro Employees, is  
6 entitled to, and therefore seeks, attorneys' fees and costs.

7 70. Plaintiff, in his representative capacity on behalf of himself and all other Jetro  
8 Employees, is entitled to and seeks recovery of reasonable attorneys' fees as provided by Labor Code §  
9 218.5 and Code of Civil Procedure § 1021.5.

10 71. Plaintiff, in his representative capacity on behalf of himself and all other Jetro  
11 Employees, requests further relief as described in the below prayer for relief.

12 **PRAYER FOR RELIEF**

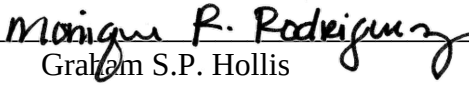
13 Plaintiff, in his representative capacity, prays for judgment against Defendants and in favor of  
14 the state of California, Plaintiff, and all other Jetro Employees as follows:

- 15 a. For any and all civil penalties available for the Labor Code violations alleged  
16 herein including, but not limited to, civil penalties under Labor Code §§ 210,  
17 226.3, 226(f), 558, 1174.5, 1197.1, 2699(f), 6317, 6423, and/or other applicable  
18 law;
- 19 b. For an order determining that Plaintiff is entitled to recover a civil penalty of \$100  
20 for each aggrieved employee per pay period for the initial violation and \$200 for  
21 each aggrieved employee per pay period for each subsequent violation as provided  
22 in Labor Code § 2699(f);
- 23 c. For reasonable attorneys' fees and costs of suit to the extent permitted by law,  
24 including, but not limited to, Labor Code §§ 210, 218.5, 218.6, 226(e), 226(h),  
25 558, 1194, 1194.2, 1197.1, 2699(g)(1), Code of Civil Procedure § 1021.5, and the  
26 "common fund" theory, the "substantial benefit" theory, and/or other applicable  
27 law;
- 28 d. For appropriate equitable relief pursuant to California law; and

e. For any and all other relief as this Court deems proper and just.

Dated: April 7, 2021

**GRAHAMHOLLIS APC**

By:   
Graham S.P. Hollis  
Vilmarie Cordero  
Hali M. Anderson  
Monique R. Rodriguez  
*Attorneys for Plaintiff Orlando Robles*

# **EXHIBIT 1**

January 22, 2021

**Attorneys at Law**

3555 Fifth Avenue Suite 200  
San Diego, California 92103  
619.692.0800 voice  
619.692.0822 fax

[www.grahamhollis.com](http://www.grahamhollis.com)

Monique R. Rodriguez  
mrodriguez@grahamhollis.com  
619.546.4373 direct

**VIA ONLINE ELECTRONIC FILING**

California Labor and Workforce Development  
Agency  
Attn: PAGA Administrator  
1515 Clay Street, Suite 801  
Oakland, CA 94612

California Division of Occupational Health and  
Safety  
1515 Clay Street, Suite 1901  
Oakland, CA 94612

**CERTIFIED MAIL (RETURN RECEIPT)**

Jetro Holdings, LLC  
1524 132nd Street  
College Point, NY 11356

Jetro Holdings, LLC  
c/o Cogency Global Inc.,  
Agent for Service of Process  
1325 J Street, Suite 1550  
Sacramento, CA 95814

**Re: Orlando Robles' Wage and Hour Claims Against Jetro Holdings,  
LLC**

Dear California Labor and Workforce Development Agency, California Division  
of Occupational Health and Safety, and Jetro Holdings, LLC:

Please be advised that Orlando Robles ("Claimant") has retained our  
firm, **GrahamHollis** APC, to represent him for various claims against Jetro  
Holdings, LLC (the "Company").

Please be advised that this letter shall serve as Claimant's written notice  
to the California Labor and Workforce Development Agency ("LWDA"), the  
California Division of Occupational Health and Safety, and the Company of the  
alleged California Labor Code ("Labor Code") violations Claimant claims that  
the Company committed against him and all other current or former non-exempt

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erik Dos Santos

Alex Kuner

Monique Rodriguez

Ridgeway Woulfe

employees of the Company who worked in California during the relevant statutory period. Claimant provides this notice, which includes the facts and theories to support his Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*, “PAGA”), Labor Code § 2699.3.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent himself and all other current or former non-exempt employees of the Company who worked in California during the relevant time period (referred to herein as the “Jetro Employees”). All Jetro Employees, including Claimant, are believed to have suffered at least one of the Labor Code violations described herein. Claimant contends that he and all other Jetro Employees are “aggrieved employees” as defined by the PAGA.

### **FACTUAL BACKGROUND**

Jetro Holdings, LLC is a holding company that owns, operates and/or manages thousands of companies nationwide, including Restaurant Depot, in the wholesale food industry. Jetro Holdings, LLC is organized in the state of Delaware and has its headquarters located in College Point, New York. Jetro Holdings, LLC is believed to own, operate, and/or manage Restaurant Depot, a wholesale cash and carry foodservice supplier with several locations in California and across the United States of America.

Claimant has been employed by the Company since September 8, 2009 at a Restaurant Depot location in San Diego, California. Claimant was initially employed as a forklift driver, but most recently has been employed as a stocker in the aisle department. As a stocker, Claimant’s job duties consist of removing products from pallets and placing items on shelves, maintaining clean aisles, identifying and correcting safety hazards, and providing excellent customer service, among other things. At all relevant times, Claimant has been classified as a non-exempt employee, earns an hourly rate of \$15.60 per hour and is paid on a biweekly basis. Claimant also earns night shift differential pay in the amount of seventy-five (75) cents for hours worked between 4:00 p.m. and Midnight. Claimant typically works five (5) days per week, Monday through Friday, from 3:00 p.m. to 11:30 p.m. Claimant works an additional day on Sunday every two weeks from 3:00 p.m. to 11:30 p.m.

Claimant contends that at all relevant times, the Company employed, and continues to employ, Jetro Employees in California in various non-exempt positions including, but not limited to, cashiers, loaders, order pullers, deli workers, freezer workers, and forklift drivers. Claimant also contends, based on information and belief, that all policies, practices, procedures and/or guidelines of the Company applicable to Claimant were also applicable to all other Jetro Employees throughout the relevant time period. Claimant further contends, based on information

and belief, that he and all other Jetro Employees suffered, and will continue to suffer, the same and/or similar violations of law described herein.

Claimant alleges that the Company denied, and continues to deny, Claimant and other Jetro Employees the specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Company failed, and continues to fail, to timely pay all minimum, regular, and/or overtime wages to all Jetro Employees, including Claimant; failed, and continues to fail, to provide Claimant and other Jetro Employees with legally compliant meal and/or rest periods and/or pay them compensation in lieu thereof; failed to timely pay former Jetro Employees all wages due and owing upon separation of employment and/or pay the required waiting time penalties; failed, and continues to fail, to furnish all Jetro Employees, including Claimant, with accurate itemized wage statements; failed, and continues to fail, to maintain accurate employment records; and failed, and continues to fail, to maintain a safe and healthful place of employment for Claimant and other Jetro Employees.

Claimant asserts that the Company has a policy, practice, procedure and/or guideline of not timely paying Jetro Employees all minimum, regular, and/or overtime wages for all time actually worked on the days designated in advance by the Company. For instance, Claimant and other Jetro Employees typically work after 4:00 p.m. Jetro Employees, such as Claimant, are to earn a night shift differential of seventy-five (75) cents for hours worked after 4:00 p.m. However, the Company failed to timely pay Claimant and, on information and belief, other Jetro Employees night shift differential pay for all hours worked after 4:00 pm. Additionally, the Company failed to pay Claimant and, on information and belief, other Jetro Employees for the time they spent working through their meal periods. Claimant contends that management frequently instructs Claimant and other Jetro Employees to perform work-related duties during their meal periods. Further, the Company illegally requires Claimant and other Jetro Employees to use the toilet facilities during their meal and/or rest periods. The Company improperly considers the work Claimant and other Jetro Employees performed during their meal periods as non-compensable time and failed to provide any remuneration. In addition, the Company failed, and continues to fail, to include the differential pay into Jetro Employees’ regular rate for purposes of computing overtime. Claimant contends that the Company has yet to pay him and, on information and belief, other Jetro Employees proper overtime wages. Therefore, the Company has failed to timely pay Jetro Employees, such as Claimant, all overtime wages no later than the payday for the next regular payroll period. Based on the foregoing, Claimant contends that he, and on information and belief, other Jetro employees were not timely paid all minimum, regular, and/or overtime wages for all hours worked on the days designated in advance by the employer and/or no later than the payday for the next regular pay period.

Claimant contends that the Company has a policy, practice, procedure and/or guideline of not providing Jetro Employees, including Claimant, with the opportunity to take 30-minute, off-

duty, uninterrupted meal periods that are free from the employer's control when they work more than six (6) hours in a day. Claimant also alleges that the Company has a policy, practice, procedure and/or guideline of not providing Claimant and other Jetro Employees with the opportunity to take a second 30-minute, off-duty, uninterrupted meal period that is free from the employer's control when they work more than ten (10) hours in a day. Claimant asserts that he and other Jetro Employees are not provided with the opportunity to take lawful meal periods because managers consistently request for Claimant and other Jetro Employees to perform work-related tasks during their meal periods. Moreover, the Company has a policy, practice, procedure and/or guideline of requiring Jetro Employees, including Claimant, to use the toilet facilities exclusively during their meal periods. Claimant further contends that due to the heavy workload, Claimants and other Jetro Employees were not provided with the opportunity to take a duty-free meal period prior to the end of their fifth hour of work. Consequently, Claimant and other Jetro Employees received meal periods that were late, interrupted by work duties, and/or less than thirty (30) minutes in length.

Claimant further alleges that the Company has a policy, practice, procedure and/or guideline of not authorizing and permitting Jetro Employees to take an off-duty, uninterrupted, 10-minute rest period for every four (4) hours worked or major fraction thereof. Claimant alleges that Jetro Employees, such as himself, were not authorized and permitted to take lawful rest periods because the Company has a policy, practice, procedure and/or guideline of requiring Claimant and other Jetro Employees to remain on the work premises at all times during their rest periods and to take their rest periods in a designated break room area inside the warehouse. Thus, Jetro Employees, including Claimant, were not free from the Company's control over how they spent their rest periods. Claimant also alleges that he and other Jetro Employees are directed by management to perform work-related tasks during their rest periods. Moreover, the Company has a policy, practice, procedure and/or guideline of requiring Jetro Employees, including Claimant, to use the toilet facilities exclusively during their rest periods. As a result, Claimant and other Jetro Employees received rest periods that were not free from the Company's control, interrupted by work duties, and/or less than ten (10) minutes in length.

Claimant asserts that the Company has a policy, practice, procedure and/or guideline of not timely paying premium wages for non-compliant meal and/or rest periods during the relevant time period. For instance, despite not regularly receiving legally compliant meal and/or rest periods as described herein, Claimant and, on information and belief, other Jetro Employees did not timely receive premium wages for unlawful meal and/or rest periods.

Claimant asserts that the Company has a policy, practice, procedure and/or guideline of not timely paying former Jetro Employees all wages due and payable upon separation of employment and/or the required waiting time penalties for the late payment of wages. For instance, the Company failed to timely pay former Jetro Employees all minimum, regular, and/or

overtime wages for all hours worked and meal and/or rest period premium wages, in part due to the aforementioned Labor Code violations. Claimant further contends, on information and belief, that former Jetro Employees have not yet received the required waiting time penalties for the Company's failure to immediately pay all wages due and owing upon separation of employment.

Claimant contends that the Company has a policy, practice, procedure and/or guideline of furnishing Jetro Employees, including Claimant, with wage statements that do not comply with California law. Claimant alleges that the wage statements furnished to Claimant and other Jetro Employees did not correctly show, and still do not correctly show, the information required by California law including, but not limited to, the total hours worked by the employee, all applicable hourly rates in effect during the pay period, including the proper overtime rate, and the corresponding number of hours worked at each hourly rate by the employee, the gross wages earned, and the net wages earned. For instance, the wage statements furnished to Jetro Employees, including Claimant, do not show the applicable hourly rate or corresponding number of hours worked for night shift differential pay (i.e. "Night Earnings"). The wage statements furnished also do not include the rate of pay for overtime, Night Earnings, sick and vacation leave, personal leave, and holiday earnings. Due to the missing and/or incorrect information, Claimant and other Jetro Employees were unable to promptly and easily determine the total number of hours worked or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Claimant attests that the Company has a policy, practice, procedure and/or guideline of not maintaining accurate employment records. The Company's illegal policies, practices, procedures and/or guidelines, such as those described herein, have resulted in the Company's failure to maintain accurate records reflecting Jetro Employees' actual time worked and actual wages earned and paid, among other things, in violation of California law.

Additionally, Claimant alleges that the Company failed, and continues to fail, to provide him and other Jetro Employees with a safe and healthful place of employment. For example, Claimant contends the Company permits employees to smoke tobacco products inside the warehouse and other enclosed workplace areas in violation of Labor Code § 6404.5 and California smoking regulations. Claimant also contends that the Company failed to maintain working video surveillance at the warehouse to protect Jetro Employees against violence, theft, and other harm, particularly since Claimant and other Jetro Employees work late at night. Thus, the Company violated Labor Code §§ 6401, 6403 and 6404 by failing to perform its obligations to take any action reasonably necessary to protect the life, safety, and health of its employees.

Claimant also alleges that the Company failed to provide Jetro Employees, including Claimant, with a safe and healthful place of employment during the COVID-19 pandemic. For instance, Claimant contends that the Company has not enforced social distancing guidelines;

does not ensure all employees are wearing masks, especially those employees working in the dock area of the warehouse; and has failed to take other protective measures during the pandemic. Accordingly, the Company failed to correct the unsafe and unhealthy conditions created by COVID-19 in a timely manner, and required its employees, including Claimant, to work in a place of employment that is not safe and healthful in violation of California law.

Moreover, Claimant contends that the Company does not provide Jetro Employees, including himself, toilet and handwashing facilities that are in compliance with California law. For example, Claimant alleges the toilet facilities provided by the Company are not kept clean or maintained in good working order. Claimant made several verbal complaints about the dirty and unhygienic condition of the toilet facilities to his managers, but the Company failed to remedy the unsafe situation in violation of California law. Moreover, the Company frequently fails to provide enough toilet facilities for Claimant and other Jetro Employees to use, especially if one of the three facilities provided is not in good working order. In addition, Claimant alleges the Company has a policy, practice, procedure, and/or guideline of improperly restricting access to the toilet facilities by requiring Jetro Employees, including Claimant, to use the toilet facilities exclusively during meal and/or rest periods, in violation of C.C.R., Tit. 8, § 3364.

Due to the foregoing Labor Code violations, the Company denied, and continues to deny, Claimant and other Jetro Employees certain rights afforded them under the Labor Code and the applicable IWC Wage Order. Claimant makes these claims against the Company on behalf of himself and all other Jetro Employees.

All facts, claims and/or legal theories contained within this written notice are alleged and/or asserted on behalf of Claimant and all other Jetro Employees. The facts and/or claims contained in this written notice are based on information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves his right to assert any and all related facts, claims, and/or theories discovered after the sending of this letter on behalf of himself and other current or former Jetro Employees against the Company and/or other persons that may be discovered after the sending of this letter. Such other persons include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Company, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Company, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained of herein, and those who were acting within the authority and/or scope of the Company. Claimant reserves the right to revise these facts and/or add any new claims by amending this letter and/or by adding facts and/or claims to his civil complaint.

///

**FAILURE TO TIMELY PAY ALL MINIMUM, REGULAR, AND/OR OVERTIME  
WAGES**

(Labor Code §§ 204, 210, 510, 1194, 1197, 1197.1, 1198 and 1199, and the “Minimum Wages” and “Hours and Days of Work” sections of IWC Wage Order No. 7-2001)

Labor Code § 204 establishes an employee’s fundamental right in the state of California to be paid wages in a timely manner for their work. Specifically, Labor Code § 204(a) states that all wages earned are due and payable twice during each calendar month on days designated in advance by the employer as regular pay days. Overtime wages are to be paid no later than the payday for the next regular payroll period. (Labor Code § 204(b)(1).) Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” (See *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal. App. 4th 36, 44 [providing that an employer may not pay “less than the applicable minimum wage for all hours worked in the payroll period, whether the remunerations is measured by time, piece, commission, or otherwise”].) The “Minimum Wages” section of IWC Wage Order No. 7-2001 further provides that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.”

Labor Code § 1198 states,

[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Labor Code § 1199 imposes “a fine of not less than one hundred dollars (\$100)” for any employer who violates the provisions set forth in Labor Code § 1198.

Labor Code § 510(a), which codifies an employee’s right to overtime compensation, provides:

Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be

compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

The “Hours and Days of Work” and “Minimum Wages” sections of IWC Wage Order No. 7-2001 mandate the same requirements as Labor Code § 510. Under California law, an employee may not waive his or her right to overtime compensation. (*Early v. Superior Court* (2000) 79 Cal. App. 4th 1420, 1430.)

Labor Code § 1197.1 states,

[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...

Labor Code § 1194(a) provides:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

Labor Code § 1194.2 allows for the recovery of liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon.

Labor Code § 210 states that, “every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Company has a policy, practice, procedure and/or guideline of failing to timely pay all minimum, regular, and/or overtime wages to Claimant and, on information and belief, other Jetro Employees for all hours actually worked on the date designated in advance by the Company as the regular pay day. For example, the Company requires Claimant and other Jetro Employees to work off-the-clock during meal periods without

compensation. Moreover, the Company did not pay night shift differential pay to Claimant and other Jetro Employees who performed work after 4:00 p.m. Further, the Company does not include shift differential pay in Jetro Employees' regular rate for purposes of calculating overtime compensation. Claimant will pursue all available remedies against the Company for its violations of the Labor Code on behalf of himself and all Jetro Employees to the extent permitted by law.

**FAILURE TO PROVIDE LEGALLY COMPLIANT MEAL  
AND/OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204, 226.7 and 512, and the "Meal Periods" section of IWC Wage Order No. 7-2001)

Labor Code § 512(a) provides:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In pertinent part, the "Meal Periods" section of IWC Wage Order No. 7-2001 states:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal is agreed to.

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived....

(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

A meal period generally comports with the requirements of California law if the employee has at least 30 minutes uninterrupted and the employee is relieved of any and all duty and is free to leave the premises during such time. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1036.) California law further prohibits employers from "...undermining [its] formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks." (*Id.* at 1040 [internal citations omitted].)

Pursuant to Labor Code § 226.7(c),

[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Labor Code § 204 establishes an employee's fundamental right in the state of California to be paid wages in a timely manner for their work. Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103-1114.)

As set forth above, the Company failed to provide Claimant and, on information and belief, other Jetro Employees with the opportunity to take uninterrupted, off-duty meal periods of

at least 30-minutes before the start of their sixth (6<sup>th</sup>) hour of work and/or a second off-duty 30-minute meal period when they worked in excess of ten (10) hours. Consequently, Claimant and other Jetro Employees are entitled to receive one-hour of premium wages for each day a compliant meal period was not provided. Claimant will pursue all available remedies against the Company for its violations of the Labor Code on behalf of himself and all Jetro Employees to the extent permitted by law.

**FAILURE TO PROVIDE LEGALLY COMPLIANT REST PERIODS  
AND/OR COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 204 and 226.7, and the “Rest Periods” section of IWC Wage Order No. 7-2001)

The “Rest Periods” section of IWC Wage Order No. 7-2001 provides:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes of net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.

During rest periods, California law requires employers to relinquish all control over their employees and relieve their employees of all duties. (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 273.)

In pertinent part, Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for workday that the meal or rest or recovery period is not provided.

Labor Code § 204 establishes an employee's fundamental right in the state of California to be paid wages in a timely manner for their work. Premium wages under Labor Code § 226.7 are wages that are due payable in accordance with the Labor Code § 204. (*Murphy, supra*, 40 Cal.4th at 1103-1114.)

As discussed herein, the Company failed to authorize and permit Claimant and, on information and belief, other Jetro Employees to take an off-duty, uninterrupted rest period of at least 10-minutes for every four hours worked or major fraction thereof. Therefore, Claimant and other Jetro Employees are entitled to receive one-hour of premium wages for each day a legally compliant rest period was not provided. Claimant will pursue all available remedies against the Company for its violations of the Labor Code on behalf of himself and all Jetro Employees to the extent allowed by law.

**FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION  
OF EMPLOYMENT**

(Labor Code §§ 201, 202, 203 and 210)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202 provides, in pertinent part,

[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

///

///

Labor Code § 203(a) further states,

[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.

Labor Code § 210 provides that, “every person who fails to pay the wages of an employee as provided in Sections 201.3...shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.”

As discussed herein, the Company violated these Labor Code sections by not timely paying to former Jetro Employees all minimum, regular, and/or overtime wages and/or meal and/or rest period premium wages, within the required time upon separation of their employment. The Company, on information and belief, also did not pay the required waiting time penalties for the late payment of wages. Thus, the Company violated California law. Claimant will pursue all available remedies against the Company for its violations of California law on behalf of himself and all former Jetro Employees to the extent allowed by law.

**FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226 and 226.3, and the “Records” section of IWC Wage Order No. 7-2001)

Labor Code § 226 states in pertinent part:

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid... (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number...(8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during each

period and the corresponding number of hours worked at each hourly rate by the employee...

Labor Code § 226(e)(1) provides:

An employee suffering injury as a result of knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand (\$4,000), and is entitled to an award of costs and reasonable attorneys' fees.

Labor Code § 226(h) states, "an employee may also bring an action for injunctive relief to ensure compliance with this section and is entitled to an award of costs and reasonable attorneys' fees." Labor Code § 226.3 imposes an additional civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee per violation for any subsequent violation on the employer for violations of Labor Code § 226(a).

As discussed above, the Company failed to furnish Claimant and other Jetro Employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements did not, among other things, include the total hours worked by the employee, all applicable hourly rates in effect during the pay period, including the proper overtime rate, and the corresponding number of hours worked at each hourly rate by the employee, the gross wages earned, and the net wages earned. Claimant will pursue all available remedies against the Company for its Labor Code violations on behalf of himself and all Jetro Employees to the extent permitted by law.

### **FAILURE TO MAINTAIN ACCURATE RECORDS**

(Labor Code §§ 226, 1174 and 1174.5, and the "Records" section of IWC Wage Order No. 7-2001)

Labor Code § 1174 requires every employer to "keep a recording showing the names and addresses of all employees employed..." Labor Code § 1174 further requires,

[e]very person employing labor in this state [to] keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily [] and the wages paid. Such records are to be kept according

to the rules established by the commission for such purpose and must be kept on file for no less than three years.

An employer is further obliged under Labor Code § 226(b) to keep the information required by Labor Code § 226(a) and afford current or former employees the right to inspect or copy records pertaining to their employment. The “Records” section of IWC Wage Order No. 7-2001 also provides that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

Labor Code § 226(e)(1) provides,

[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) [of Labor Code § 226] is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.

As set forth above, the Company violated its record keeping requirements by failing to accurately record employee hours actually worked, including, but not limited to, failing to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the actual wages earned and paid. Claimant will pursue all available remedies against the Company for its violations of the law on behalf of himself and all Jetro Employees to the extent allowed by law.

**FAILURE TO MAINTAIN A SAFE AND HEALTHFUL PLACE OF EMPLOYMENT**  
(Labor Code §§ 6400 *et seq.*)

Labor Code §§ 6400 and 6404 establish the obligation of an employer to furnish its employees with a place of employment that is safe and healthful. Labor Code § 6401 provides:

Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

(See also Labor Code § 6403 [prohibiting an employer from failing or neglecting to perform its obligations under Labor Code § 6401].)

Pursuant to Labor Code §§ 6401.7(b) and 6402, an employer is required to correct any unsafe and/or unhealthy condition in a timely manner and is further prohibited from permitting or requiring an employee to go or be in a place of employment that is not safe and healthful.

Claimant alleges that the Company failed to maintain a safe and healthful place of employment for Jetro Employees, including himself. For example, the Company failed to enforce California smoking regulations mandated by Labor Code § 6404.5 by permitting employees to smoke tobacco products in enclosed workplace areas. Moreover, the Company failed to maintain working video surveillance at the warehouse to protect Jetro Employees against violence, theft, and other harm at the workplace during night shifts.

Claimant further alleges that the Company failed to furnish Jetro Employees with a safe and healthful place of employment during the COVID-19 pandemic. For instance, Claimant contends that the Company failed to take protective measures during the pandemic, including, but not limited to, enforcing social distancing guidelines and ensuring that all employees, particularly those working in the dock area of the warehouse, are wearing masks.

Additionally, California law requires that employers provide separate toilet facilities for each sex. (C.C.R., Tit. 8, § 3364.) The number of facilities required is determined by the number of employees. (*Ibid.*) Toilet facilities are required to be kept clean, maintained in good working order and to be accessible to the employees at all times. (*Ibid.*) Hand washing facilities must also be provided and maintained in good working order. (C.C.R., Tit. 8, § 3366.) Critically, the California Division of Labor Standard Enforcement's Policies and Interpretations Manual explains that mandated rest periods should not be confused with or limited to breaks taken by employees to use toilet facilities. The DLSE explains on its website that "the 10-minute rest period is not designed to be exclusively for use of toilet facilities as evidenced by the fact that the Industrial Welfare Commission requires suitable resting facilities to be in an area 'separate from toilet rooms'." (See [https://www.dir.ca.gov/dlse/FAQ\\_RestPeriods.htm](https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm).)

Claimant contends that the Company has a policy, practice, procedure and/or guideline of only permitting Jetro Employees, including Claimant, to use the toilet facilities during meal and/or rest periods. The Company therefore improperly restricts the use of toilet facilities in violation of California law. Furthermore, Claimant alleges the toilet facilities provided by the Company are not kept clean, maintained in good working order, or accessible to all Jetro Employees, in violation of California law. The toilet facilities provided by the Company are often dirty and unhygienic. In addition, there are often not enough toilet facilities for all employees to use, especially if one of the three toilet facilities provided at the warehouse is not in good working order. Claimant has made several verbal complaints to management regarding the cleanliness and availability of the restrooms, but the Company has failed to correct the unsafe and unhealthy condition of the toilet facilities in a timely manner.

The Company has failed to provide maintain a safe and healthful place of employment for Jetro Employees, including Claimant. Claimant will pursue all available remedies against the Company for its violations of California law on behalf of himself and all Jetro Employees to the extent allowed by law.

**CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND APPLICABLE  
IWC WAGE ORDER**

(Labor Code §§ 210, 226(f), 226.3, 558, 558.1, 1174.1, 1197.1, 1198.5, 2699(f), 6317 and 6342)

Labor Code § 210 provides that any person who fails to pay wages as provided in sections 201.3 and 204 shall be subject to a civil penalty of \$100 for any initial violation for each failure to pay each employee and for each subsequent violation, or any willful or intentional violation \$200 for each failure to pay each employee, plus 25 % if the amount unlawfully withheld, in addition to any other penalty.

For violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

For violations of Labor Code § 226(c), Labor Code §§ 226(f) permits the current or former employee, or the Labor Commissioner, to recover a \$750 penalty from the employer.

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Labor Code Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: “[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. For each subsequent violation, one hundred

dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.”

Labor Code § 558.1(a) states that,

“[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.”

Pursuant to Labor Code § 558.1(b), Labor Code § 558.1(a) is applicable to the owners, officers, directors, or managing agents of the employer.

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203 as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to § 1194.2, and any applicable penalties imposed pursuant to § 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to § 203, recovered pursuant to this section shall be paid to the affected employee.

For violations of Labor Code § 1198.5, Labor Code § 1198.5(k) permits the current or former employee, or the Labor Commissioner, to recover a \$750 penalty from the employer.

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per employee for the initial violation and \$200 per pay period, per employee for each subsequent violation for all Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 1174(c), 1174(d), 1194, 1197, 1197.1, 1198, 6400 *et seq.* and relevant IWC Wage Orders.

For violations of Labor Code §§ 6400 *et seq.*, Labor Code § 6317 permits California Division of Occupational Health and Safety to impose civil penalties against employers as specified in § 6423, which states the following,

[e]very employer and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or of any other employee, who . . . (1) [k]nowingly or negligently violates any standard, order, or special order, or any provision of this division, or of any part thereof in. . . . [i]s punishable by . . . a fine not to exceed five thousand dollars (\$5,000).

Furthermore, employers that repeatedly violate “any standard, order, or special order, or provision of this division, or any part thereof in, or authorized by, this part, which repeated violation creates a real and apparent hazard to employees” are subject to “a fine not exceeding fifteen thousand dollars (\$15,000). . . . If the defendant is a corporation or a limited liability company, the fine may not exceed one hundred fifty thousand dollars (\$150,000).” Labor Code § 6423(d).

As set forth above, the Company violated the Labor Code and IWC Wage Order No. 7-2001 by failing to timely pay Claimant and Jetro Employees all regular, minimum, and overtime wages, and meal and rest period premium wages, as required under the Labor Code and the applicable sections of IWC Wage Order No. 7-2001. Furthermore, the Company violated the Labor Code by failing to furnish a place of employment that is healthful and safe. As a result, the Company is liable for civil penalties under the Labor Code and Claimant will pursue all available remedies, including but not limited to those stated herein, for the Company’s violations on behalf of himself and all Jetro Employees to the extent allowed by law.

///

**ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND  
PENALTIES**

(Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5 and 2698 *et seq.*)

Labor Code §§ 210, 218.5, 218.6, 225.5, 226(e), 558, 1194, 1194.2, 1197.1, 1198.5 and 2698 *et seq.*, among others, give employees, such as Claimant, the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

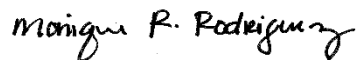
Pursuant to Labor Code § 2699(i) an aggrieved employee, such as Claimant, is entitled to collect 25% of the penalty assessment. Under Labor Code § 2699(g)(1) an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorney's fees and costs. Accordingly, the Company is liable for these items. Claimant has already incurred actual damages, costs and attorney's fees and he will continue to incur such costs as a result of the Company's unlawful actions. Claimant will pursue all available remedies against the Company, including those provided under the PAGA, on behalf of himself and other Jetro Employees to the extent permitted by California law for the violations of law described herein and those that may be later discovered.

**CONCLUSION**

Based on the foregoing, the Company has violated the Labor Code and IWC Wage Order No. 7-2001, thereby depriving Claimant and other Jetro Employees of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all Jetro Employees, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the California agencies decline to intervene or act within time prescribed by the PAGA, Claimant may elect to initiate and/or amend a civil action, on behalf of himself and all other Jetro Employees, as permitted by the PAGA.

Sincerely,



Monique R. Rodriguez