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Attorneys for Plaintiff Rafael Rivas, Jr., on behalf of other similarly aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER

RAFAEL RIVAS, JR., on behalf of other
similarly aggrieved employees,

Plaintiffs,

v.

PIPE RESTORATION, INC. DBA ACE
DURAFLO PIPE RESTORATION, an
active California Corporation; and DOES
1 through 10,

Defendants.

Case No.: 30-2021-01189254-CU-OE-CXC

REPRESENTATIVE ACTION

*[Assigned to Hon. William D. Claster
in Dept. CX-104]*

**DECLARATION OF ZORIK
MOORADIAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT,
AND PAYMENT OF ATTORNEYS'
FEES, COSTS, AND ENHANCEMENT
AWARD**

[FILED CONCURRENTLY WITH MOTION
FOR APPROVAL; DECLARATION OF
HAIK HACOPIAN; AND [PROPOSED]
ORDER]

Date: June 17, 2022

Time: 9:00 a.m.

Dept.: CX-104

Reservation Number: 73767131

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1 Packing/2;13-cv-04499 JAK-ss; Mendoza v. Accentcare/30-2013-00661891-CU-
2 OE-CXC; Nuno v. Universal Building Maintenance/BC541570; Cabrera v.
3 Complete Facilities Maintenance/BC538248; Valencia v. Rubbercraft/BC
4 535816; Fuentes v. Kamran Staffing/BC604535; Perez v. El Pollo
5 Loco/BC624001; Perez v. Quest Nutrition/BC630914; Escalante v. Friendly Hills
6 Country Club/BC640583; Serrano v. Noise Group/30-2017-00949440-CU-OE-
7 CXC; Bitton v. Sterling Jewelry, Inc./CIVDS1612665; Blandin v. Malibu Mgt.
8 Svcs., Inc./BC618629; Barrera v. Coast Composites, Inc./30-2017-00909572 CU-
9 OE-CJC; Aguilar v. Sweet Earth Café/19STCV13373; Balaguer v. Eminent,
10 Inc./19STCV16803; Avina v. Marriott/30-2017-00945551; Azpeitia v. Eden
11 Social Restaurants, Inc./30-2019-01077185; Balaguer v. Eminent,
12 Inc./19STCV16803; Barragan v. Golden Hotels Limited Partnership/30-2018-
13 01007420; Boch v. Merchants Building Maintenance/BC681320; Bueno v. Proto
14 Homes/19STCV20011; Cardenas v. Intercon Security/19STCV11259; Castillo v.
15 Robert's Waste/30-2018-01027486; Castro v. Bee Gee Laboratories/BC712857;
16 Contreras Teo v. Golden State Foods/BC708535; Contreras Teo v. Golden State
17 Foods/BC722540; Corona v. Del Amo Hospital/19STCV24741; Cruz Ventura v.
18 WSON-55/19STCV22958; Cruel v. Andreas Elsenhans/19STCV35496;
19 Espinoza v. Don Chava Mgt./19STCV27068; Galvan v. Property Mgt.
20 Associates/BC722781; Godoy v. UCLA/19STCV04634; Gonzalez v. Toyon
21 Catering, Inc./19STCV11369; Alvarez v. Greenfield Care Center of Fullerton,
22 LLC/30-2017-00958478; Gutierrez v. Anaheim Denn/30-2019-01092546;
23 Guzman v. Millennium Shoes/19STCV33166; Hernandez v. Township Retail
24 Services/18STCV06709; Hernandez v. Resource Employment Solutions/30-
25 2019-01084740; Herrera v. Color Spot Nurseries/30-2017-00933249; Leon v.
26 Island Hospitality Mgt./30-2019-01060719; Martinez v. Snakerz/19STCV02674;
27 Mendoza v. Savage Service Corp./18STCV04798; Martinez v. Riviera
28 Beverages/ 30-2019-01056796; Gonzalez v. FMS Management/30-2019-
01065563; Morales Cano v. Coordinated Staffing/19STCV29817; Moreno v.

1 DCX-CHOL Enterprises/19STCV19105; Moreno v. DCX-CHOL
2 Enterprises/19STCV26247; Contoran Najera v. TOPH I, LLC/30-2018-
3 00999474; Nunez v. Wonderland Montessori, LLC/18STCV06042; Olmos v.
4 Mall Food Mgt. Associates/30-2019-01096292; Pallares - Mercado v. MB Santa
5 Ana Restaurants/30-2019-01047135; Perez v. First Rate Staffing/18STCV02057;
6 Popoca v. Denim Technologies/ 19STCV11434; Reidy v. City of
7 Inglewood/18STCV09373; Rosales v. DBR Premium/19STCV32726; Salceda v.
8 GBG USA, Inc./ 18STCV10004; Salceda v. GBG USA, Inc./ 18STCV04778;
9 Torres v. Metro Security/19STCV21114; Torres v. Metro
10 Security/19STCV15680; Trujillo v. Securitas Security Services/19STCV01207;
11 Villacana v. Crothall Laundry Services, Inc./19STCV16330; and Villareal v.
12 Golden Touch Cleaning/30-2019-01108777.

13 5. I am familiar with California wage and hour law and the laws governing the
14 alleged violations in this matter, including but not limited to California Labor Code Sections
15 201– 203, 226, 226.7, 510, 512, 1194, 1194.2, 2698 and 2802, California Business and
16 Profession Codes 17200 *et. seq.*, the Orders of the Industrial Welfare Commission, and the
17 Private Attorneys General Act.

18 6. Defendant Pipe Restoration, Inc. is a specialty plumbing contractor that
19 primarily provides plumbing restoration and repair services that are billed as more affordable
20 and less intrusive alternative to pipe removal and installation. Defendant services residential
21 as well as commercial properties and operates out of its headquarters located in 3122 W
22 Alpine Street in Santa Ana, California.

23 7. Defendant's services typically entail travel by different teams of employees to
24 the various job sites on a daily basis. Defendant services locations in Orange, Los Angeles,
25 Ventura, and San Diego counties. Employees also travelled to job sites in their personal
26 vehicles. At the Santa Ana depot each day, the company vehicles would be prepared before
27 travel to job sites, including the loading of tools and necessary supplies. Electronic time
28 clocks were accessed by employees in the company vehicles.

1 8. Based on the records produced by Defendant, it employed 47 employees
2 during the March 15, 2020, through October 22, 2021, time period who worked 977 pay
3 periods. Defendant has produced time punch records, Plaintiff's personnel file and payroll
4 records inclusive of itemized wage statements, examples of employee expense
5 reimbursements, examples of written employee counseling for not taking meal periods in
6 compliance with Defendant's written policy, a memorandum to employees regarding the
7 importance of taking meal periods in compliance with Defendant's policy, and relevant
8 portions of their operative employee handbook including, but not limited to, expense
9 reimbursement, meal period, and rest break policies.

10 9. Plaintiff filed the instant lawsuit as a putative wage and hour class action
11 against Defendant on March 15, 2021. On that date as well, Plaintiff communicated a PAGA
12 notice to Defendant and thereafter to the LWDA. Upon submission to the LWDA, Plaintiff's
13 PAGA claim was assigned Case No. LWDA-CM-826101-21. The notice was supplemented
14 on March 8, 2021.

15 10. On November 23, 2021, the Parties engaged in mediation before an esteemed
16 mediator with significant employment law experience, Lynn S. Frank, and agreed to
17 settlement of PAGA claims against Defendant on that date. The settlement also contemplated
18 dismissal of class allegations and amendment of the PAGA claim. Ultimately, a long-form
19 written settlement agreement was entered into.

20 11. As well, at the mediation, the Parties agreed to settlement of Plaintiff's
21 individual claims for \$45,000.

22 12. On January 7, 2022, Plaintiff communicated the second supplement to his
23 initial PAGA notice. True and correct copies of Plaintiff's PAGA Notices are attached hereto
24 as **Exhibit 1**.

25 13. On April 6, 2022, pursuant to a stipulation and order granting Plaintiff leave
26 to do so and in furtherance of the settlement, Plaintiff filed the operative First Amended
27 Complaint adding a cause of action for civil penalties under PAGA and dismissing class
28 allegations, which was communicated to the LWDA after filing as required.

1 14. This lawsuit has involved production of relevant documents and employee
2 data. Specifically, Defendant produced complete electronic time punch records for aggrieved
3 employees from which 8,609 daily shifts were gleaned. Defendant also produced relevant
4 excerpts of its employee handbook bearing upon the various issues covered by the PAGA
5 claim. In addition, Defendant provided responses to informal discovery requests which
6 included information relating to rounding and compensation practices as related to employee
7 travel, the number of pay periods implicated (977), and number of aggrieved employees (47)
8 during the PAGA limitations period spanning from March 15, 2020, through October 22,
9 2021. Notably, Plaintiff learned that although Defendant maintained time rounding that
10 overpaid employees in excess of approximately 38 hours during the March 15, 2020 to
11 February 28, 2021 time period, Defendant nevertheless ceased rounding of employee hours
12 as of March 1, 2021, ostensibly as a consequence of Plaintiff's communicated intent to pursue
13 claims. Further, Plaintiff's complete personnel file was produced which included Plaintiff's
14 earnings statements which Defendant indicated were representative of the earnings
15 statements for all aggrieved employees. This information was sufficient for assessment of
16 both liability and potential damages available to aggrieved employees as to Plaintiff's
17 asserted claims. All documents have been reviewed and assessed by Plaintiff in conjunction
18 with investigation of the operative facts and applicable law. Further, Plaintiff is unaware of
19 any other pending actions that overlap with this lawsuit or settlement. A search on the
20 LWDA's PAGA database online under Defendant only reveals the subject PAGA claim.

21 15. The Parties' settlement allocates \$215,000 for settlement of the Released
22 PAGA Claims. After allocated attorneys' fees of \$71,666.67, requested costs of \$9,560.48,
23 \$4,500 for settlement administration expenses, and \$3,000 for an incentive award, 75% of
24 the net, or \$94,704.64 will be paid as the LWDA's 75% share of PAGA penalties, and
25 \$31,568.21 will be payable to Aggrieved Employees. The amount payable to Aggrieved
26 Employees will be allocated on a pro-rata basis determined by the number of pay periods
27 each such Aggrieved Employee worked for Defendant during the PAGA Period from March
28 15, 2020 through the date of approval, and which is expected to result in an average employee

1 payment in excess of \$500. The Gross Settlement Amount is for civil penalties only and does
2 not include any individual relief under Labor Code Section 558(a)(2-3). The Settlement
3 Agreement does not act as a waiver to any employee's individual claims for individual relief.
4 A true and correct copy of the Stipulation and Agreement for PAGA Representative Action
5 Settlement ("Settlement Agreement") is attached hereto as **Exhibit 2**.

6 16. Defendant maintained a policy of only paying the drivers of company
7 vehicles. Employees not assigned as driver were required to clock in when work began at the
8 jobsite. The claim was initially predicated on Defendant maintaining a requirement that
9 employees travel to work sites in company vehicles and that such time should be compensated
10 and that employees performed some off-the-clock work in preparing the vehicles when they
11 arrived at the depot to hitch their ride. It became apparent, however, that Defendant
12 maintained no such requirement and employees were free to travel to work sites in their own
13 vehicles. Employees also had the option of commuting to the company's depot in Santa Ana
14 and hitch a ride to the job site but they were not expected to perform any work until arriving
15 at the job site, unless they were specifically assigned to preparation duties at the depot.
16 Moreover, to the extent any employee hitching a ride ended up driving, they would be paid
17 for that time. The situation is akin to an employer providing optional bus transportation and
18 would not fall under the California Supreme Court's decision in *Morillion v. Royal Packing*
19 *Co.*, where employers must pay for "compulsory travel time"—time employees spend
20 traveling on and waiting for transportation required by an employer. (2000) 22 Cal.4th 575.

21 17. Plaintiff's theory for meal and rest break violations was based around the
22 circumstances of Defendant's business model's failure to accommodate compliant breaks.
23 Namely, that Defendant's offer of prompt plumbing remediation services imposed time
24 demands on employees. The nature of the work restricted ability to stop work due to the time
25 delays in turning on/engaging or disengaging the compressor machine used to maintain air
26 pressure flow in the piping for safety purposes. While the compressor machine was on, the
27 employees were restricted from taking timely breaks. Defendant, however, maintained that
28 each job was sufficiently staffed to permit the taking of timely and proper meal and rest

1 breaks by each employee and that any breaks not taken were purely due to employee choice.
2 Also, that the forepersons at job sites were trained to properly relieve employees for their
3 breaks including knowing when to properly wind down a project to permit commencement
4 of meal breaks before the fifth hour. Defendant also maintained a compliant written meal and
5 rest break policy in its handbook that allowed for off-duty meal breaks, allowed second meal
6 breaks and their waiver, and included a chart for the proper frequency and timing of breaks
7 relative to hours worked. In addition, Defendant distributed additional documents to its
8 employees reminding them of Defendant's meal period policy and issued written counseling
9 to its employees to the extent its employees failed to adhere to Defendant's compliant meal
10 period policy. Ultimately, it would be difficult to conclusively establish whether any
11 particular missed meal break was due to an employee's choice to forego a break, a missed
12 punch, or employer coercion affecting potential triability of the claim.

13 18. Plaintiff claimed that on occasion, an employee would report to work for a
14 scheduled job, including travelling directly to a job site, only to be told that a job was
15 cancelled or that they were not needed. As to those instances, Defendant failed to provide
16 reporting time pay at an employee's regular rate for at least half of their usual or scheduled
17 day's work. Defendant represented that although job cancellations did occur, it promptly and
18 sufficiently notified employees to avoid them arriving at a cancelled job's site. Arguing as
19 well, Defendant held that to the extent any job was cancelled, employees would be routed to
20 other projects to complete their day or work at the company depot. Defendant claimed that a
21 situation where an employee arrived at work to be turned away would be extremely rare
22 considering the safeguards it had in place. Further, the absence of records reflecting a
23 reporting time situation makes it difficult to evaluate this claim as no time clock event would
24 be logged.

25 19. Defendant maintained a sick time policy that accrued sick time immediately
26 upon hire up to 6 days a year. Plaintiff claimed that Defendant engaged in the practice of
27 exhausting an employee's available vacation balance before an available sick leave balance
28 to the extent an employee was out sick. That practice reduced the availability of accrued

1 vacation pay which would be available to an employee upon separation. Defendant
2 maintained that it did not engage in such a practice and always exhausted a sick leave balance
3 to the extent it was made aware that an employee was out sick and that employees may opt
4 to use accrued vacation only to the extent sick time was exhausted.

5 20. Plaintiff claimed that Defendant should reimburse the mileage employees
6 incurred for driving directly to job sites in their personal vehicles. As Defendant did not
7 require this and the driving would be a regular commute, no mileage reimbursement would
8 thus be owed. To the extent reimbursable mileage was incurred by employees, Defendant
9 contends it properly reimbursed its employees and provided example documents of employee
10 reimbursements.

11 21. Plaintiff also claimed that Defendant failed to reimburse employees to the
12 extent they used their own tools. Defendant countered that it never required employees
13 provide their own tools or equipment and that all items necessary for a particular job were
14 made available to employees and were available in the company vehicles at the job sites. To
15 the extent that any additional equipment was necessary midstream, Defendant would
16 promptly deliver such equipment to the job site.

17 22. The wage statements issued to employees were facially compliant with the
18 requirements of Labor Code Section 226. This claim is therefore derivative of unpaid wage,
19 meal, and rest break violations. It has been held that Section 226 penalties cannot be premised
20 on meal or rest break violations. *Naranjo v. Spectrum Sec. Servs.* (2019) 40 Cal.App.5th 444
21 (review granted) (“we hold that section 226.7 actions do not entitle employees to pursue
22 derivative penalties in sections 203 and 226”). As such, Plaintiff does not expect recovery
23 around any wage statement violation.

24 23. The 47 aggrieved employees employed from March 15, 2020 through October
25 22, 2021, worked 977 pay periods. The potentially available maximum penalties will vary
26 depending on the methodology employed including whether violations may be stacked.
27 Assuming at least one violation across all of the workweeks stacked across six different
28 claims and assessment of a \$100 initial penalty for the 47 pay periods preceding the initial

1 March 15, 2020 PAGA notice and a \$200 subsequent penalty for the remaining 930 pay
2 periods results in maximum available penalties \$3,432,600. In light of the strong defenses
3 and the high likelihood of a large discretionary reduction to the extent any penalties are
4 assessed, Plaintiff values the PAGA claim at 10% of the maximum penalty amount, or
5 \$343,260. Significantly, that given this particular employer, a small penalty award would
6 likely be a sufficient deterrent to further violations. Based on the foregoing, a \$215,000
7 settlement represents more than a 50% recovery based on the realistic value of Plaintiff's
8 PAGA claims against this Defendant, which is an excellent result. Net payment to the LWDA
9 for its share 75% of penalties calculates to \$94,774.14 which is considerable and the
10 remaining 25% allocation to employees is expected to result in an average recovery
11 exceeding \$500.

12 24. My office is seeking recovery of \$71,666.67 in attorneys' fees, which is one-
13 third of the \$215,000 common fund recovery. This amount reflects a modest 1.37 multiplier
14 on the lodestar incurred by two attorneys of Mooradian Law, APC which totals \$52,129.50.
15 The incurred fees are necessary and reasonable. Significantly, these fees are contingent in
16 nature for my office and are less than the 40% retainer agreement agreed to by Plaintiff Rivas
17 Jr. as to his individual claims.

18 25. In my experience, a gross PAGA settlement of \$215,000 is more than fair,
19 reasonable, and adequate settlement in light of the strength of the claim, Defendant's
20 defenses, and the strong possibility there would be no recovery without this settlement. Even
21 if Plaintiff were to prevail on the underlying claim, he would face the potential of
22 discretionary reduction of maximum penalties by the Court and reported cases reflect
23 reductions in the 75 to 85% range. This case represents an excellent recovery of \$94,775.14
24 in penalties by the LWDA for claims affecting around 50 employees and around 1,000 pay
25 periods. Moreover, employees are expected to collect, on average, in excess of \$500 each,
26 which is consistent with a potential class recovery for the asserted claims.

27 26. I have worked on this matter since January of 2021. During this period my
28 billing rate was \$650 per hour. My loadstar readily calculates to 50 hours on this matter. This

includes minimums for: 8 hours for participation at the full-day mediation session, 7 hours for mediation related preparation including work on Plaintiff's mediation brief and damage analysis, 4.5 hours for intake and consultations, 3 hours for research into Defendant, the scope of its operations, and claims to assert, 5.5 hours relating to work on pleadings and PAGA notices, 4 hours for communications with defense counsel including review and responses to email correspondence, 4 hours related to pre-litigation letters, related follow up, and review of client and employer documents, and 4 hours related to finalizing the settlement including review of the settlement agreement and work on this motion, 3 hours related to office meetings with my staff and co-counsel concerning the case, 2 hours related to case calendaring work, and at least an additional 5 hours of work I expect to perform on the file through conclusion, including a potential appearance at the approval hearing. Thus, my loadstar calculates to \$32,500. My firm does not have any fee-splitting agreement with other counsel for this matter.

27. Costs I am seeking to recover \$9,179 are for the following: \$1,585 for lawsuit filing fees, \$7,500 for Plaintiff's share of mediation costs, and \$94.00 for CourtCall appearance fee.

Executed on May 20, 2022, in Calabasas, California.

Zorik Mooradian
Zorik Mooradian

EXHIBIT “1” – PAGA NOTICES

MOORADIAN LAW, APC

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Calabasas, California 91302

Mooradianlaw.com

Telephone 1-818-487-1998

Facsimile 1-888-783-1030

HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

MARCH 15, 2021

VIA USPS CERTIFIED MAIL

Pipe Restoration, Inc.
dba Ace Duraflo Pipe Restoration
3122 W. Alpine Street
Santa Ana, CA 92704
7019 0700 0002 2582 8359

Cogency Global Inc.
Agent for Service of Process
for Pipe Restoration, Inc.
1325 J Street, Suite 1550
Sacramento, CA 95814
7019 0700 0002 2582 8366

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Pipe Restoration, Inc. dba Duraflo Pipe Restoration

To Whom It May Concern:

This office represents Rafael Rivas, Jr. with respect to Private Attorneys General Act ("PAGA") claims that he intends to pursue against Pipe Restoration, Inc. dba Duraflo Pipe Restoration ("PIPE RESTORATION") based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

PIPE RESTORATION is engaged in the business of residential and commercial plumbing repair and restoration services. Mr. Rivas worked as a non-exempt employee of PIPE RESTORATION in California and was based out of PIPE RESTORATION's warehouse and headquarters in Santa Ana, California. PIPE RESTORATION employs numerous non-exempt, hourly paid employees such as Mr. Rivas in California. Unfortunately, PIPE RESTORATION has engaged in the following practices:

Failure to Pay Wages

PIPE RESTORATION implemented the policy and practice of failing to pay employees for all hours worked. Employees were not paid for the time they spent travelling to job sites from PIPE RESTORATION's warehouse in company vehicles. Employees were only allowed to clock in upon arrival at job sites. Employees were also not paid for the time they spent separately commuting to job sites. Additionally, employees were not paid for the time they were required to remain at PIPE RESTORATION's warehouse and engage in preparation work, or wait for preparation work to be completed, before boarding company vehicles to travel to job sites. As employees clocked out at the job site and travelled back to the warehouse at the end of the day, this time spent travelling in the company vehicles was also off-the-clock and uncompensated. To the extent an employee was clocked out and performed post-shift work at the warehouse upon arrival, it was also off-the-clock and uncompensated. Furthermore, employees were not compensated to the extent they reported to work as scheduled, or otherwise required, because they were turned away. The foregoing practice resulted in underpayment of wages, including underpayment of overtime and double-time to the extent applicable.

Meal Breaks

PIPE RESTORATION engages in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. PIPE RESTORATION failed to regularly provide the required meal break within five hours of work including non-provision of off-duty meal breaks lasting at least thirty (30) minutes. Notably, PIPE RESTORATION failed to track the timing of meal breaks. Significantly, employees did not receive premium pay for missed or improper meal breaks.

Rest Breaks

PIPE RESTORATION engages in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees were not always afforded an opportunity to take rest breaks every four hours, or major fraction thereof, they worked. Significantly, employees did not receive premium pay for missed or improper rest breaks.

Reporting Time

Mr. Rivas and other employees were required to report to work and did report to work only to be told that business was light, a job had been cancelled, and/or they weren't needed or no longer needed, and they were sent home but they did not receive their regular rate of pay for at least half of their usual or scheduled day's work but in no event less than two hours. Additionally, reporting

time that was not paid included the days during which an employee reporting to work as required, only to be terminated and turned away upon arrival.

Unpaid Vacation Wages and Sick Pay

PIPE RESTORATION maintained a vacation accrual and payment policy for employees and separate sick pay benefit for employees. PIPE RESTORATION engaged in the practice of withdrawing from an employee's vacation balance to the extent an employee was out sick when withdrawal should have been from an employee's available sick leave balance. This resulted in a lower vacation pay balance that would otherwise be available to an employee thereby reducing any vacation payout upon termination. PIPE RESTORATION had incentive to exhaust any vacation balance as sick leave accrual is not payable upon termination. Additionally, vacation pay did not accrue on the unpaid off-the-clock time described above.

Waiting Time

At the time of an employee's separation (whether it be by termination or resignation) PIPE RESTORATION has failed to provide the employee with all monies owed, including reporting time pay and unpaid wages for work performed, including overtime and double-time wages to the extent applicable, meal and rest break premium wages, and vacation and sick pay.

Noncompliant Wage Statements

PIPE RESTORATION has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to including reporting time pay, meal and rest break premium wages, and vacation and sick pay.

Additional Penalties

Mr. Rivas and all other similarly aggrieved California employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which PIPE RESTORATION has violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: PIPE RESTORATION violated, and continues to violate, Labor Code Section 201 by failing to pay the employees it has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination

include uncompensated work time, including overtime and double-time as applicable, meal and rest break premiums and reporting time pay.

Labor Code Section 202: PIPE RESTORATION violated, and continues to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: PIPE RESTORATION violated, and continues to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Section 204: PIPE RESTORATION violated, and continues to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above.

Labor Code Section 226: PIPE RESTORATION violated, and continues to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: PIPE RESTORATION violated, and continues to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 227.3: PIPE RESTORATION violated, and continues to violate, Labor Code Section 227.3 by failing to promptly pay all vested vacation benefits to terminated employees.

Labor Code Section 246: PIPE RESTORATION violated, and continues to violate, Labor Code Section 246 by failing to afford employees, who have been employed for thirty (30) or more days, with paid sick leave.

Labor Code Section 510: PIPE RESTORATION violated, and continues to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law.

Labor Code Section 512: PIPE RESTORATION violated, and continues to violate, Labor Code Section 512 by not providing aggrieved employees with legally compliant meal periods.

Labor Code Section 1194: PIPE RESTORATION violated, and continues to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

8 Cal Code Regulations §§ 11010-11160: PIPE RESTORATION violated, and continues to violate, the applicable Wage Order by failing to pay employees their regular rate of pay for at least half of their usual or scheduled day's work, but in no event less than two hours, to the extent an employee was turned away after reporting to work as requested or required.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we intend to file an appropriate action pursuant to Labor Code Section 2698 *et seq.* Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,

MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

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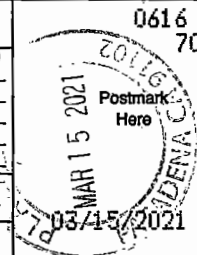
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Sacramento, CA 95814

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Sent To *COGENCY GLOBAL INC. Agent for Service of Process for PIPE RESTORATION, INC.*
 Street and Apt. No., or PO Box No. *1325 S STREET, SUITE 1550*
 City, State, ZIP+4® *SACRAMENTO, CA 95814*

PS Form 3800, April 2015 PSN 7530-02-000-9047

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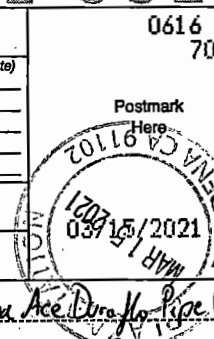
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24007 Ventura Blvd., Suite 210

Calabasas, California 91302

Mooradianlaw.com

Telephone 1-818-487-1998

Facsimile 1-888-783-1030

HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

MARCH 18, 2021

VIA USPS CERTIFIED MAIL

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dba Ace Duraflow Pipe Restoration
3122 W. Alpine Street
Santa Ana, CA 92704
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Cogency Global Inc.
Agent for Service of Process
for Pipe Restoration, Inc.
1325 J Street, Suite 1550
Sacramento, CA 95814
7019 0700 0002 2582 8373

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Pipe Restoration, Inc. dba Duraflow Pipe Restoration
LWDA Case No. LWDA-CM-826101-21

To Whom It May Concern:

As you are aware, this office represents Rafael Rivas, Jr. with respect to Private Attorneys General Act ("PAGA") claims that he intends to pursue against Pipe Restoration, Inc. dba Duraflow Pipe Restoration ("PIPE RESTORATION") based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter will serve to supplement the notice communicated on March 15, 2021, as required by Labor Code Section 2699.3.

Facts

In addition to the practices notified of in the March 15, 2021 notice, PIPE RESTORATION has engaged in the following practices as to its non-exempt employees:

Failure to Reimburse Business Expenses

PIPE RESTORATION required that non-exempt employees use their personal vehicles to travel to and from various job sites during the workday. PIPE RESTORATION, however, offered

and paid no reimbursement, including any mileage reimbursement, for such work related vehicle use.

Additionally, PIPE RESTORATION provided employees with uniforms which bore the company name and logo and required that they be worn during working hours. These uniforms were maintained by employees, however, PIPE RESTORATION offered and paid no reimbursement for employee maintenance of these uniforms including reimbursement for laundering expenses.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which PIPE RESTORATION has further violated, applicable to the above noted violations, are as follows:

Labor Code Section 2802: PIPE RESTORATION violated and continues to violate, Labor Code Section 2802 by failing to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we intend to file an appropriate action pursuant to Labor Code Section 2698 *et seq.* for the above claim as well, which supplements the claims set forth in the notice letter communicated on March 15, 2021. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian
HAIK HACOPIAN

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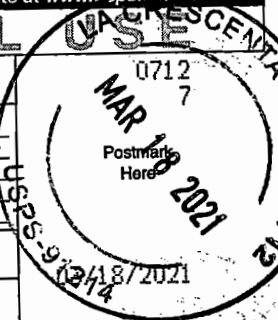
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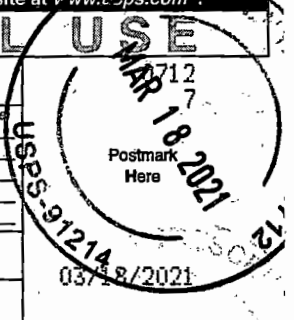
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MOORADIAN LAW, APC

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HAIK HACOPIAN

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JANUARY 7, 2022

VIA USPS CERTIFIED MAIL

Pipe Restoration, Inc.
dba Ace Duraflow Pipe Restoration
3122 W. Alpine Street
Santa Ana, CA 92704
7019 0160 0000 9187 4762

Cogency Global Inc.
Agent for Service of Process
for Pipe Restoration, Inc.
1325 J Street, Suite 1550
Sacramento, CA 95814
7019 0160 0000 9187 4779

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Pipe Restoration, Inc. dba Duraflow Pipe Restoration
LWDA Case No. LWDA-CM-826101-21

To Whom It May Concern:

As you are aware, this office represents Rafael Rivas, Jr. ("Rivas Jr." or "Plaintiff") with respect to Private Attorneys General Act ("PAGA") claims that he is pursuing against Pipe Restoration, Inc. dba Duraflow Pipe Restoration (hereinafter "PIPE RESTORATION") based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter will serve to supplement and amend the notices communicated on March 15, 2021 and March 18, 2021 ("Initial Notice Letters"), as required by Labor Code Section 2699.3. Copies of the Initial Notice Letters are attached as **Exhibit A** and incorporated by reference as if set forth here in its entirety.

The purpose of this notice is to comply with the PAGA, pursuant to California Labor Code § 2698 *et seq.*, regarding violations of applicable employment laws and the California Labor Code including §§ 201-204, 221, 226, 226.7, 227.3, 246, 247.5, 248.5, 510, 512, 558, 1174, 1174.5,

1194, 1194.2, 1197, 1197.1, and 2802, as set forth in the Initial Notice Letters and this supplemental notice.

In addition to the practices and violations notified of in the Initial Notice Letters, PIPE RESTORATION has engaged in the following additional practices as to its non-exempt employees:

Failure to Pay the Regular Rate

PIPE RESTORATION engages in the practice of not calculating relevant wages in accordance with Plaintiff's and other aggrieved employees' regular rate of compensation and that, at all times, calculated wages at Plaintiff's and other aggrieved employees' base hourly rate. Specifically, Section 226.7 of the Labor Code requires employers to pay an additional one 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. PIPE RESTORATION, however, made any such payments at Plaintiff's and other aggrieved employees' base hourly rate. Moreover, pursuant to Labor Code Section 510, any overtime wages must be paid at the rate of no less than one and one-half times the regular rate of pay and double time wages at no less than twice the regular rate of pay. PIPE RESTORATION, however, calculated overtime at one and one-half times of the lesser base hourly rate and double time at twice the lesser base hourly rate. The foregoing practices resulted in underpayment of wages to Plaintiff and other aggrieved employees who earned shift differentials, non-discretionary bonuses, piece rate earnings, commissions, and other such types of remuneration.

Failure to Reimburse Business Expenses

PIPE RESTORATION failed to reimburse Plaintiff and other aggrieved employees for all necessary expenditures or losses incurred in direct consequence of their employment, for example, including for use of cell phones, tools, mileage, uniform maintenance and related expenses they incurred for work. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." Plaintiff and other aggrieved employees have incurred reasonable and necessary expenses in the course of their job duties, which were not reimbursed by PIPE RESTORATION, in violation of Labor Code § 2802.

Failure to Maintain Records

PIPE RESTORATION further failed to maintain Plaintiff's and other aggrieved employees' payroll records showing the hours worked daily and the wages paid pursuant to Labor Code §1174.

Code Provisions Violated

The specific provisions of the California Labor Code which PIPE RESTORATION has violated, applicable to the above noted violations, are as follows:

Labor Code Section 226.7: PIPE RESTORATION violated, and continues to violate, Labor Code Section 226.7 by failing to pay any meal and rest break premiums at Plaintiff's and other aggrieved employees' regular rate of pay.

Labor Code Sections 247.5 and 248.5: PIPE RESTORATION violated, and continues to violate, Labor Code Sections 247.5 and 248.5 by unlawfully withholding paid sick leave days and failing to properly maintain paid sick leave documentation.

Labor Code Section 510: PIPE RESTORATION violated, and continues to violate, Labor Code Section 510 by failing to calculate overtime and doubletime wages in accordance with Plaintiff's and other aggrieved employees' regular rate of pay.

Labor Code Sections 1174 and 1174.5: PIPE RESTORATION violated, and continues to violate, Labor Code Section 1174 by failing to maintain Plaintiff's and other aggrieved employees' payroll records showing the hours worked daily and the wages paid.

Labor Code Sections 1197 and 1197.1: PIPE RESTORATION violated, and continues to violate, Labor Code Section 1197 by failing to pay Plaintiff and other aggrieved employees a wage less than the minimum fixed by an applicable state or local law.

Labor Code Section 2802: PIPE RESTORATION violated, and continues to violate, Labor Code Section 2802 by failing to reimburse necessary business expenses incurred by Plaintiff and other aggrieved employees.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we intend to amend pleadings in the action entitled *Rafael Rivas, Jr. v. Pipe Restoration, Inc.* (Orange County Superior Case No. 30-2021-01189254-CU-OE-CXC) to recover civil penalties pursuant to Labor Code Section 2698 et seq. for the above violations. This will be in addition to violations set forth in the initial notice letters communicated on March 15, 2021 and March 18, 2021. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

cc: Kenneth Zielinski (kzielinski@rutan.com); Edson McClellan (emcclellan@rutan.com)

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Facsimile 1-888-783-1030

HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

MARCH 15, 2021

VIA USPS CERTIFIED MAIL

Pipe Restoration, Inc.
dba Ace Duraflow Pipe Restoration
3122 W. Alpine Street
Santa Ana, CA 92704
7019 0700 0002 2582 8359

Cogency Global Inc.
Agent for Service of Process
for Pipe Restoration, Inc.
1325 J Street, Suite 1550
Sacramento, CA 95814
7019 0700 0002 2582 8366

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Pipe Restoration, Inc. dba Duraflow Pipe Restoration

To Whom It May Concern:

This office represents Rafael Rivas, Jr. with respect to Private Attorneys General Act ("PAGA") claims that he intends to pursue against Pipe Restoration, Inc. dba Duraflow Pipe Restoration ("PIPE RESTORATION") based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

PIPE RESTORATION is engaged in the business of residential and commercial plumbing repair and restoration services. Mr. Rivas worked as a non-exempt employee of PIPE RESTORATION in California and was based out of PIPE RESTORATION's warehouse and headquarters in Santa Ana, California. PIPE RESTORATION employs numerous non-exempt, hourly paid employees such as Mr. Rivas in California. Unfortunately, PIPE RESTORATION has engaged in the following practices:

EXHIBIT "A"

Failure to Pay Wages

PIPE RESTORATION implemented the policy and practice of failing to pay employees for all hours worked. Employees were not paid for the time they spent travelling to job sites from PIPE RESTORATION's warehouse in company vehicles. Employees were only allowed to clock in upon arrival at job sites. Employees were also not paid for the time they spent separately commuting to job sites. Additionally, employees were not paid for the time they were required to remain at PIPE RESTORATION's warehouse and engage in preparation work, or wait for preparation work to be completed, before boarding company vehicles to travel to job sites. As employees clocked out at the job site and travelled back to the warehouse at the end of the day, this time spent travelling in the company vehicles was also off-the-clock and uncompensated. To the extent an employee was clocked out and performed post-shift work at the warehouse upon arrival, it was also off-the-clock and uncompensated. Furthermore, employees were not compensated to the extent they reported to work as scheduled, or otherwise required, because they were turned away. The foregoing practice resulted in underpayment of wages, including underpayment of overtime and double-time to the extent applicable.

Meal Breaks

PIPE RESTORATION engages in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. PIPE RESTORATION failed to regularly provide the required meal break within five hours of work including non-provision of off-duty meal breaks lasting at least thirty (30) minutes. Notably, PIPE RESTORATION failed to track the timing of meal breaks. Significantly, employees did not receive premium pay for missed or improper meal breaks.

Rest Breaks

PIPE RESTORATION engages in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees were not always afforded an opportunity to take rest breaks every four hours, or major fraction thereof, they worked. Significantly, employees did not receive premium pay for missed or improper rest breaks.

Reporting Time

Mr. Rivas and other employees were required to report to work and did report to work only to be told that business was light, a job had been cancelled, and/or they weren't needed or no longer needed, and they were sent home but they did not receive their regular rate of pay for at least half of their usual or scheduled day's work but in no event less than two hours. Additionally, reporting

time that was not paid included the days during which an employee reporting to work as required, only to be terminated and turned away upon arrival.

Unpaid Vacation Wages and Sick Pay

PIPE RESTORATION maintained a vacation accrual and payment policy for employees and separate sick pay benefit for employees. PIPE RESTORATION engaged in the practice of withdrawing from an employee's vacation balance to the extent an employee was out sick when withdrawal should have been from an employee's available sick leave balance. This resulted in a lower vacation pay balance that would otherwise be available to an employee thereby reducing any vacation payout upon termination. PIPE RESTORATION had incentive to exhaust any vacation balance as sick leave accrual is not payable upon termination. Additionally, vacation pay did not accrue on the unpaid off-the-clock time described above.

Waiting Time

At the time of an employee's separation (whether it be by termination or resignation) PIPE RESTORATION has failed to provide the employee with all monies owed, including reporting time pay and unpaid wages for work performed, including overtime and double-time wages to the extent applicable, meal and rest break premium wages, and vacation and sick pay.

Noncompliant Wage Statements

PIPE RESTORATION has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to including reporting time pay, meal and rest break premium wages, and vacation and sick pay.

Additional Penalties

Mr. Rivas and all other similarly aggrieved California employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which PIPE RESTORATION has violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: PIPE RESTORATION violated, and continues to violate, Labor Code Section 201 by failing to pay the employees it has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination

include uncompensated work time, including overtime and double-time as applicable, meal and rest break premiums and reporting time pay.

Labor Code Section 202: PIPE RESTORATION violated, and continues to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: PIPE RESTORATION violated, and continues to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Section 204: PIPE RESTORATION violated, and continues to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above.

Labor Code Section 226: PIPE RESTORATION violated, and continues to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: PIPE RESTORATION violated, and continues to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 227.3: PIPE RESTORATION violated, and continues to violate, Labor Code Section 227.3 by failing to promptly pay all vested vacation benefits to terminated employees.

Labor Code Section 246: PIPE RESTORATION violated, and continues to violate, Labor Code Section 246 by failing to afford employees, who have been employed for thirty (30) or more days, with paid sick leave.

Labor Code Section 510: PIPE RESTORATION violated, and continues to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law.

Labor Code Section 512: PIPE RESTORATION violated, and continues to violate, Labor Code Section 512 by not providing aggrieved employees with legally compliant meal periods.

Labor Code Section 1194: PIPE RESTORATION violated, and continues to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

8 Cal Code Regulations §§ 11010-11160: PIPE RESTORATION violated, and continues to violate, the applicable Wage Order by failing to pay employees their regular rate of pay for at least half of their usual or scheduled day's work, but in no event less than two hours, to the extent an employee was turned away after reporting to work as requested or required.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we intend to file an appropriate action pursuant to Labor Code Section 2698 *et seq.* Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,

MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

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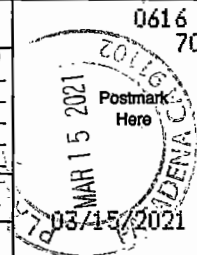
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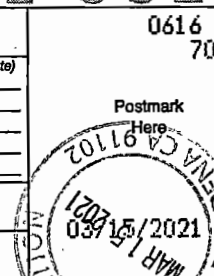
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Facsimile 1-888-783-1030

HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

MARCH 18, 2021

VIA USPS CERTIFIED MAIL

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dba Ace Duraflow Pipe Restoration
3122 W. Alpine Street
Santa Ana, CA 92704
7019 0700 0002 2582 8380

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Sacramento, CA 95814
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Re: *California Wage & Hour Violations*
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Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian
HAIK HACOPIAN

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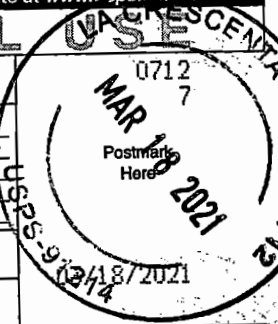
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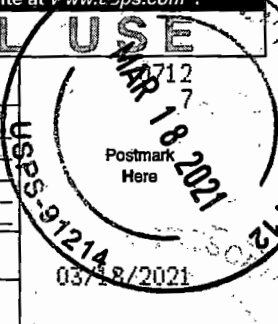
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☐ Adult Signature Restricted Delivery	\$0.00

Postage \$1.56

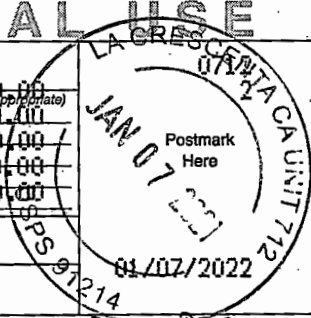
Total Postage and Fees \$5.31

Sent To PIPE RESTORATION, INC. DBA ACE DRAFLD PIPE RESTORATION

Street and Apt. No., or PO Box No. 3122 W. ALPINE STREET

City, State, ZIP+4® SANTA ANA, CA 92704

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



7019 0160 0000 9187 4779

U.S. Postal Service™
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Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

Sacramento, CA 95814

OFFICIAL USE

Certified Mail Fee \$3.75

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)	\$0.00
☐ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00

Postage \$1.56

Total Postage and Fees \$5.31

Sent To COGENCY GLOBAL INC. AGENT FOR SERVICE OF PROCESS RESTORATION

Street and Apt. No., or PO Box No. 1325 J STREET, SUITE 1550

City, State, ZIP+4® SACRAMENTO, CA 95814

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

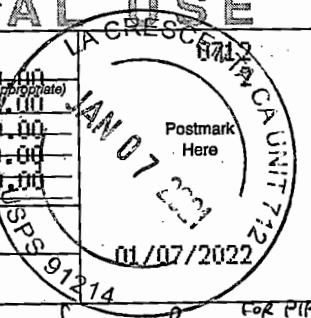


EXHIBIT “2” – SETTLEMENT AGREEMENT

1 RUTAN & TUCKER, LLP
Edson K. McClellan (State Bar No. 199541)
2 emcclellan@rutan.com
Kenneth J. Zielinski (State Bar No. 258555)
3 kzielinski@rutan.com
18575 Jamboree Road, 9th Floor
4 Irvine, CA 92612
Telephone: 714-641-5100
5 Facsimile: 714-546-9035

6 Attorneys for Defendant
PIPE RESTORATION, INC. d/b/a
7 ACE DURAFLO PIPE RESTORATION

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER
10

11 RAFAEL RIVAS, JR., individually and on
behalf of other persons similarly situated,

12 Plaintiffs,

13 v.
14

15 PIPE RESTORATION, INC. d/b/a ACE
DURAFLO PIPE RESTORATION, an active
California Corporation; and DOES 1 through
16 10,

17 Defendants.
18
19

Case No. 30-2021-01189254-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO:
HON. WILLIAM D. CLASTER, DEPT. CX104

**STIPULATION AND AGREEMENT FOR
PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Date Action Filed: March 15, 2021
Trial Date: TBD

20 This Agreement is entered into by and between Rafael Rivas, Jr. ("Plaintiff"), individually
21 and as authorized to sue as a private attorney general under the California Labor Code Private
22 Attorneys General Act, and Pipe Restoration, Inc. d/b/a Ace Duraflo Pipe Restoration
23 ("Defendant").

24 **DEFINITIONS**

25 The following terms are specially defined:

26 1. "Action" means the action titled *Rafael Rivas, Jr. v. Pipe Restoration, Inc. d/b/a Ace*
27 *Duraflo Pipe Restoration*, Orange County Superior Court Case No. 30-2021-01189254-CU-OE-
28 CXC.

2. **“Administration Costs”** means the amount the Court awards to pay the Settlement Administrator for the duties it performs in effectuating the terms of this Agreement.

3. **“Aggrieved Employees”** means all current and former employees employed by Defendant in a Covered Position (including Plaintiff) during the PAGA Period.

4. **“Agreement”** means this Settlement Agreement.

5. **“Court”** means the Superior Court of California, County of Orange, the Honorable William D. Claster presiding.

6. **“Covered Pay Period”** means any pay period during which Aggrieved Employees were employed in a Covered Position for Defendant in California during the PAGA Period. Covered Pay Periods excludes any full pay periods that an employee was on a furlough or leave of absence.

7. **“Covered Position”** means a California non-exempt, hourly paid employee of Pipe Restoration, Inc.

8. **“Effective Date”** means the date when the judgment becomes final. After the Court dismisses the Action, the judgment “becomes final” upon the latter of (a) the deadline for filing of any appeal from the judgment or (b) the final dismissal of any appeal.

9. **“Fees and Costs Award”** means the amount the Court awards to Plaintiff’s Counsel for reasonable attorneys’ fees and reimbursement of litigation costs incurred in the Action.

10. **“Final Order and Judgment”** means the proposed order granting approval of the Settlement and entering Judgment, in the form substantially similar to that attached to this Agreement as Exhibit A.

11. **“Individual PAGA Payment”** means the *pro rata* share of PAGA civil penalties paid to an Aggrieved Employee from the 25% share of the PAGA Payment in accordance with the Aggrieved Employee’s credited number of Covered Pay Periods.

12. **“LWDA”** means the California Labor Workforce Development Agency.

13. **“Gross Settlement Amount”** means \$215,000.00, which is the total amount that Defendant is required to pay under this Agreement. This amount represents a negotiated sum between the Parties to settle the PAGA claims asserted in the Action.

14. **“PAGA”** means the California Labor Code Private Attorneys General Act,

1 California Labor Code sections 2698 *et seq.*

2 15. **“PAGA Payment”** means the Gross Settlement Amount minus (a) the Plaintiff’s
3 Incentive Award, (b) the Fees and Costs Award, and (c) the Administration Costs. The entire PAGA
4 Payment shall be allocated to civil penalties payable under PAGA, with 75% going to the LWDA
5 and 25% to Individual PAGA Payments.

6 16. **“PAGA Period”** means the time period from March 15, 2020 through the date the
7 Court approves the Parties’ settlement.

8 17. **“Parties”** means Plaintiff and Defendant.

9 18. **“Plaintiff’s Counsel”** means Mooradian Law, APC.

10 19. **“Plaintiff’s Incentive Award”** means the amount the Court awards to Plaintiff for
11 service to the LWDA and the other Aggrieved Employees.

12 20. **“Released Claims”** means all known and unknown claims for relief under PAGA
13 that arose during the PAGA Period that were or reasonably could have been asserted against
14 Defendant and the other Released Parties on behalf of the Aggrieved Employees based on or arising
15 from the facts or claims alleged in the Action and the PAGA notices submitted to the LWDA on
16 Plaintiff’s behalf. Without limiting the generality of the foregoing, and in addition to the foregoing,
17 the release includes all civil penalties recoverable under PAGA for (i) Defendant’s alleged failure
18 to pay for all hours worked, failure to pay the minimum wage for all hours worked, failure to pay
19 all overtime wages, failure to pay all overtime and other wages based on the proper regular rate of
20 pay, failure to pay reporting time pay, failure to provide rest breaks or an additional hour of pay at
21 the regular rate of pay, failure to provide meal periods or an additional hour of pay at the regular
22 rate of pay, failure to maintain accurate employment records, failure to issue accurate wage
23 statements, failure to timely pay wages owed during employment and upon termination, failure to
24 provide paid sick leave, failure to properly accrue and pay accrued vacation at the time of separation,
25 and failure to reimburse business expenses; (ii) violations of, or civil penalties recoverable under,
26 California Labor Code sections §§ 201, 202, 203, 204, 221, 226, 226.7, 227.3, 246, 247.5, 248.5,
27 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 2802, 2699; (iii) violations of the
28 applicable Wage Order 16, including paragraphs 3, 4, 5, 7, 11, 12, and 20 of the applicable IWC

1 Wage Order; and (iv) attorneys' fees, costs of litigation, and interest.

2 21. **"Released Parties"** means Pipe Restoration, Inc. d/b/a Ace Duraflo Pipe Restoration
3 and each of its officers, directors, agents, insurers, employees, members, board members, partners,
4 owners, shareholders, attorneys or representatives and all of their predecessors, successors, assigns,
5 and any individual or entity that could be jointly liable with Defendant.

6 22. **"Settlement Administrator"** means CPT Group which will administer the
7 settlement and shall be paid for Administration Costs.

8 **RECITALS**

9 23. Plaintiff worked for Pipe Restoration, Inc. in a Covered Position for at least one
10 Covered Pay Period during the PAGA Period.

11 24. On March 15, 2021, Plaintiff sent a PAGA notice to the LWDA, with a copy to
12 Defendant. On that same day, Plaintiff also filed a putative class action Complaint in the Superior
13 Court of the State of California, County of Orange, entitled *Rafael Rivas, Jr. v. Pipe Restoration,*
14 *Inc. d/b/a Ace Duraflo Pipe Restoration*, Orange County Superior Court Case No. 30-2021-
15 01189254-CU-OE-CXC (the "Action"). On March 18, 2021, Plaintiff sent a first amended PAGA
16 notice to the LWDA, with a copy to Defendant.

17 25. On January 7, 2022, Plaintiff sent a second amended PAGA notice to the LWDA,
18 with a copy to Defendant.

19 26. Following the 65-day tolling period after submission of the January 7, 2022 amended
20 PAGA notice to the LWDA, Plaintiff will promptly take all actions necessary to effectuate the
21 dismissal of all class and individual claims in the Action, and file a First Amended Complaint
22 asserting a single cause of action pursuant to the California Private Attorneys General Act consistent
23 with the claims asserted in the March 15, 2021, March 18, 2021, and January 7, 2022 PAGA notice
24 letters. The Parties will stipulate to the filing of the First Amended Complaint.

25 27. The Parties have conducted a thorough investigation into the facts of the Action.
26 This included exchanging extensive data and information, as well as documents relating to the
27 underlying alleged violations. After attending a mediation, the Parties reached the settlement, which
28 Plaintiff and his counsel believe is fair, reasonable, and adequate. The Parties understand,

acknowledge, and agree that this Settlement Agreement constitutes a compromise of Representative Plaintiff's and the PAGA Claims asserted on behalf of the Aggrieved Employees, and that it is the desire and intention of the Parties to effect a final and complete settlement of the PAGA Claims that the Representative Plaintiff and the Aggrieved Employees have against Pipe Restoration, Inc. or any of the other Released Parties.

28. The Parties enter into this Settlement Agreement on a conditional basis. In the event the Court does not enter a Final Order and Judgment, this Settlement Agreement will be deemed null and void and will be of no force or effect whatsoever, and will not be referred to or utilized for any purpose whatsoever.

29. Defendant denies all of the claims in the Action, and does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations upon all legal, procedural and factual grounds should this Agreement not become final. This Agreement reflects a compromise reached to end the Action.

30. The Parties stipulate and agree to the following terms of this Settlement Agreement with the intent that this Agreement finally disposes of the Action with prejudice.

TERMS AND CONDITIONS

31. **Non-Admission and Denial of Liability.** By this Agreement, no Party admits that Action has merit or lacks merit, that the Action is manageable or not manageable, or that Defendant is liable or is not liable. Defendant specifically disclaims and denies any liability alleged in the Action. The Parties enter into this Agreement solely to avoid further litigation with its attendant inconvenience, nuisance, expenses, and risks. This Agreement and any related court document cannot be used as evidence of liability in this or any future action. This Agreement cannot support any assertion of claim or issue preclusion against Defendant, and Defendant may use the Final Order and Judgment to establish claim or issue preclusion against any plaintiff in another action.

32. **Deposit of Gross Settlement Amount.** Within 20 business days after the Effective Date, Defendant shall deposit with the Settlement Administrator the Gross Settlement Amount.

33. **Components of the Gross Settlement Amount.** The Parties agree to the following payments from the Gross Settlement Amount:

1 a. **PAGA Payment.** The PAGA Payment, to settle the PAGA Released Claims,
2 will be distributed as follows:

3 (1) The LWDA will receive 75% of the PAGA Payment; and

4 (2) The Aggrieved Employees will receive 25% of the PAGA Payment,
5 allocated to each Aggrieved Employee on a pro rata basis depending
6 on the number of Covered Pay Periods worked by that employee.
7 These settlement payments will be reported for each employee on IRS
8 Form 1099.

9 b. **Fees and Costs Award.** Plaintiff's Counsel will apply for an award of
10 reasonable attorneys' fees not to exceed \$71,666.67, or one-third of the Gross Settlement Amount,
11 and reimbursement of litigation costs not to exceed \$12,000.00 for prosecuting the PAGA Claims.
12 If the Court approves lower amounts, then the difference will augment the PAGA Payment. That
13 award will satisfy any obligation to pay attorneys' fees, expenses, or costs incurred by any attorney
14 on behalf of Plaintiff, Aggrieved Employees, and the State of California in connection with the
15 Action. This payment will be reported on an IRS Form 1099 issued to Plaintiff's Counsel. Except
16 as set forth in this Agreement, each Party shall bear that Party's own costs and fees.

17 c. **Administration Costs.** Administration Costs will include the cost of the
18 Settlement Administrator selected by the Parties to administer the settlement. The Parties have
19 estimated Administrative Costs not to exceed \$4,500.00. If the Court approves a lower amount,
20 then the difference will augment the PAGA Payment.

21 d. **The Incentive Award.** Plaintiff intends to apply for an Incentive Award of
22 up to \$3,000. If the Court approves a lower amount, then the difference will augment the PAGA
23 Payment.

24 **34. Released Claims.**

25 a. In exchange for the consideration recited in this Settlement Agreement,
26 including the PAGA Payment, Plaintiff, as the representative for the State of California and all
27 Aggrieved Employees, and on behalf of their current, former, and future heirs, executors,
28 administrators, attorneys, agents, and assigns forever completely release and discharge the Released

1 Parties of any and all Released Claims. The Aggrieved Employees and the State of California are
2 deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make
3 a claim against any of the Released Parties for any Released Claims.

4 b. As of the Effective Date, this Agreement releases, precludes, and bars all
5 Released Claims against Defendant and the Released Parties that arose during the PAGA Period,
6 regardless of whether Plaintiff, the LWDA, or the Aggrieved Employees cash their Individual
7 PAGA Payment checks. Accordingly, as of the date of this Final Order and Judgment, all Aggrieved
8 Employees are barred and enjoined from prosecuting or seeking to reopen the Released Claims
9 against the Released Parties.

10 c. Beyond the Gross Settlement Amount, Defendant shall not owe any further
11 monies to Plaintiff, the Aggrieved Employees, or to the State of California based upon any Released
12 Claims asserted on behalf of the Aggrieved Employees in the Action or in any complaint filed
13 therein with respect to any event that occurred during the PAGA Period.

14 d. Because this Agreement settles claims asserted under the PAGA, Aggrieved
15 Employees do not have the right to opt out the Settlement, and will be bound by the PAGA Release
16 upon the Effective Date.

17 e. Plaintiff generally releases all of his individual claims against Defendant and
18 the Released Parties, and waives all known and unknown claims under Civil Code § 1542, which
19 provides: “A general release does not extend to claims that the creditor or releasing party does not
20 know or suspect to exist in his or her favor at the time of executing the release and that, if known
21 by him or her, would have materially affected his or her settlement with the debtor or released party.”

22 35. **Notice to LWDA.** Plaintiff’s Counsel will timely submit notice of this Settlement
23 to the LWDA, as required by Labor Code § 2699(1)(2).

24 36. **No Assignment.** Plaintiff and Plaintiff’s Counsel represent that Plaintiff has not
25 assigned or transferred any interest in any claim subject to this Agreement.

26 37. **Review of Agreement.** Plaintiff acknowledges that he has read this Agreement,
27 fully understands his rights, privileges, and duties under the Agreement, and enters into this
28 Agreement freely and voluntarily, on behalf of the State of California and all Aggrieved Employees.

1 He further acknowledges he has had the opportunity to consult legal counsel to explain the terms of
2 this Agreement and the consequences of signing this Agreement.

3 **38. No Unnecessary Publicity.** Plaintiff and his counsel agree that the terms of this
4 Settlement Agreement (including, but not limited to, the Gross Settlement Amount), the negotiations
5 leading to the execution of this Settlement Agreement, and the Settlement Agreement itself, shall
6 not be discussed with or publicized or promoted to the media (including, without limitation, legal
7 periodicals and publications such as “Jury Verdicts,” or disclosure of the Settlement Agreement on
8 any web site of Plaintiff’s counsel), or the public at large, without the advance written consent of
9 Defendant. The Parties intend this Paragraph 38 to prohibit Plaintiff or his counsel from discussing,
10 answering questions about, promoting or publicizing the Settlement Agreement, its terms, or the
11 negotiations leading to the Settlement Agreement with anyone other than the Court, the LWDA, and
12 those individuals necessary to effectuate the terms of the Agreement. Notwithstanding the
13 foregoing, Plaintiff and his counsel (1) may tell the public in general only that certain claims “have
14 been resolved by the Parties;” and (2) may disclose the terms of the Settlement Agreement (a) in
15 appropriate filings with the Court in this case; (b) where required by law (e.g., income tax returns);
16 (c) to accountants or other tax professionals for the purpose of preparing tax returns; and (d) as
17 necessary to effectuate this Settlement Agreement.

18 **39. Court Approval.** Plaintiff’s Counsel shall be responsible for preparing and filing a
19 motion for approval of the Agreement and taking any steps necessary for the Court to enter the Final
20 Order and Judgment. The motion will be served on the LWDA upon the motion’s filing with the
21 Court.

22 **40. Non-Approval of Agreement.** Because settlement of the Action requires court
23 approval pursuant to Labor Code section 2699(l)(2), the Agreement depends on approval and entry
24 of judgment, and affirmance of any appeal from the judgment, except as stated below. If the Court
25 does not approve the Gross Settlement Amount or materially alters any language in Paragraphs 20
26 and 34, either Party may, with 10 days’ written notice, terminate the Agreement, reverting the Parties
27 to their respective status immediately prior to the execution of this Agreement. Any judicial
28

1 reduction of attorneys' fees and costs or the amount of the Incentive Award does not provide a basis
2 to terminate this Agreement.

3 **41. Motion for Approval of Agreement.** After signing this Agreement and the filing
4 of the First Amended Complaint asserting a single claim pursuant to the California Private Attorneys
5 General Act as set forth above, Plaintiff shall promptly file a motion for approval of the Agreement,
6 and serve the motion and this Agreement on the LWDA consistent with Labor Code
7 section 2699(l)(2). As part of this, Plaintiff agrees to undertake any efforts necessary for the Court
8 to enter judgment. Within ten days of the judgment, Plaintiff shall submit a copy of the judgment to
9 the LWDA consistent with Labor Code section 2699(l)(3).

10 **42. Settlement Administration.** The Settlement Administrator's duties shall include
11 the following: update addresses for Aggrieved Employees via the USPS National Change of Address
12 database and perform a skip tracing process to determine the best address prior to distribution of the
13 Gross Settlement Amount; determine Individual PAGA Payment amounts for each Aggrieved
14 Employee; distribute Individual PAGA Payments to Aggrieved Employees; re-mail undeliverable
15 Individual PAGA Payment checks; distribute payments for attorneys' fees and costs to Plaintiff's
16 Counsel; distribute Plaintiff's Incentive Award to Plaintiff; make payment to the LWDA for its 75%
17 share of the PAGA Payment; redistribute uncashed checks for Individual PAGA Payments; and
18 perform related tax, accounting, and administration services. Any unused Administrative Costs will
19 revert to the LWDA or to another entity approved by the Court.

20 **43. Aggrieved Employee Information.** Defendant will provide the necessary
21 information about the Aggrieved Employees (i.e., full name, social security number, last known
22 address, last known telephone number, and number of Covered Pay Periods worked during the
23 PAGA Period) to the Settlement Administrator within 10 business days of notice of entry of the
24 Final Order and Judgment.

25 **44. Calculation of Individual PAGA Payments.** The Settlement Administrator will
26 calculate how much each individual Aggrieved Employee will receive from the 25% portion of the
27 PAGA Payment. Each such employee will participate on a *pro rata* basis on the basis of the number
28 of Covered Pay Periods that employee is credited with during the PAGA Period.

1 **45. Distribution of Gross Settlement Amount.**

2 a. Within 10 business days of receiving the Gross Settlement Amount, the
3 Settlement Administrator will issue to each Aggrieved Employee at the last known address a check
4 for the Individual PAGA Payment, along with an explanatory letter (attached as Exhibit B). Checks
5 will remain negotiable for 180 days. Any checks returned as non-deliverable on or before the check-
6 cashing deadline will be sent promptly via regular First Class U.S. Mail to the forwarding address
7 affixed thereto. If no forwarding address is provided, then the Settlement Administrator will
8 promptly attempt to determine the correct address using a skip-trace, or other search using the name,
9 address or Social Security number of the Aggrieved Employee involved, and will then perform a
10 single re-mailing. The Settlement Administrator shall mail a check-cashing reminder postcard to
11 Aggrieved Employees who have not negotiated Individual PAGA Payment checks within 90 days
12 of mailing. Funds represented by settlement checks returned as undeliverable and those settlement
13 checks remaining uncashed for more than 180 days after issuance shall be paid to the LWDA.

14 b. Within 10 business days of receiving the Gross Settlement Amount, the
15 Settlement Administrator will pay Plaintiff the Incentive Award.

16 c. Within 10 business days of receiving the Gross Settlement Amount, the
17 Settlement Administrator will pay the LWDA the amount allocated to the LWDA, and will pay
18 Plaintiff's Counsel the amount of the Fees and Costs Award. The Settlement Administrator shall
19 use the Administration Costs to pay for any fees and costs associated with the administration of the
20 settlement called for by this Agreement.

21 **46. Accounting.** The Settlement Administrator will provide an accounting under oath
22 to the parties of all amounts paid out under this Agreement.

23 **47. No Tax Representations.** The Parties agree that all tax obligations, if any, arising
24 from the payments set forth above shall be the sole obligation of individuals receiving the money:
25 the Plaintiff, Plaintiff's Counsel, and the Aggrieved Employees. Defendant makes no
26 representations or warranties with respect to any tax consequences or characterization of the nature
27 of any payment under this Agreement.

28 **48. Drafting.** The Parties agree that the terms and conditions of this Agreement are the

1 result of lengthy, intensive, arms'-length negotiations and that neither Party shall be considered the
2 "drafter" of this Agreement for purposes of construing the Agreement.

3 49. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, and
4 other fees incurred in connection with this Action, except as otherwise specified herein.

5 50. **Authority.** Plaintiff represents that he, as a private attorney general and as an
6 individual, has the capacity to bind himself and all who might claim through him (including the
7 LWDA and all Aggrieved Employees and their heirs and successors-in-interest) to the terms of this
8 Agreement.

9 51. **Governing Law.** California law will govern all questions of validity, interpretation,
10 or performance of this Agreement. Any action needed to enforce this Agreement shall be brought
11 in the Court.

12 52. **Complete Agreement.** The Parties represent that no promise not contained in this
13 Agreement has been made and represent that this Agreement contains their entire understanding
14 regarding all terms and conditions pertaining to the settlement of the Action. This Agreement cannot
15 be modified except by a writing signed by both Parties.

16 53. **Nullification of Agreement.** If the Court does not approve the Agreement and enter
17 judgment accordingly or the Agreement does not become final for any other reason, then this
18 Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties
19 will revert to their original respective positions.

20 54. **Judgment and Continued Jurisdiction.** Following entry of the Final Order and
21 Judgment, the Court will retain jurisdiction solely for purposes of implementing, interpreting, and
22 enforcing the Agreement.

23 55. **Authorization to Enter Into Agreement.** Counsel for all Parties represent they are
24 expressly authorized by their clients to negotiate this Agreement and to take all appropriate action
25 required or permitted under this Agreement to effectuate its terms.

26 56. **Execution and Counterparts.** This Agreement is subject only to the execution of
27 all Parties. But the Agreement may be executed in one or more counterparts. All executed
28 counterparts—including electronic, facsimile, DocuSign or other electronic signature, and scanned

1 copies of the signature page—will be deemed to be one and the same instrument.

2 **57. Acknowledgement That the Settlement is Fair, Adequate, and Reasonable.** The
3 Parties believe this Agreement is a fair, adequate, and reasonable settlement of the Action,
4 acknowledging that the Court “may award a lesser amount than the maximum civil penalty amount
5 specified by” PAGA “if, based on the facts and circumstances of the particular case, to do otherwise
6 would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Labor Code §
7 2699(e)(2).

8 **58. Invalidity of Any Provision.** Before declaring any term of this Agreement invalid,
9 the Court will construe the provision as valid to the fullest extent possible, so as to find all terms
10 valid and enforceable.

11 **59. Waiver.** No waiver of any term contained in this Agreement, and no failure to
12 exercise a right or remedy under this Agreement, will imply or constitute a further waiver of the
13 same or any other condition, covenant, right, or remedy.

14 **60. Severability.** If any term of this Agreement is held to be invalid or unenforceable,
15 the remaining terms will continue to apply to the fullest extent permitted by law, and the invalid or
16 unenforceable term will be deemed amended and limited in accordance with the intent of the Parties,
17 as determined from the face of the Agreement, to the extent necessary to maximize enforceability
18 of the term.

19 **61. Representation by Counsel.** The Parties arrived at this Agreement after arms’-
20 length negotiations by competent counsel, who have advised their clients regarding the fairness and
21 reasonableness of this Agreement and its consequences.

22 **62. Cooperation, Execution of Necessary Documents and Disputes.** The Parties and
23 their counsel will cooperate with each other in good faith and use their best efforts to effect the
24 implementation of the Agreement and receive approval from the Court.

25 **63. Binding Agreement.** The Parties have authority to enter into this Agreement, and
26 intend it to bind all Parties and be admissible in any proceeding to enforce its terms.

27 **64. Right to Appeal.** Upon approval of the settlement pursuant to this Agreement,
28 Plaintiff, Aggrieved Employees, the LWDA, and Defendant all hereby waive all rights to appeal in

1 connection with the judgment.

2 a. If the Court does not grant approval of this settlement, this Agreement will
3 not be admissible for any purpose.

4 b. Upon approval of the settlement pursuant to this Agreement, Plaintiff agrees
5 to not to pursue any appeal. Without limiting the foregoing, Plaintiff agrees that as a condition of
6 court approval of the settlement, he is waiving any right that he may have to (i) appeal the dismissal
7 of the class allegations in the Action; or (iii) seek to continue to act as a class representative in the
8 Action.

9 c. Plaintiff further agrees that other than as a Aggrieved Employee and other
10 than recovery of Plaintiff's Incentive Award, he is waiving entitlement to any individualized relief
11 in the Action including, without limitation, any allegedly unpaid wages, unpaid meal periods
12 penalties, unpaid rest break penalties, waiting-time penalties, itemized wage statement penalties or
13 any other damages or statutory penalties. Plaintiff acknowledges that, pursuant to his prior
14 individual settlement, he has released all of his individual wage-and-hour claims.

15 d. Plaintiff agrees, based on settlement memorialized by this Agreement, and
16 subject to the court's approval of this Agreement, he waives any claim of standing or an economic
17 interest to recover a class representative enhancement fee or attorneys' fees and costs relating to the
18 class claims in the Action and the prior order of the Court related to the class claims will be final.

19 65. **Entire Agreement.** This Agreement constitutes the entire integrated agreement
20 between the Parties relating to the Action, and no oral representations, warranties, or inducements
21 have been made to any party concerning this Settlement Agreement other than the representations,
22 warranties, and covenants contained and memorialized in this Settlement Agreement.

23 66. **Retention of Jurisdiction.** The Court will retain jurisdiction with respect to
24 implementation and enforcement of the terms of this Agreement, and all parties hereto submit to the
25 jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in
26 the Stipulation, in conformity with California Rules of Court, rule 3.769 and California Civil
27 Procedure Code section 664.6.

28 **IN WITNESS THEREOF**, the Parties acknowledge that they have read the Agreement,

1 agree to all its terms, and execute it voluntarily, fully understanding its consequences.
2

3 **PLAINTIFF:**

4 Dated: March 25, 2022
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RAFABL RIVAS, JR.

8 **DEFENDANT:**

9 Dated: March __, 2022

PIPE RESTORATION, INC.

By: _____

Print Name: _____

Title: _____

14 **APPROVED AS TO FORM:**

16 Dated: March 25, 2022


Zorik Mooradian
Mooradian Law, APC
Attorney for Plaintiff and the Aggrieved Employees

Exhibit “A”

Exhibit “A”

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

RAFAEL RIVAS, JR., individually and on
behalf of other persons similarly situated,

Plaintiffs,

v.

PIPE RESTORATION, INC. d/b/a ACE
DURAFLO PIPE RESTORATION, an active
California Corporation; and DOES 1 through
10,

Defendants.

Case No. 30-2021-01189254-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO:
HON. WILLIAM D. CLASTER, DEPT. CX104

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND ENTERING JUDGMENT**

Date Action Filed: March 15, 2021
Trial Date: TBD

1 **[PROPOSED] ORDER AND JUDGMENT**

2 This matter came on for hearing on **INSERT**, 2022 at , in Department CX104
3 of the above-captioned Court on Plaintiff's unopposed motion for approval of a stipulation and
4 agreement for a California Labor Code Private Attorneys General Act ("PAGA") representative
5 action settlement (the "Settlement").

6 Having received and considered the Settlement Agreement, the supporting papers filed by
7 Plaintiffs, and the evidence and argument received by the Court, the Court grants approval of the
8 PAGA Settlement and HEREBY ORDERS AND MAKES THE FOLLOWING
9 DETERMINATIONS:

10 1. Except as otherwise defined in this Order and Judgment ("Order"), all capitalized
11 terms have the same meaning as defined in the Settlement Agreement that is attached as Exhibit 1
12 to this Order.

13 2. The California Labor Workforce and Development Agency ("LWDA") has been
14 provided notice of the Settlement in accordance with PAGA, California Labor Code § 2699(1)(2),
15 (1)(4). In particular, on the date Plaintiff filed the motion seeking approval of the Settlement with
16 the Court, Plaintiff submitted to the LWDA a notice of the Settlement enclosing a copy of the
17 Settlement Agreement. Plaintiff's notice of the Settlement to the LWDA complied with the notice
18 requirements of PAGA.

19 3. The Court confirms approval of the Settlement as to the Aggrieved Employees.

20 4. The Court has jurisdiction over the subject matter of this litigation, over all
21 Aggrieved Employees, and over those persons undertaking affirmative obligations under the
22 Settlement.

23 5. The Settlement is approved under Labor Code § 2699(1)(2).

24 6. The PAGA Settlement Notice to Aggrieved Employees, attached as Exhibit 2 to this
25 Order, fairly and adequately describes the Action, the approved Settlement, and is the best notice
26 practicable under the circumstances.

27 7. The Court finds that each Aggrieved Employee, in accordance with the Settlement,
28 releases all Released Claims against the Released Parties.

1 8. The Gross Settlement Amount, Net Settlement Amount and the methodology used
2 to calculate the Individual PAGA Payments, in accordance with the Settlement is approved.

3 9. The Court approves CPT Group to act as the Settlement Administrator. The Court
4 awards the Settlement Administrator in this Action its actual fees and costs in accordance with the
5 terms of the Settlement Agreement, not to exceed \$4,500.

6 10. The Court approves Mooradian Law, APC as Plaintiff's Counsel.

7 11. The Court awards Plaintiff's Counsel attorneys' fees in the amount of \$\$71,666.67
8 and actual litigation costs not to exceed \$12,000, both of which the Court finds to be fair and
9 reasonable. The Court authorizes the Settlement Administrator to make these payments, in
10 accordance with the terms of the Settlement Agreement.

11 12. The Court authorizes the Settlement Administrator to calculate and pay the
12 Individual PAGA Payments, in accordance with the terms of the Settlement Agreement.

13 13. The Court finds that LWDA payment of 75% of the \$215,000 PAGA Payment, or
14 \$161,250, as its share of the settlement of civil penalties is fair and reasonable. The Court authorizes
15 the Settlement Administrator to pay the LWDA \$161,250, in accordance with the terms of the
16 Settlement Agreement.

17 14. The Court finds the Representative Plaintiff's Incentive Award in the sum of \$3,000
18 to Plaintiff is fair and reasonable. The Court authorizes the Settlement Administrator to pay
19 Plaintiff's Incentive Award, in accordance with the terms of the Settlement Agreement.

20 15. Checks for Individual PAGA Payments sent to Aggrieved Employees shall be valid
21 for 180 days after issuance. Funds remaining from any checks for Individual PAGA Payments
22 uncashed after 180 days will be dispersed to California Labor & Workforce Development Agency,
23 in accordance with the terms of the Settlement Agreement.

24 16. Upon completion of the Settlement, the Settlement Administrator will provide
25 written certification of the completion to the Court and counsel for the Parties which shall be filed
26 with the Court on or before .

27 17. Without affecting the finality of this order and entry of judgment, the Court retains
28 exclusive and continuing jurisdiction over this Action for purposes of supervising, administering,

1 implementing, and enforcement of this Order and the Settlement.

2 18. Nothing in this Order or the Settlement shall be construed as an admission or
3 concession by any party. The Settlement and this resulting Order and entry of judgement simply
4 represent a compromise of disputed allegations.

5 19. The Court enters final judgment in accordance with the terms of the Settlement
6 Agreement and this Order.

7 20. Plaintiff is directed to submit a copy of this Order and entry of judgment to the
8 LWDA within 10 days of the date of this Order and entry of judgment.

9 **IT IS SO ORDERED:**

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11 DATED: _____

12 _____
13 HONORABLE WILLIAM D. CLASTER
14 Judge of the Superior Court

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Exhibit “B”

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Exhibit B

[Date], 2022

CPT Group
50 Corporate Park
Irvine, CA 92606

[Employee Name]
[Employee Street Address]
[City, State Zip]

Re: PAGA Settlement Payment

Dear Current or Former Pipe Restoration, Inc. Employee:

You have received this notice because Pipe Restoration, Inc.'s records indicate that you have worked for Pipe Restoration in California at some time between March 15, 2020 through [the Approval Date]. This notice relates to the settlement of a lawsuit styled *Rivas v. Pipe Restoration, Inc.*, Orange County Superior Court Case No. 30-2021-01189254-CU-OE-CXC (the "Lawsuit").

In the Lawsuit, Plaintiff Rafael Rivas, Jr. ("Plaintiff") seeks civil penalties pursuant to the California Private Attorneys General Act ("PAGA"), a law which allows Plaintiff to attempt to recover penalties on behalf of the State of California and on behalf of employees who Plaintiff claims were "aggrieved" by alleged wage and hour violations on the part of Pipe Restoration based upon alleged violations of California Labor Code sections 201, 202, 203, 204, 221, 226, 226.7, 227.3, 246, 247.5, 248.5, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 2802, 2699 and alleged violations of the applicable Wage Order 16, including paragraphs 3, 4, 5, 7, 11, 12, and 20.

Pipe Restoration strongly disputes Plaintiff's allegations and maintains that it has fully complied with all applicable wage and hour laws. The Court has not issued any ruling regarding the merits of the Lawsuit. Nonetheless, to avoid the cost and distraction of litigation, Pipe Restoration has made a business decision to settle the Lawsuit, which settlement has been approved by the Court.

The enclosed settlement check represents your portion of the Court-approved PAGA settlement. You will not be retaliated against for cashing your check. Checks that are not cashed within 180 days of issuance will be voided and the funds will be distributed to the California Labor Workforce & Development Agency.

Regardless of what you do with the settlement check, you will have released claims for penalties arising under PAGA as asserted in the Lawsuit. If you have any questions about this notice, please contact the Settlement Administrator, CPT Group at [Insert Phone Number].

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THE LAWSUIT. PLEASE DO NOT CONTACT THE COURT REGARDING THE CASE.