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SUPERIOR COURT OF CALIFORNIA**COUNTY OF ALAMEDA**

ANGELYNA CELIO, MATTHEW LYTLE,
ROBERT MARTIN, and DONELL FORT,
on behalf of themselves and others similarly
situated and aggrieved,

Plaintiffs,

v.

AIR INTERNATIONAL US, INC., a
Delaware Corporation; and DOES 1
Through 10, inclusive,

Defendants.

Case No. RG21098764

**FIRST AMENDED CLASS ACTION and
REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT ("PAGA")**

1. FAILURE TO PAY MINIMUM,
REGULAR, AND OVERTIME WAGES
2. FAILURE TO PROVIDE MEAL PERIODS
3. FAILURE TO AUTHORIZE AND
PERMIT PAID REST PERIODS
4. FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS
5. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION
6. FAILURE TO REIMBURSE BUSINESS
EXPENSES
7. VIOLATION OF THE UNFAIR
COMPETITION LAW

FILED
ALAMEDA COUNTY
JUN 07 2021
CLERK OF THE SUPERIOR COURT
By *Janina P. [Signature]* Deputy

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8. PAGA CIVIL PENALTIES FOR FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES
 9. PAGA CIVIL PENALTIES FOR FAILURE TO PROVIDE MEAL PERIODS
 10. PAGA CIVIL PENALTIES FOR FAILURE TO AUTHORIZE AND PERMIT PAID REST PERIODS
 11. PAGA CIVIL PENALTIES FOR FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS
 12. PAGA CIVIL PENALTIES FOR FAILURE TO TIMELY PAY WAGES DUE UPON SEPARATION OF EMPLOYMENT
 13. PAGA CIVIL PENALTIES FOR FAILURE TO REIMBURSE BUSINESS EXPENSES
 14. PAGA CIVIL PENALTIES FOR FAILURE TO MAINTAIN A REASONABLY COMFORTABLE TEMPERATURE
 15. PAGA CIVIL PENALTIES FOR FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN
- DEMAND FOR JURY TRIAL

NATURE OF CLAIM

1. Plaintiffs ANGELYNA CELIO, MATTHEW LYTTLE, ROBERT MARTIN, and DONELL FORT ("Plaintiffs") bring this action on behalf of themselves and a proposed Class of all non-exempt California employees of Defendant AIR INTERNATIONAL US, INC. and Does 1 through 10 (collectively, "Defendants") for unlawful employment policies that denied, and continue to deny, proposed Class Members the wages, benefits, and working conditions to which they are lawfully entitled.

2. Plaintiffs also bring this action as a representative action under the Private Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698, *et seq.*, against Defendants to recover civil penalties arising out of Defendants' failure to: pay minimum, regular, and overtime wages; provide meal periods; authorize and permit paid rest periods; reimburse business-related expenses; provide accurate itemized wage statements; timely pay wages due upon separation of employment; maintain a reasonably comfortable temperature; and provide one day's rest in seven.

3. Plaintiffs gave written notice of these claims to the California Labor and Workforce Development Agency ("LWDA") on March 16, 2021 and April 2, 2021 per Labor Code section 2699.3, and there has been no LWDA intervention within 65 days of either notice. True and correct copies of Plaintiffs' Notices are attached as **Exhibit 1**. Plaintiffs seek civil penalties under the PAGA as representatives of the State of California and have standing as aggrieved non-exempt employees. Plaintiffs seek to represent all current and former non-exempt employees of Defendants who suffered one or more of the violations alleged ("aggrieved employees") during the "PAGA Period" (one year and 65 days before this complaint filing date until the start of trial). Labor Code §§ 2698, *et seq.*, 2699.3(a)(2)(C).

4. Plaintiffs, on behalf of themselves and all Class Members, bring this action pursuant to Labor Code sections 201-203, 218.5, 218.6, 226, 226.7, 510, 512, 551-556, 1194, 1194.2, and 2802; Industrial Welfare Commission ("IWC") Wage Order 1-2001 sections 3, 4, 11, and 12; and Business and Professions Code sections 17200, *et seq.*, seeking unpaid wages, liquidated damages, equitable relief, prejudgment interest, reasonable attorneys' fees and costs,

1 and any other relief this Court deems proper.

2 **PARTIES**

3 5. Plaintiffs ANGELYNA CELIO, MATTHEW LYTLE, ROBERT MARTIN, and
4 DONELL FORT worked for Defendants on a production line assembling heating, ventilation,
5 and air conditioning ("HVAC") units.

6 6. Plaintiff ANGELYNA CELIO is a resident of Placer County, California.
7 Plaintiff CELIO worked in an hourly, non-exempt position as an assembly line crew employee
8 for Defendants from approximately June 9, 2020 through approximately January 7, 2021.
9 Plaintiff CELIO worked near the start of the production line wrapping HVAC condensers and
10 evaporators with seals.

11 7. Plaintiff MATTHEW LYTLE is a resident of Placer County, California.
12 Plaintiff LYTLE worked in an hourly, non-exempt position as an assembly line crew employee
13 for Defendants from mid-June 2020 through approximately December 22, 2020. Plaintiff
14 LYTLE worked on the production line building the HVAC units, which involved placing doors
15 and screws in the units.

16 8. Plaintiff ROBERT MARTIN is a resident of Sacramento County, California.
17 Plaintiff MARTIN worked in an hourly, non-exempt position as a warehouse lead for
18 Defendants from October 2020 through March 1, 2021. Plaintiff MARTIN was responsible for
19 delegating tasks, reporting back to supervisors, driving a forklift, loading and unloading trucks,
20 and keeping the production line going.

21 9. Plaintiff DONELL FORT is a resident of Placer County, California. Plaintiff
22 FORT worked for Defendants in an hourly, non-exempt position as a line tech from March
23 2020 through December 15, 2020. Plaintiff FORT was responsible for assembling air
24 conditioning units and boxes for a lineup.

25 10. Defendant AIR INTERNATIONAL US, INC. (AIR INTERNATIONAL) is a
26 corporation registered in Delaware and doing business in California. AIR INTERNATIONAL
27 designs, develops, and supplies HVAC, engine cooling, and thermal control systems for
28 automotive vehicles, with twenty-one manufacturing facilities across North America, China,

1 Thailand, Australia, Europe, and India. On information and belief, AIR INTERNATIONAL
2 operates one manufacturing facility in California at 12745 Earhart Avenue, Auburn, California
3 95602.

4 11. Does 1 through 10, inclusive, are persons or entities whose true names and
5 identities are now unknown to Plaintiffs, and who are sued by such fictitious names. Plaintiffs
6 will amend this complaint to allege their true names and capacities when known. Plaintiffs are
7 informed and believe each Doe defendant is the agent, representative, or parent or subsidiary
8 corporation of AIR INTERNATIONAL, is responsible in some manner for the occurrences and
9 injuries alleged, and that harm suffered by Plaintiffs and the proposed Class was proximately
10 caused by them in addition to AIR INTERNATIONAL.

11 12. Plaintiff is informed, believes, and alleges each Defendant, including each Doe
12 defendant, acted in concert with each and every other Defendant, intended to and did
13 participate in the practices alleged, and was a proximate cause of damage and injury to
14 Plaintiffs.

15 13. At all relevant times each Defendant was the agent or employee of each of the
16 other Defendants and was acting within the course and scope of such agency or employment.

17 **JURISDICTION AND VENUE**

18 14. Venue as to each Defendant is proper in this judicial district, as AIR
19 INTERNATIONAL is a foreign corporation that has not designated a principal place of
20 business in California. Code of Civil Procedure § 395.5.

21 15. No federal jurisdiction exists to remove this action to federal court. No federal
22 question is at issue, as the issues are based solely on California law, including the Labor Code,
23 IWC Wage Orders, Code of Civil Procedure, and Business and Professions Code. No diversity
24 jurisdiction exists sufficient for removal to federal court under 28. U.S.C. sections 1332(a) or
25 1332(d) because Class Members' individual amounts in controversy do not exceed \$75,000 and
26 the class amount in controversy does not exceed \$5,000,000.

27 16. Further, as a representative action under the PAGA, the matter is not subject to
28 removal under 28 U.S.C. sections 1332(a)-(d). PAGA civil penalty actions are not subject to

federal jurisdiction.

CLASS ACTION ALLEGATIONS

17. Plaintiffs seek to represent Classes defined as:

Class

All of Defendants' hourly, non-exempt California employees at any time from four years before the filing of this Complaint through the date of trial ("Class Period").

18. Plaintiffs seek to certify a subclass of employees defined as:

Time Rounding Subclass

All Class Members who were subject to a policy of rounding time entries and not being paid for actual time worked.

19. Plaintiffs seek to certify a subclass of employees defined as:

Minimum Wages Subclass

All Class Members who were not paid minimum wages for all hours worked.

20. Plaintiffs seek to certify a subclass of employees defined as:

Overtime Wages Subclass

All Class Members who worked one or more period(s) in excess of eight (8) hours in one day or forty (40) hours in one workweek.

21. Plaintiffs seek to certify a subclass of employees defined as:

First Meal Period Subclass

All Class Members who worked one or more period(s) in excess of five (5) hours.

22. Plaintiffs seek to certify a subclass of employees defined as:

Second Meal Period Subclass

All Class Members who worked one or more period(s) in excess of ten (10) hours.

23. Plaintiffs seek to certify a subclass of employees defined as:

Rest Period Subclass

All Class Members who worked one or more period(s) in excess of three and one-half (3.5) hours.

24. Plaintiffs seek to certify a subclass of employees defined as:

Expense Reimbursement Subclass

All Class Members who incurred business-related expenses, including but not limited to cell phone expenses.

///

1 25. Plaintiffs seek to certify a subclass of employees defined as:

2 **Wage Statement Subclass**

3 All Class Members who received one or more itemized wage statements
4 during the one year preceding the filing of this Complaint.

5 26. Plaintiffs seek to certify a subclass of employees defined as:

6 **Waiting Time Subclass**

7 All Class Members whose employment ended at any time during the three
8 years preceding the filing of this Complaint.

9 27. Plaintiffs seek to certify a subclass of employees defined as:

10 **UCL Subclass**

11 All Class and Subclass Members who were subject to Defendants'
12 unlawful or unfair business acts or practices.

13 28. Plaintiffs reserve the right to amend or modify the Class description, including
14 by division into subclasses or limitation to particular issues. California Rule of Court 3.765(b).

15 29. **Commonality**: This action has been brought and may be maintained as a class
16 action pursuant to Code of Civil Procedure section 382 because there is a well-defined common
17 interest of many persons and it is impractical to bring them all before the court.

18 30. **Ascertainable Class**: The proposed Class and Subclasses are ascertainable
19 because they can be identified and located using Defendants' payroll and personnel records.

20 31. **Numerosity**: The potential Members of the Class and Subclasses as defined are
21 so numerous that joinder of all Members would be unfeasible and impractical. The disposition
22 of their claims through this class action will benefit the parties and this Court. The number of
23 Members of the Class and Subclasses is unknown to Plaintiffs, but is estimated to be in excess
24 of 100 individuals. The number and identity of Class Members can be readily ascertained using
25 Defendants' records.

26 32. **Typicality**: Plaintiffs' claims are typical of Class Members' and Subclass
27 Members' claims because all Members of the Class and Subclasses sustained similar injuries
28 and damages caused by Defendants' common course of conduct in violation of law.

 33. **Adequacy**: Plaintiffs are adequate representatives of the Class and Subclasses,
 will fairly protect the interests of the Class and Subclass Members and have no interests
 antagonistic to them, and will vigorously pursue this suit. Plaintiffs' attorneys are competent,

1 skilled, and experienced in litigating large employment law class actions.

2 34. **Superiority**: A class action is superior to other available means for the fair and
3 efficient adjudication of this controversy. Individual joinder of all Class Members is not
4 practicable, and questions of law and fact common to the Class predominate over questions
5 affecting only individual Class Members. A Class action will allow those similarly situated to
6 litigate their claims in the most efficient and economical manner for the parties and the judicial
7 system. Plaintiffs are unaware of any difficulties likely to be encountered in the management of
8 this action that precludes its maintenance as a class action.

9 35. The predominating common questions of law and fact include:

- 10 a. Whether Defendants have a practice of rounding employees' time entries
11 such that their time was systematically underpaid;
- 12 b. Whether Defendants have a policy or practice of failing to pay minimum
13 wages or other compensation for all time worked;
- 14 c. Whether Defendants have a policy or practice of failing to pay overtime
15 compensation for hours worked in excess of eight per day or forty per
16 week;
- 17 d. Whether Defendants have a policy or practice of failing to pay overtime
18 compensation at the correct overtime rate;
- 19 e. Whether Defendants have a policy or practice of failing to provide
20 compliant meal periods;
- 21 f. Whether Defendants have a policy or practice of failing to authorize and
22 permit compliant rest periods;
- 23 g. Whether Defendants have a policy or practice of failing to reimburse for
24 necessary business-related expenses, including cell phone expenses;
- 25 h. Whether Defendants have a policy or practice of failing to provide accurate
26 itemized wage statements;
- 27 i. Whether Class and Waiting Time Subclass Members are entitled to waiting
28 time penalties under Section 203;

j. Whether Defendants violated Sections 17200, *et seq.* of the Business and Professions Code; and

k. Whether Class and Subclass Members are entitled to equitable relief pursuant to Business and Professions Code, sections 17200, *et seq.*

FACTUAL ALLEGATIONS

36. At all relevant times, Plaintiffs, Class Members, and aggrieved employees were employed by Defendants in California, and Defendants conducted business in California.

37. Defendants failed to maintain a reasonably comfortable work environment for Plaintiffs, Class Members, and aggrieved employees. Plaintiffs, Class Members, and aggrieved employees worked in Defendants' hot, crowded factory with no air conditioning and poor ventilation, which resulted in excessive heat and humidity. Several fans were placed in the factory, but many did not work, and the ones that did work pushed hot air around the factory. Temperatures in the factory were high year-round. Plaintiffs estimate the temperature inside regularly exceeded 100 degrees Fahrenheit. On one occasion, an employee on Plaintiffs' production line suffered a heat stroke when the temperature reached 116 degrees Fahrenheit, a temperature confirmed by a thermometer the affected employee had brought from home which Plaintiff Celio read. On at least two other occasions during Plaintiffs' employment, other employees suffered heat stroke. On these occasions, Plaintiffs were told to continue working, and they did. The break room located in the factory was also hot, and the two restrooms in the factory were hot and humid like a sauna. Ventilation in the factory was also poor. Plaintiff Lytle experienced lung issues, for which he sought medical attention, after breathing in wildfire smoke which had drifted into the factory.

38. Defendants had a policy and practice of requiring Plaintiffs and others similarly situated and aggrieved to write the time they began work, the time their meal break began and ended, and the time they finished work on physical timesheets, which they were required to submit at the end of each week. On several occasions, Plaintiffs CELIO and LYTLE were told by their head Human Resources ("HR") person to change their clock-out time to reflect their scheduled shift end time, and not the actual time they ended work, or to change the time that

1 they wrote for their meal period so that it would appear timely, although it was actually late.
2 Sometimes, Plaintiffs witnessed this HR person cross out these entries and change their time
3 entries in pen herself.

4 39. At some point, Defendants replaced the handwritten timecard system with a
5 computer timekeeping system. Plaintiffs and others similarly situated and aggrieved would scan
6 a card to clock in and out for work and meal breaks. When a scan registered properly, a green
7 light would flash. When it did not, a red light would flash. When a red light flashed, Plaintiffs
8 would inform a manager of the error and use a physical timecard to record their time in or out.
9 Sometimes, problems with the computer timekeeping system resulted in Plaintiffs and others
10 similarly situated and aggrieved not receiving proper pay for all hours worked. For instance, on
11 one occasion, Plaintiff CELIO was not paid any wages for three full days of work because the
12 computer had not recorded this time. Plaintiff CELIO was only paid for this time after
13 complaining of it to management.

14 40. Defendants had a consistent policy and practice of failing to pay all minimum,
15 regular, and overtime wages to Plaintiffs and others similarly situated and aggrieved. Plaintiffs
16 and others similarly situated and aggrieved were not paid any wages for time they worked or
17 were subject to the employer's control off-the-clock, including time spent cleaning up outside
18 around the dumpster, filling up propane tanks, and waiting in line for and undergoing COVID
19 screenings, including temperature checks.

20 41. Additionally, Plaintiffs and others similarly situated and aggrieved were
21 subjected to Defendants' uniform policy and practice of unlawful time rounding. Defendants
22 did not pay Plaintiffs and others similarly situated and aggrieved precisely for all time worked.
23 Rather, Defendants rounded their hours worked, which over time, unlawfully favored
24 Defendants and resulted in time lost to Plaintiffs and others similarly situated and aggrieved.
25 This rounding policy was not neutral on its face nor in application and resulted in a cumulative
26 loss of time and pay to the employees. Defendants had the ability to pay for the precise hours
27 worked but opted instead to utilize the rounding policy to benefit Defendants and deprive
28 employees of payment for all hours worked. As a result, Plaintiffs and others similarly situated

1 and aggrieved were not paid all minimum, regular, and overtime wages for all hours worked.

2 42. Defendants also had a consistent policy and practice of failing to pay Plaintiffs
3 and others similarly situated and aggrieved all overtime wages for all overtime hours worked
4 because they failed to properly calculate the regular rate of pay for purposes of calculating
5 overtime and double-time rates. Plaintiffs and others similarly situated and aggrieved were
6 eligible to earn, and did earn, non-discretionary pay, including bonuses, in addition to their
7 hourly pay. Plaintiffs and others similarly situated and aggrieved worked overtime during the
8 same workweek in which they earned additional non-discretionary pay. However, all
9 remuneration was not properly calculated into the regular rate of pay and as a result, the
10 overtime and double-time wages were not calculated using the correct regular rate of pay.
11 Accordingly, Defendants failed to pay all overtime wages owed to Plaintiffs and others
12 similarly situated and aggrieved. Defendants' policy and practice of not paying overtime wages
13 correctly was willful and deliberate.

14 43. Defendants had a consistent policy and practice of scheduling employees to
15 work more than seven days consecutively in a workweek. Plaintiffs and others similarly
16 situated and aggrieved were regularly required to work seven or more days consecutively in a
17 workweek and were told by managers that if they did not like this arrangement, they could
18 leave, and that the company did not want to hear that the arrangement was illegal.

19 44. Defendants had a consistent policy which did not provide Plaintiffs, Class
20 Members, and aggrieved employees with duty-free meal periods of at least thirty (30) minutes
21 for shifts of five hours or more, which began before the end of the fifth hour of work, and failed
22 to pay such employees one (1) hour of pay at their regular rate of compensation for each
23 workday a meal period was not authorized or permitted, as required by California wage and
24 hour laws. Plaintiffs, Class Members, and aggrieved employees regularly worked shifts of more
25 than 10 hours per day and were not provided with a second off-duty meal period of 30 minutes
26 for each shift of more than 10 hours, which began before the end of the tenth hour of work. On
27 information and belief, Plaintiffs, Class Members, and aggrieved employees did not waive their
28 right to receive meal periods, including their right to a second meal period on eligible

1 workdays. Defendants had a consistent policy and practice of requiring Plaintiffs, Class
2 Members, and aggrieved employees to remain on premises during meal periods.

3 45. Defendants had a consistent policy which did not authorize or permit Plaintiffs,
4 Class Members, and aggrieved to receive duty-free rest periods of at least ten (10) minutes per
5 four (4) hours, or major fraction, worked, and failed to pay such employees one (1) hour of pay
6 at their regular rate of compensation for each workday a rest period was not authorized or
7 permitted, as required by California wage and hour laws. Furthermore, Plaintiffs, Class
8 Members, and aggrieved employees regularly worked shifts of more than 10 hours per day and
9 were not provided with a third duty-free rest period of 10-minutes for each shifts of more than
10 10 hours. Defendants had a consistent policy and practice of requiring Plaintiffs, Class
11 Members, and aggrieved employees to remain on premises during rest periods.

12 46. Defendants had a consistent policy of failing to reimburse Plaintiffs, Members
13 of the Plaintiff Class, and aggrieved employees for all necessary and reasonable business
14 expenses, including those incurred by the requirement to use personal cell phones for work-
15 related purposes, in violation of California state wage and hour laws. Plaintiffs, Class
16 Members, and aggrieved employees were required by Defendants to use their personal cell
17 phones regularly to communicate with coworkers and with management but were not
18 reimbursed for these cell phone expenses.

19 47. Defendants knowingly and willfully failed to provide accurate itemized wage
20 statements to Plaintiffs, Class Members and aggrieved employees, which did not include,
21 among other things, the total number of hours worked and the number of hours worked at each
22 corresponding rate of pay. Additionally, because Defendants failed to compensate Plaintiffs,
23 Class Members, and aggrieved employees for all hours worked and for any non-compliant meal
24 or rest periods, the itemized wage statements provided by Defendants to Plaintiffs, other
25 Members of the Plaintiff Class, were inaccurate. As a result, the wage statements that
26 Defendants furnished to Plaintiffs, Class Members, and aggrieved employees were incomplete
27 and inaccurate and fail to comply with the requirements of Labor Code section 226(a).

28 48. Defendants had a consistent policy of failing to pay Plaintiffs, Class Members,

1 and aggrieved employees all wages due upon separation, in violation of California state wage
2 and hour laws. Because Defendants failed to pay all minimum and overtime wages and meal
3 and rest period premiums owed during Plaintiffs,' Class Members,' and aggrieved employees'
4 employment, final wages paid to Plaintiffs, Class Members, and aggrieved employees were
5 underpaid, as they did not include these amounts.

6 49. Defendants' failure to: provide a reasonably comfortable work environment, free
7 of excessive heat and humidity; provide one day's rest in seven; pay minimum wages for all
8 time worked; pay overtime wages at the correct rate for hours worked in excess of eight in one
9 day or forty in one week; provide compliant meal and rest breaks or compensation in lieu
10 thereof; reimburse necessary business expenses; provide accurate, itemized wage statements;
11 and timely provide payment of wages to Plaintiffs, Class Members, and aggrieved employees
12 upon separation all stem from AIR INTERNATIONAL's centrally devised and uniformly
13 implemented unlawful and unfair policies and practices.

14 50. Plaintiffs, on behalf of themselves and Class Members, seek injunctive relief,
15 restitution, and disgorgement of all benefits obtained by Defendants as a result of violations
16 alleged. Business and Professions Code §§ 17200, *et seq.*

17 CAUSES OF ACTION

18 FIRST CAUSE OF ACTION

19 **Failure to Pay Minimum, Regular, and Overtime Wages**
20 **Labor Code §§ 510, 551-556, 1194 and 1194.2; IWC Wage Order 1-2001, §§ 3 and 4**
(By Plaintiffs and each Minimum Wages and Overtime Wages Subclass Member)

21 51. Plaintiffs incorporate the preceding paragraphs of this Complaint.

22 52. By failing to pay at least minimum wages for all hours worked, including due to
23 rounding, Defendants violated Labor Code section 1194 and IWC Wage Order 1-2001.
24 Additionally, Defendants failed to pay overtime wages for hours worked in excess of eight (8)
25 in one day or forty (40) in one week and double-time wages for hours worked over eight (8) on
26 the seventh consecutive workday of employees' workweeks. Overtime wages that were paid by
27 Defendants were underpaid because non-discretionary bonuses were not incorporated into the
28 regular rate of pay for the purpose of calculating overtime, as well as due to rounding. By

1 failing to pay overtime wages and overtime wages at the correct rate, Defendants violated
2 Labor Code sections 510, 551-556, and 1194, and IWC Wage Order 1-2001, sections 3 and 4.

3 53. Labor Code section 1194.2 provides for liquidated damages equal to unlawfully
4 unpaid minimum wages, with interest.

5 54. Defendants' unlawful acts deprived Plaintiffs, the Class, the Time Rounding
6 Subclass, the Minimum Wages Subclass, and the Overtime Wages Subclass of minimum wages
7 and overtime wages in amounts to be determined at trial, and they are entitled to recover these
8 wages, and liquidated damages, interest, attorneys' fees, and costs.

9 **SECOND CAUSE OF ACTION**

10 **Failure to Provide Meal Periods**

11 **Labor Code §§ 226.7 and 512 and IWC Wage Order 1-2001, § 11**
12 **(By Plaintiffs and each First and Second Meal Period Subclass Member)**

13 55. Plaintiffs incorporate the preceding paragraphs of this Complaint.

14 56. By failing to: provide duty-free meal periods of at least thirty (30) minutes for
15 shifts of five hours or more, which began before the end of the fifth hour of work; provide
16 second duty-free meal periods of at least thirty (30) minutes for shifts of ten hours or more,
17 which began before the tenth hour of work; and pay premium wages of one (1) hour of pay at
18 employees' regular rate of compensation for each workday a meal period was not provided,
19 Defendants willfully violated the provisions of Labor Code sections 226.7 and 512 and IWC
20 Wage Order 1-2001, section 11.

21 57. Defendants' unlawful acts deprived Plaintiffs, the Class, and the First and
22 Second Meal Period Subclasses of premium wages in amounts to be determined at trial, and
23 they are entitled to recover these amounts, along with interest, attorneys' fees, and costs.

24 **THIRD CAUSE OF ACTION**

25 **Failure to Provide Required Rest Periods**

26 **Labor Code § 226.7; IWC Wage Order 1-2001, § 12**
27 **(By Plaintiffs and each Rest Period Subclass Member)**

28 58. Plaintiffs incorporate the preceding paragraphs of this Complaint.

59. By failing to authorize and permit Plaintiffs and Class Members a paid rest
period of at least 10 minutes for every four hours or major fraction worked per day, and by

1 failing to provide premium wages at the regular rate of pay when not permitted or authorized,
2 Defendants willfully violated the provisions of Labor Code section 226.7 and IWC Wage Order
3 1-2001, section 12.

4 60. Defendants' unlawful acts deprived Plaintiffs, the Class, and the Rest Period
5 Subclass of premium wages in amounts to be determined at trial, and they are entitled to
6 recover these amounts, along with interest, attorneys' fees, and costs.

7 **FOURTH CAUSE OF ACTION**
8 **Failure to Provide Accurate Wage Statements**
9 **Labor Code § 226**
10 **(By Plaintiffs and each Wage Statement Subclass Member)**

11 61. Plaintiffs incorporate the preceding paragraphs of this Complaint.

12 62. All employers must provide employees accurate, itemized wage statements
13 showing, among other things, the total number of hours worked and the number of hours
14 worked at each corresponding rate of pay. Labor Code § 226.

15 63. Defendants knowingly failed to comply with Labor Code section 226 by, among
16 other things, failing to provide accurate itemized wage statements showing the total number of
17 hours worked and the number of hours worked at each corresponding rate of pay. Additionally,
18 because Defendants failed to compensate Plaintiffs and Class Members for all hours worked
19 and for any non-compliant meal or rest periods, the itemized wage statements provided by
20 Defendants to Plaintiffs and other Members of the Plaintiff Class were inaccurate.

21 64. Any employee suffering injury due to a willful violation of Labor Code section
22 226(e) may collect the greater of actual damages or \$50 for the first inadequate pay statement
23 and \$100 for each inadequate statement thereafter. Defendants consistently failed to provide
24 Plaintiffs and Class Members with required adequate wage statements. Labor Code § 226.

25 65. As a consequence of Defendants' knowing and intentional failure to comply
26 with Labor Code section 226, Plaintiffs, the Class, and Wage Statement Subclass are entitled to
27 recover the greater of actual damages or penalties not to exceed \$4,000 for each employee with
28 interest and attorneys' fees and costs.

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FIFTH CAUSE OF ACTION

Failure to Timely Pay Wages Due at Separation

Labor Code §§ 201-203

(By Plaintiffs and each Waiting Time Subclass Member)

66. Plaintiffs incorporate the preceding paragraphs of this Complaint.

67. An employer who discharges an employee must pay all compensation due and to that employee immediately upon discharge. Labor Code § 201. An employer must pay all compensation due to an employee who quits within 72 hours. Labor Code § 202.

68. Defendants had a consistent and uniform policy of willfully failing to timely pay earned wages to former employees. If an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the subject employee's wages until paid or until an action is commenced. Labor Code § 203. The penalty cannot exceed 30 days of wages.

69. Waiting Time Subclass Members are no longer employed by Defendants.

70. Defendants willfully failed to pay Waiting Time Subclass Members the sum due at the time of their termination or within seventy-two (72) hours of their resignation, and failed to pay those sums for thirty (30) days thereafter.

SIXTH CAUSE OF ACTION

Failure to Reimburse Business Expenses

Labor Code § 2802

(By Plaintiffs and each Expense Reimbursement Subclass Member)

71. Plaintiffs incorporate the preceding paragraphs of this Complaint.

72. By failing to reimburse Plaintiffs and Class Members for necessary business-related expenses they incurred, including cell phone expenses, Defendants willfully violated the provisions of Labor Code section 2802.

73. Defendants' unlawful acts deprived Plaintiffs, the Class, and the Expense Reimbursement Subclass of expense reimbursements in amounts to be determined at trial, and they are entitled to recover these amounts, with interest, attorneys' fees, and costs.

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SEVENTH CAUSE OF ACTION
Violation of the Unfair Competition Law
Bus. & Prof. Code §§ 17200, *et seq.*
(By Plaintiffs and each UCL Subclass Member)

74. Plaintiffs incorporate the preceding paragraphs of this Complaint.

75. The California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code sections 17200, *et seq.*, defines unfair competition to include any "unlawful," "unfair," or "fraudulent" business act or practice. Cal. Bus. & Prof. Code § 17200.

76. Defendants' conduct as described above constitutes unlawful business practices because Defendants violated: the California Labor Code, including but not limited to Sections 226.7 (meal and rest), 510 and 1194 (minimum and overtime wages), and 2802 (reimbursement of business expenses); and sections of Wage Order 1-2001.

77. Defendants' conduct as described above constitutes unfair business practices because their denial of lawfully earned wages outweighs any utility of such practices.

78. As a result of Defendants' unlawful and unfair conduct, Plaintiffs and Class Members suffered injury in fact.

79. Plaintiffs and Class Members seek declaratory and injunctive relief, restitution, and other appropriate equitable relief. Cal. Bus. & Prof. Code §§ 17203, 17204.

80. Pursuant to California Code of Civil Procedure section 1021.5, Plaintiffs and Class Members are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in bringing this action.

81. This cause of action is brought as a cumulative remedy and is intended as an alternative remedy for restitution for Plaintiffs, and each Subclass Member, for the four (4) year period before the filing of this Complaint, and as the primary remedy during the fourth year before the filing of this Complaint. Business and Professions Code § 17205.

EIGHTH CAUSE OF ACTION
PAGA Civil Penalties for Failure to Pay Minimum, Regular, and Overtime Wages
(By Plaintiffs and Aggrieved Employees against Each Defendant)

82. Plaintiffs incorporate the preceding paragraphs of this Complaint.

83. "Notwithstanding any agreement to work for a lesser wage, any employee

1 receiving less than the legal minimum wage or the legal overtime compensation applicable to
2 the employee is entitled to recover in a civil action the unpaid balance of the full amount of this
3 minimum wage or overtime compensation, including interest thereon, reasonable attorney's
4 fees, and costs of suit." Labor Code § 1194(a).

5 84. "[A]ny provision of this code that provides for a civil penalty to be assessed and
6 collected by the Labor and Workforce Development Agency or any of its departments,
7 divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an
8 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
9 himself or herself and other current or former employees pursuant to the procedures specified
10 in Section 2699.3." Labor Code § 2699(a).

11 85. "For all provisions of this code except those for which a civil penalty is
12 specifically provided, there is established a civil penalty for a violation of these provisions []
13 (2) If, at the time of the alleged violation, the person employs one or more employees, the civil
14 penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the
15 initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period
16 for each subsequent violation." Labor Code § 2699(f)(2).

17 86. Section 2699.3(a) applies to any alleged violation of Labor Code sections 510,
18 1194, and 1194.1, and allows for recovery of PAGA civil penalties. Labor Code § 2699.5.

19 87. Defendants failed to pay minimum, regular, and overtime wages during the
20 PAGA Period.

21 88. Plaintiffs will seek \$100 for the initial pay period an employee was underpaid,
22 and \$200 for each subsequent violation. Funds recovered will be distributed in accordance with
23 the PAGA, with 75% of the civil penalties provided to the LWDA on behalf of the State of
24 California. The amount of the applicable penalty will be proven at trial.

25 **NINTH CAUSE OF ACTION**

26 **PAGA Civil Penalties for Failure to Provide Meal Periods
(By Plaintiffs and Aggrieved Employees against Each Defendant)**

27 89. Plaintiffs incorporate the preceding paragraphs of this Complaint.

28 90. By failing to provide uninterrupted meal periods of at least 30 minutes for shifts

1 of five hours or more, which began before the end of the fifth hour of work, and a second meal
2 period at least 30 minutes for shifts of ten hours or more, which began before the end of the
3 tenth hour of work, Defendants willfully violated Labor Code sections 226.7 and 512 and the
4 applicable Wage Order(s).

5 91. By failing to pay employees one hour of pay at their regular rate of
6 compensation for each workday a meal period was not provided, Defendants willfully violated
7 Labor Code sections 226.7 and 512, and the applicable Wage Order(s).

8 92. During the PAGA Period, Defendants failed to provide compliant meal periods.

9 93. Plaintiffs will seek penalties of \$100 for the initial pay period an employee was
10 underpaid, and \$200 for each subsequent violation. Labor Code § 2699(f)(2). Funds recovered
11 will be distributed in accordance with the PAGA, with 75% of the civil penalties provided to
12 the LWDA on behalf of the State of California. The amount of the applicable penalty will be
13 proven at trial.

14 **TENTH CAUSE OF ACTION**

15 **PAGA Civil Penalties for Failure to Authorize and Permit Paid Rest Periods 16 (By Plaintiffs and Aggrieved Employees against Each Defendant)**

17 94. Plaintiffs incorporate the preceding paragraphs of this Complaint.

18 95. By failing to authorize and permit a rest period of at least 10 minutes for every
19 four (4) hours or major fraction thereof worked per day, Defendants willfully violated
20 provisions of Labor Code section 226.7 and the applicable Wage Order(s).

21 96. By failing to pay employees one hour of pay at their regular rate of
22 compensation for each day a compliant rest period was not authorized and permitted,
23 Defendants willfully violated the provisions of Labor Code section 226.7 and the applicable
24 Wage Order(s).

25 97. During the PAGA Period, Defendants failed to provide rest periods.

26 98. Plaintiffs will seek penalties of \$100 for the initial pay period an employee was
27 underpaid, and \$200 for each subsequent violation. Labor Code § 2699(f)(2). Funds recovered
28 will be distributed in accordance with the PAGA, with 75% of the civil penalties provided to
the LWDA on behalf of the State of California. The amount of the applicable penalty will be

1 proven at trial.

2 **ELEVENTH CAUSE OF ACTION**

3 **PAGA Civil Penalties for Failure to Provide Accurate Itemized Wage Statements**
4 **(By Plaintiffs and Aggrieved Employees against Each Defendant)**

5 99. Plaintiffs incorporate the preceding paragraphs of this Complaint.

6 100. Every employer must, semimonthly or at the time of each payment of wages,
7 furnish each of its employees an accurate itemized statement in writing showing, among other
8 things, the total number of hours worked and the number of hours worked at each
9 corresponding rate of pay. Labor Code § 226(a).

10 101. Defendants intentionally and willfully violated Section 226 by providing wage
11 statements to employees that did not accurately reflect all required information, including but
12 not limited to, the total number of hours worked and the number of hours worked at each
13 corresponding rate of pay.

14 102. Labor Code section 226.3 provides for civil penalties for violations of Section
15 226.

16 103. Plaintiffs seek civil penalties of \$250 for the initial violation and \$1,000 for
17 each subsequent violation. Labor Code § 226.3. Funds recovered will be distributed in
18 accordance with the PAGA, with 75% of the civil penalties provided to the LWDA on behalf
19 of the State of California. The amount of the applicable penalty will be proven at trial.

20 **TWELFTH CAUSE OF ACTION**

21 **PAGA Civil Penalties for Failure to Timely Pay Wages Due Upon Separation of**
22 **Employment**
23 **(By Plaintiffs and Aggrieved Employees against Each Defendant)**

24 104. Plaintiffs incorporate the preceding paragraphs of this Complaint.

25 105. Labor Code sections 201-202 require employers to pay wages earned by
26 employees within certain times. Defendants had a consistent and uniform policy, practice, and
27 procedure of willfully failing to pay the earned wages of Defendants' former employees. An
28 employer that willfully fails to timely pay all final wages must, as a statutory penalty, pay an
employee's wages for 30 days, or until back wages are paid in full. Labor Code section 203.

106. Defendants failed to pay Plaintiffs and other aggrieved employees all final

1 wages, including minimum, regular, and overtime wages, and meal and rest period premium
2 wages, as required by Labor Code sections 201-202.

3 107. Defendants failed to pay Plaintiffs and other aggrieved employees penalties due
4 them based on Defendants' failure to pay all final wages in a timely manner as required by
5 Labor Code section 203.

6 108. Plaintiffs will seek penalties of \$100 for the initial pay period an employee was
7 not reimbursed, and \$200 for each subsequent violation. Funds recovered will be distributed in
8 accordance with the PAGA, with 75% of the civil penalties provided to the LWDA on behalf
9 of the State of California. The amount of the applicable penalty will be proven at trial.

10 **THIRTEENTH CAUSE OF ACTION**

11 **PAGA Civil Penalties for Failure to Reimburse Business-Related Expenses (By Plaintiffs and Aggrieved Employees against Each Defendant)**

12 109. Plaintiffs incorporate the preceding paragraphs of this Complaint.

13 110. By failing to reimburse Plaintiff and other aggrieved employees for their
14 business-related expenses, including personal cell phone expenses, Defendants willfully
15 violation Labor Code section 2802.

16 111. During the applicable statutory period, Defendants failed to reimburse business-
17 related expenses, including cell phone expenses.

18 112. Plaintiffs will seek penalties of \$100 for the initial pay period an employee was
19 underpaid, and \$200 for each subsequent violation. Labor Code § 2699(f)(2). Funds recovered
20 will be distributed in accordance with the PAGA, with 75% of the civil penalties provided to the
21 LWDA on behalf of the State of California. The amount of the applicable penalty will be
22 proven at trial.

23 **FOURTEENTH CAUSE OF ACTION**

24 **PAGA Civil Penalties for Failure to Maintain a Reasonably Comfortable Temperature (By Plaintiffs and Aggrieved Employees against Each Defendant)**

25 113. Plaintiffs incorporate the preceding paragraphs of this Complaint.

26 114. Labor Code Section 1198 provides, in pertinent part: The...standard conditions
27 of labor fixed by the commission shall be the ...standard conditions of labor for employees. The
28 employment of any employee...under conditions of labor prohibited by the order is unlawful.

115. Section 15 of IWC Wage Order 1-2001, which governs the manufacturing industry, provides in pertinent part: “(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. (B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. (C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.”

116. Defendants failed to take measures to maintain a reasonably comfortable temperature for Plaintiffs and other aggrieved employees. As a result, Plaintiffs and other aggrieved employees were subjected to excessive heat and humidity in the facility in which they worked for Defendants. Defendants violated the law by employing Plaintiffs and other aggrieved employees under conditions of labor prohibited by the wage order.

117. Plaintiffs will seek penalties of \$100 for the initial pay period an employee was not provided with a reasonably comfortable work environment free of excessive heat and humidity, and \$200 for each subsequent pay period in which there was such a violation. Labor Code § 2699(f)(2). Funds recovered will be distributed in accordance with the PAGA, with 75% of the civil penalties provided to the LWDA on behalf of the State of California. The amount of the applicable penalty will be proven at trial.

FIFTHTEENTH CAUSE OF ACTION

**PAGA Civil Penalties for Failure to Provide One Day’s Rest in Seven
(By Plaintiffs and Aggrieved Employees against Each Defendant)**

118. Plaintiffs incorporate the preceding paragraphs of this Complaint.

119. Labor Code section 551 provides that “[e]very person employed in any occupation of labor is entitled to one day’s rest therefrom in seven.” Labor Code section 552, entitled “Maximum consecutive working days,” provides that “[n]o employer of labor shall cause his employees to work more than six days in seven.” Additionally, Labor Code section 556 contains an exception to the requirements of section 551 and 552 “when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof.”

120. Plaintiffs Donell Fort and Robert Martin and other aggrieved employees were

1 regularly required by Defendants to work seven consecutive days in a workweek. These
2 Plaintiffs and other aggrieved employees did not work fewer than six hours per day or thirty
3 hours per week, so the exception of Labor Code section 556 does not apply.

4 121. Plaintiffs will seek penalties of \$100 for the initial pay period an employee was
5 required to work seven consecutive days, and \$200 for each subsequent pay period in which
6 there was such a violation. Labor Code § 2699(f)(2). Funds recovered will be distributed in
7 accordance with the PAGA, with 75% of the civil penalties provided to the LWDA on behalf of
8 the State of California. The amount of the applicable penalty will be proven at trial.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiffs pray for the following relief on behalf of themselves, the
11 Class, and other aggrieved employees against Defendants:

- 12 1. Certification of this action as a class action and appointment of Plaintiffs and
13 Plaintiffs' counsel to represent the Plaintiff Class;
- 14 2. Provision of class notice to Class Members as defined above;
- 15 3. A declaratory judgment that Defendants knowingly and intentionally violated:
 - 16 a. California Labor Code sections 510 and 1194 by failing to pay
17 minimum and overtime wages;
 - 18 b. California Labor Code sections 226.7 and 512 by failing to provide meal
19 and rest periods;
 - 20 c. California Labor Code section 2802 by failing to reimburse necessary
21 business-related expenses;
 - 22 d. California Labor Code section 226 by failing to provide accurate,
23 itemized wage statements;
 - 24 e. California Labor Code section 203 by failing to pay waiting time
25 penalties; and
 - 26 f. California Business and Professions Code sections 17200, *et seq.* by
27 engaging in unlawful or unfair business practices.

28 ///

1 4. That Defendants be permanently enjoined from engaging in the unlawful or
2 unfair acts and practices alleged;

3 5. An order requiring Defendants to pay restitution of all amounts owed to
4 Plaintiffs and Class Members, in an amount according to proof, pursuant to California Business
5 and Professions Code section 17203;

6 6. For an award of unpaid wages, including regular wages, minimum, regular, and
7 overtime wages to the extent permissible by law to each affected person;

8 7. For an award of liquidated damages to the extent permissible by Labor Code
9 section 1194.2;

10 8. For penalties incurred under Labor Code section 1197.1 for each underpaid
11 employee per pay period for which the employee was underpaid;

12 9. For an award of meal period premium wages equal to one hour of pay at the
13 employee's regular rate of pay for each workday that a meal period was not provided in
14 accordance with Labor Code sections 226.7 and 512, and section 11 of the applicable IWC
15 Wage Order;

16 10. For an award of rest period premium wages equal to one hour of pay at the
17 employee's regular rate of pay for each workday that a rest period was not provided in
18 accordance with Labor Code section 226.7 and section 12 of the applicable IWC Wage Order;

19 11. For penalties to the extent permitted pursuant to the Labor Code, and Orders of
20 the Industrial Welfare Commission including, but not limited to penalties under Labor Code
21 section 226(e);

22 12. For the remedies provided by Labor Code section 233 including reasonable
23 attorneys' fees;

24 13. For pre- and post-judgment interest to the extent permitted by law including, but
25 not limited to, Labor Code sections 218.6 and 1194;

26 14. For reimbursement of all necessary expenses incurred in direct consequence of
27 the discharge of duties;

28 ///

1 15. That this action be maintained as a PAGA Representative Action, and Plaintiffs
2 and their counsel be provided with enforcement capability as if the action were brought by the
3 DLSE;

4 16. For recovery of all civil penalties as permitted by Labor Code section 2699, for
5 unpaid minimum, regular, and overtime wages owed pursuant to Labor Code section 1194,
6 according to proof;

7 17. For recovery of civil penalties as permitted by Labor Code section 2699, for
8 unpaid meal period premiums earned pursuant to Labor Code section 226.7, according to
9 proof;

10 18. For recovery of civil penalties as permitted by Labor Code section 2699 for
11 unpaid rest period premiums earned pursuant to Labor Code section 226.7, according to proof;

12 19. For recovery of civil penalties as permitted by Labor Code section 2699 for
13 unreimbursed business expenses pursuant to Labor Code section 2802, according to proof;

14 20. For recovery of civil penalties as permitted by Labor Code section 2699, for
15 inaccurate itemized wage statements pursuant to Labor Code sections 226 and 226.3, according
16 to proof;

17 21. For recovery of civil penalties as permitted by Labor Code section 2699, for
18 failing to timely pay all wages owed upon separation from employment pursuant to Labor
19 Code sections 201-203, according to proof;

20 22. For recovery of civil penalties as permitted by Labor Code section 2699, for
21 failing to reimburse business expenses pursuant to Labor Code section 2802, according to
22 proof;

23 23. For recovery of civil penalties as permitted by Labor Code section 2699, for
24 failing to provide a reasonably comfortable work environment free of excessive heat and
25 humidity pursuant to Labor Code section 1198 and section 15 of the applicable Wage Order,
26 according to proof;

27 24. For recovery of civil penalties as permitted by Labor Code section 2699, for
28 failing to provide one day's rest in seven pursuant to Labor Code sections 551-552, according

1 to proof;

2 25. For all civil penalties to be distributed 75% to the LWDA and 25% to the
3 aggrieved employees, subject to approval by the Court, pursuant to Labor Code section
4 2699(i);

5 26. For the Plaintiffs to be recognized by the Court as serving as Representatives of
6 the LWDA, that they be deemed "aggrieved employees," and that they be awarded some form
7 of enhanced compensation for bringing this action should they prevail and provide benefit to
8 the State of California or other "aggrieved employees," subject to the Court's discretion;

9 27. Compensatory damages according to proof;

10 28. Statutory damages as provided under the Labor Code;

11 29. Liquidated damages as provided under the Labor Code;

12 30. Pre-judgment interest on all sums collected;

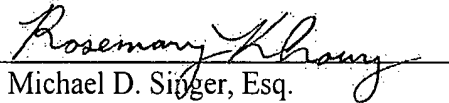
13 31. For reasonable attorneys' fees and cost of suit and, to the extent permitted by
14 law, including pursuant to Labor Code sections 218.5, 226, 226(h), and 1194, and Code of
15 Civil Procedure section 1021.5;

16 32. Costs of suit; and,

17 33. Such other relief as the Court may deem appropriate.

18 COHELAN KHOURY & SINGER

19
20 Dated: June 7, 2021

By: 

Michael D. Singer, Esq.

J. Jason Hill, Esq.

Rosemary C. Khoury, Esq.

21 Attorneys for Plaintiffs Angelyna Celio, Matthew Lytle,
22 Robert Martin, and Donell Fort, on behalf of themselves
23 and all others similarly situated and aggrieved

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DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial of all claims triable as of right by jury.

COHELAN KHOURY & SINGER

Dated: June 7, 2021

By: *Rosemary Khoury*
Michael D. Singer, Esq.

J. Jason Hill, Esq.

Rosemary C. Khoury

Attorneys for Plaintiffs Angelyna Celio, Matthew Lytle,
Robert Martin, and Donell Fort, on behalf of themselves
and all others similarly situated and aggrieved

COHELAN KHOURY & SINGER
605 C Street, Suite 200
San Diego, CA 92101

EXHIBIT 1

COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

TIMOTHY D. COHELAN, APLC*
ISAM C. KHOURY, APC
DIANA M. KHOURY, APC
MICHAEL D. SINGER, APLC•

(*Also admitted in the District of Columbia)
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J. JASON HILL†
KRISTINA DE LA ROSA
ROSEMARY C. KHOURY

(† Also admitted in Illinois)

March 16, 2021

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE SECTIONS 2698, *et seq.*

NOTICE VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

Via Certified U.S. Mail with Return Receipt

Air International US, Inc.
750 Standard Parkway
Auburn Hills, MI 48326

Air International US, Inc.
c/o CSC-Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Re: Notice by Angelyna Celio and Matthew Lytle, on behalf of themselves and all other aggrieved California employees of Air International US, Inc. as individuals and as proposed Representatives of the State of California

Dear PAGA Administrator and Air International US, Inc.:

Angelyna Celio and Matthew Lytle ("Claimants") intend to bring a Private Attorneys General Act ("PAGA") action against Air International US, Inc. ("Air Int'l") on behalf of themselves and all other aggrieved employees. In this notice, "aggrieved employees" means all non-exempt California employees of Air Int'l subject to the policies and practices described below, including, but not limited to, assembly line crew employees.

Factual Statement

Angelyna Celio and Matthew Lytle worked for Air Int'l as assembly line crew employees: Claimant Celio from approximately June 9, 2020 through approximately January 7, 2021, and Claimant Lytle from mid-June 2020 through approximately December 22, 2020. Claimants and other aggrieved employees worked on a production line assembling heating, ventilation, and air conditioning ("HVAC") units. Claimant Celio worked near the start of the production line wrapping HVAC condensers and evaporators with seals. Claimant Lytle worked on the production line building the HVAC units, which involved placing doors and screws in the units.

Claimants worked in an Air Int'l factory with no air conditioning alongside approximately 500 other employees. Several fans were placed in the factory, but many did not work, and the ones that did work pushed hot air around the factory. Temperatures in the factory were high year-round. Claimants estimate the temperature inside regularly exceeded 100 degrees Fahrenheit. On one occasion, an employee on Claimants' production line suffered a heat stroke

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when the temperature reached 116 degrees Fahrenheit, a temperature confirmed by a thermometer the affected employee had brought from home which Claimant Celio read. On at least two other occasions during Claimants' employment, other employees suffered heat stroke. On these occasions, Claimants were told to continue working, and they did. The break room located in the factory was also hot, and the two restrooms in the factory were hot and humid like a sauna. Ventilation in the factory was also poor. Claimant Lytle experienced lung issues, for which he sought medical attention, after breathing in wildfire smoke which had drifted into the factory.

Initially, there was only one production line in the factory, and Air Int'l expected Claimants and other aggrieved employees to produce 400 HVAC units per day. Around October 2020, Air Int'l added a second production line and Claimants and other aggrieved employees were expected to produce 500 units per day per production line, or 1,000 units in total. Despite pressure from managers, these goals were often not met. Working a 12-hour day, Claimants and other aggrieved employees often could not make more than 300 to 350 units per day per production line.

Upon hire, Claimants' scheduled shift was from 6:00 a.m. to 4:30 p.m. and their scheduled meal break was at 10:00 a.m. (before the fifth hour of work). But at least twice per week Claimants were not permitted to take their meal breaks until after 11:00 a.m. (after the fifth hour of work) per their manager's instruction to keep working to make their production goals and to take their meal breaks later. In September 2020, Claimants' scheduled shift changed to 5:00 a.m. to 5:30 p.m. and their scheduled meal break was at 10:00 a.m. (such that the 30-minute meal break was not provided within the first five hours of their shift). Claimants were also regularly required to wait for their first meal break until after 10:00 a.m. (after the fifth hour of work). Claimants were never provided with a second meal break when they worked shifts over 10 hours. Around November 2020, Claimants' scheduled hours decreased to 10 hours per day, and in December 2020, to 8 hours per day; throughout these scheduling changes, Claimants continued to experience the same issues with their meal breaks.

Claimants were typically provided just two 10-minute rest breaks in a shift. When Claimants worked over 10 hours, they were not provided with a third 10-minute rest break.

Claimants were not allowed to leave the premises during meal or rest breaks. Claimant Celio attended a meeting at which a higher-up from Air Int'l told her and other aggrieved employees that the company policy was that employees could not leave the premises for meal or rest breaks. Claimant Celio's supervisor reiterated this policy to her. Claimant Lytle learned of this company policy from Claimant Celio. Based on their understanding of this company policy, Claimants remained on the premises during meal and rest breaks, and they observed other employees doing the same.

Claimants and other aggrieved employees did not receive premium pay for meal or rest breaks that were required to be taken on premises, late, short and/or missed.

For the majority of their employment, Claimants and other aggrieved employees wrote the time they arrived at work, their meal break start and end times, and the time they finished

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work on physical timesheets, which they were expected to submit at the end of each week. On several occasions, Claimants were told by their head Human Resources (HR) person to change their clock out time to reflect their scheduled shift end time, and not the actual time they ended work, or to change the time that they wrote for their meal period so that it would appear timely, although it was actually late. Sometimes, Claimants witnessed this HR person cross out these entries and change their time entries in pen herself.

For approximately one month, from September to October 2020, Claimants and other aggrieved employees switched to computer timekeeping and would scan a card to clock in and out for work and meal breaks. When a scan registered properly, a green light would flash. When it did not, a red light would flash. When a red light flashed, Claimants would inform a manager of the error and use a physical timecard to record their time in or out. Sometimes, problems with the computer timekeeping system resulted in Claimants, and on information and belief, other aggrieved employees not receiving proper pay for all hours worked. For instance, on one occasion, Claimant Celio was not paid any wages for three full days of work because the computer had not recorded this time. Upon her complaint, Claimant Celio was paid for this time, and to her knowledge the payment was accurate.

Wage statements issued to Claimants and other aggrieved employees did not include, among other things: the accurate number of hours worked; the accurate gross wages earned, including premium wages owed for non-compliant meal and rest periods; and the accurate number of hours worked at each corresponding rate.

Because Claimants and other aggrieved employees were not properly paid for all hours worked and for all premium wages owed, they were not timely paid all final wages they were owed when their employment with Air Int'l ended.

Summarizing the claims on behalf of Claimants and all other aggrieved employees of Air Int'l, Air Int'l failed to:

1. Maintain a reasonably comfortable temperature and humidity level in work and rest areas and restrooms;
2. Provide timely, compliant meal breaks;
3. Authorize and permit compliant rest breaks;
4. Pay minimum, regular, and overtime wages for all hours worked;
5. Provide accurate, itemized wage statements; and
6. Timely pay final wages.

TEMPERATURE

(Industrial Welfare Commission ("IWC") Wage Order 1-2001, § 15)

Section 15 of IWC Wage Order 1-2001, which governs the manufacturing industry, provides in pertinent part: "(A) The temperature maintained in each work area shall provide

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reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. (B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. (C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.”

Air Int’l failed to take measures to provide a reasonably comfortable work environment for Claimants and other aggrieved employees. As a result, Claimants and other aggrieved employees were subjected to uncomfortable and dangerous heat and humidity on the factory floor, in the break room, and in the restrooms.

MEAL AND REST BREAKS AND PREMIUM WAGES

(Labor Code §§ 512 and 226.7; IWC Wage Order 1-2001, §§ 11 and 12)

Labor Code section 512(a) provides in pertinent part: “An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes. . . An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. . . .”

The Meal Period section of the applicable Wage Order provides in pertinent part: “No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes...[or] for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” IWC Wage Order 1-2001, §§ 11(A-B). “Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked....” IWC Wage Order 1-2001, § 11(C). The meal break requirement is only satisfied if employees are permitted to leave the employer’s premises during meal breaks. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1035.

The Rest Period section of the applicable Wage Order provides: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” IWC Wage Order 1-2001, § 12(A). A first rest period must be authorized and permitted when 3.5 hours are worked, a second when 6 hours are worked, and a third when 10 hours are worked. “During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.” *Augustus v. ABM Sec. Servs., Inc.* (2016) 2 Cal. 5th 257, 257. Therefore, an employer may not require that an employee remain on the work premises during the rest period. Department of Industrial Relations, *Rest Periods/Lactation Accommodation*, FAQ #5, https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm.

If an employer fails to provide an employee a meal or rest period in accordance with California law, the employer must pay the employee one hour of pay at the employee’s regular

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rate for each work day the meal or rest period is not provided. IWC Wage Order 1-2001, §§ 11(D), 12(B); Lab. Code § 226.7(c).

Because of Air Int'l's policies and practices, Claimants and other aggrieved employees did not receive compliant meal and rest breaks. Meal and rest breaks were non-compliant when they were, among other things, required to be taken on the premises, late, short, or missed. Premium wages were not paid for non-compliant meal or rest breaks.

MINIMUM, REGULAR, AND OVERTIME WAGES
(Labor Code §§ 510 and 1194)

Labor Code sections 510 and 1194 require employers to pay the wages agreed to and at least minimum wages for all time under the employer's control, and overtime wages for hours worked over eight per day or forty per week at the employee's regular rate of pay.

Claimants and other aggrieved employees were not paid minimum, regular, or overtime wages, where applicable, for all hours worked because they were paid based on inaccurate time records that did not reflect all time actually worked, including being required to remain on premises while clocked out during meal breaks. Air Int'l violated minimum wage and overtime laws by requiring Claimants and other aggrieved employees to remain on premises and therefore under control and on duty during meal and rest periods and failing to pay wages for on-premises meal periods.

WAGE STATEMENTS
(Labor Code § 226)

California employers must provide itemized wage statements showing, among other things, "gross wages earned," "total hours worked by the employee," and "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee." Labor Code §§ 226(a)(1), (2), (9).

Wage statements issued to Claimants and other aggrieved employees did not include, among other things: the accurate number of hours worked; the accurate gross wages earned, including regular and premium wages owed for non-compliant meal and rest periods; and the accurate number of hours worked at each corresponding rate.

FINAL WAGES
(Labor Code §§ 201-203)

An employer must pay all wages owed to terminated employees at the time of termination, or within 72 hours to employees who quit. Labor Code §§ 201-202. If an employer willfully fails to timely pay all wages to separated employees, the wages continue at the same rate for up to 30 days, until paid. Cal. Labor Code § 203.

As a result of its failure to pay all wages earned during Claimants' and other aggrieved employees' employment, Air Int'l failed to timely pay all final wages owed to Claimants and other aggrieved employees.

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ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES
(Labor Code §§ 218.5, 218.6, 226(e), 1194, 1194.2, and 2698, *et seq.*)

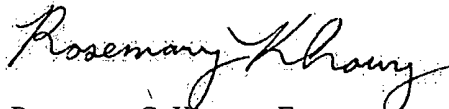
Labor Code sections 218.5, 218.6, 226(e), 226.3 1194, 1194.2, and 2698, *et seq.* give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages, and penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

Pursuant to Labor Code sections 2698, *et seq.*, aggrieved employees are entitled to collect 25% of the penalty assessment and 100% of the underpaid wages. Accordingly, Air Int'l is liable for these items in addition to the unpaid wages. Claimants have incurred actual damages, costs, and attorney's fees as a result of Air Int'l's unlawful actions.

CONCLUSION

Claimants request the Labor and Workforce Development Agency ("LWDA") initiate enforcement for the violations described above against Air Int'l. If the LWDA does not pursue enforcement, Claimants will pursue claims for statutory penalties and seek all remedies available for Air Int'l's violations of the Labor Code and applicable Industrial Welfare Commission Wage Order, including all available penalties set forth in Labor Code section 2699(f).

Very truly yours,
COHELAN KHOURY & SINGER


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April 2, 2021

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE SECTIONS 2698, *et seq.*

NOTICE VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

Via Certified U.S. Mail with Return Receipt

Air International US, Inc.
750 Standard Parkway
Auburn Hills, MI 48326

Air International US, Inc.
c/o CSC-Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Re: Notice by Donell Fort and Robert Martin, on behalf of themselves and all other aggrieved California employees of Air International US, Inc. as individuals and as proposed Representatives of the State of California

Dear PAGA Administrator and Air International US, Inc.:

Donell Fort and Robert Martin ("Claimants") intend to bring a Private Attorneys General Act ("PAGA") action against Air International US, Inc. ("Air Int'l") on behalf of themselves and all other aggrieved employees. In this notice, "aggrieved employees" means all non-exempt California employees of Air Int'l subject to the policies and practices described below, including, but not limited to, line techs and warehouse leads.

Factual Statement

Claimants and other aggrieved employees worked for Air Int'l on a production line assembling heating, ventilation, and air conditioning ("HVAC") units. Donell Fort worked for Air Int'l as a line tech from March 2020 to December 15, 2020. As a line tech, Fort was responsible for assembling air conditioning units and boxes for the lineups. Robert Martin worked for Air Int'l as a warehouse lead from October 2020 to March 1, 2021. As a warehouse lead, Martin was responsible for delegating tasks, reporting back to supervisors, driving a forklift, loading and unloading trucks, and keeping the production line going.

Claimants and other aggrieved employees worked in a hot, crowded factory with no air conditioning and poor ventilation, which resulted in excessive heat and humidity in the facility.

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Claimants and other aggrieved employees were regularly required by Air Int'l to work seven or more consecutive days in a workweek, and were told by managers that if they did not like this arrangement, they could leave, and that the company did not want to hear that the arrangement was illegal.

Before December 2020, Claimants and other aggrieved employees recorded their time worked on paper timesheets. After December 2020, Claimants and other aggrieved employees used a magnetic card to clock in and out.

Claimants and other aggrieved employees were not paid all minimum, regular, and overtime wages to which they were entitled. Claimants and other aggrieved were paid no wages for time worked off-the-clock, including time spent cleaning up outside around the dumpster, filling up propane tanks, and waiting in line for and undergoing COVID screenings, including temperature checks.

Further, Claimants and other aggrieved employees were subjected to a uniform policy and practice of unlawful time rounding. That is, Air Int'l did not pay Claimants and other aggrieved employees precisely for the hours worked. Rather, Air Int'l rounded their and other aggrieved employees' hours worked, which over time, unlawfully favored Air Int'l and resulted in time lost to the employees, including Claimants. This rounding policy was not neutral on its face or in application, and resulted in a cumulative loss of time to the employees. Air Int'l had the ability to pay for the precise hours worked, but opted instead to utilize the rounding policy with no apparent benefit other than to benefit Air Int'l and deprive employees of payment for all hours worked. As a result, Claimants and other employees were not paid all minimum and regular wages for all hours worked. When the employees worked overtime, the rounding policy also resulted in the failure to pay all overtime wages for all overtime hours worked.

Air Int'l further failed to pay all overtime wages for all overtime hours worked because it failed to properly calculate the regular rate of pay for purposes of calculating overtime rates (time and a half- and double-time rates). Claimants and other aggrieved employees were eligible to earn, and did earn, non-discretionary pay (including bonuses) in addition to their hourly rates. Claimants and other aggrieved employees worked overtime during the same workweek in which they earned additional non-discretionary pay. However, all remuneration was not properly calculated into the regular rate of pay and as a result the overtime and double-time wages were not calculated using the correct regular rate of pay. Accordingly, Air Int'l failed to pay all overtime wages owed to Claimants and other aggrieved employees.

Claimants and other aggrieved employees were not provided an opportunity during each shift to take off-duty, timely, uninterrupted meal periods lasting at least 30 minutes. When meal periods were provided, they were often on duty, late, interrupted, or shorter than thirty minutes. Claimants and other aggrieved employees were not provided an opportunity to take a second uninterrupted, off-duty, thirty-minute meal period on shifts lasting more than 10 hours. On information and belief, Claimants did not waive their right to receive meal periods, where applicable.

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Further, Air Int'l regularly failed to provide Claimants and other aggrieved employees a 10-minute rest break for every four hours, or major fraction thereof, worked, including third rest breaks on shifts they worked over ten hours.

Claimants and other aggrieved employees did not receive premium pay for meal or rest periods that were late, short, interrupted, missed, or otherwise non-compliant.

Wage statements issued to Claimants and other aggrieved employees did not include, among other things: total hours worked; the accurate gross wages earned, including premium wages owed for non-compliant meal and rest periods; and the accurate number of hours worked at each corresponding rate. Additionally, double-time rates were listed as the premium rate above regular wages, not the actual rate paid for double-time hours.

Because Claimants and other aggrieved employees were not properly paid for all hours worked and for all premium wages owed, they were not timely paid all final wages they were owed when their employment with Air Int'l ended.

Further, Claimants and other aggrieved employees were required to use personal cell phones to communicate with each other and with management, but were not reimbursed for these cell phone expenses.

Summarizing the claims on behalf of Claimants and all other aggrieved employees of Air Int'l, Air Int'l failed to:

1. Maintain a reasonably comfortable temperature and humidity level in work and rest areas and restrooms;
2. Provide one day's rest in seven;
3. Pay minimum, regular, and overtime wages for all hours worked;
4. Provide timely, compliant meal breaks;
5. Authorize and permit compliant rest breaks;
6. Provide accurate, itemized wage statements;
7. Timely pay final wages; and
8. Reimburse for reasonable business-related expenses, including cell phone expenses.

TEMPERATURE

(Industrial Welfare Commission ("IWC") Wage Order 1-2001, § 15)

Section 15 of IWC Wage Order 1-2001, which governs the manufacturing industry, provides in pertinent part: "(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. (B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. (C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use."

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Air Int'l failed to take measures to provide a reasonably comfortable work environment for Claimants and other aggrieved employees. As a result, Claimants and other aggrieved employees were subjected to excessive heat and humidity in the facility.

ONE DAY'S REST IN SEVEN

Labor Code section 551 provides that "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven." Labor Code section 552, entitled "Maximum consecutive working days," provides that "[n]o employer of labor shall cause his employees to work more than six days in seven." Additionally, Labor Code section 556 contains an exception to the requirements of section 551 and 552 "when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof."

Because of Air Int'l's policies and practices, Claimants and other aggrieved employees were regularly required by Air Int'l to work seven consecutive days in a workweek. Claimants did not work fewer than six hours per day or thirty hours per week, so the exception of Labor Code 556 does not apply.

MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code §§ 510 and 1194)

Labor Code sections 510 and 1194 require employers to pay the wages agreed to and at least minimum wages for all time under the employer's control, overtime wages for hours worked over eight per day or forty per week at one and one-half times the employee's regular rate of pay, and double-time wages for hours worked over twelve in one day or for the first eight hours of work on the seventh consecutive day of work at two times the employee's regular rate of pay.

Claimants and other aggrieved employees were not paid minimum, regular, or overtime wages, where applicable, for all hours worked because they were not paid any wages for off-the-clock work, and because their times worked were rounded so that employees were regularly not paid any wages for several minutes at the beginnings and ends of their shifts. Further Claimant and other aggrieved employees were not paid all overtime wages they were owed, including because Air Int'l failed to include non-discretionary pay in employees' regular rates of pay for the purpose of calculating overtime and double-time wages.

MEAL AND REST BREAKS AND PREMIUM WAGES

(Labor Code §§ 512 and 226.7; IWC Wage Order 1-2001, §§ 11 and 12)

Labor Code section 512(a) provides in pertinent part: "An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes. . . An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. . . ."

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The Meal Period section of the applicable Wage Order provides in pertinent part: “No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes...[or] for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” IWC Wage Order 1-2001, §§ 11(A-B). “Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked....” IWC Wage Order 1-2001, § 11(C).

The Rest Period section of the applicable Wage Order provides: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” IWC Wage Order 1-2001, § 12(A). A first rest period must be authorized and permitted when 3.5 hours are worked, a second when 6 hours are worked, and a third when 10 hours are worked.

If an employer fails to provide an employee a meal or rest period in accordance with California law, the employer must pay the employee one hour of pay at the employee’s regular rate for each work day the meal or rest period is not provided. IWC Wage Order 1-2001, §§ 11(D), 12(B); Lab. Code § 226.7(c).

Because of Air Int’l’s policies and practices, Claimants and other aggrieved employees did not receive compliant meal and rest periods. Meal and rest periods were non-compliant when they were, among other things, late, short, or missed. Premium wages were not paid for non-compliant meal or rest periods.

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California employers must provide itemized wage statements showing, among other things, “gross wages earned,” “total hours worked by the employee,” and “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.” Labor Code §§ 226(a)(1), (2), (9).

Wage statements issued to Claimants and other aggrieved employees did not include, among other things: the accurate number of hours worked; the accurate gross wages earned, including regular and premium wages owed for non-compliant meal and rest periods; and the accurate number of hours worked at each corresponding rate, including because the double-time rate was not listed accurately.

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FINAL WAGES
(Labor Code §§ 201-203)

An employer must pay all wages owed to terminated employees at the time of termination, or within 72 hours to employees who quit. Labor Code §§ 201-202. If an employer willfully fails to timely pay all wages to separated employees, the wages continue at the same rate for up to 30 days, until paid. Cal. Labor Code § 203.

BUSINESS EXPENSES
(Labor Code § 2802)

An employer must reimburse its employees for their reasonable business-related expenses. Labor Code § 2802. Air Int'l failed to reimburse Claimant and other aggrieved employees for their reasonable business use of their cell phones.

ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES
(Labor Code §§ 218.5, 218.6, 226(e), 1194, 1194.2, and 2698, *et seq.*)

Labor Code sections 218.5, 218.6, 226(e), 226.3 1194, 1194.2, and 2698, *et seq.* give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages, and penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

Pursuant to Labor Code sections 2698, *et seq.*, aggrieved employees are entitled to collect 25% of the penalty assessment and 100% of the underpaid wages. Accordingly, Air Int'l is liable for these items in addition to the unpaid wages. Claimants have incurred actual damages, costs, and attorney's fees as a result of Air Int'l's unlawful actions.

CONCLUSION

Claimants request the Labor and Workforce Development Agency ("LWDA") initiate enforcement for the violations described above against Air Int'l. If the LWDA does not pursue enforcement, Claimants will pursue claims for statutory penalties and seek all remedies available for Air Int'l's violations of the Labor Code and applicable Industrial Welfare Commission Wage Order, including all available penalties set forth in Labor Code section 2699(f).

Very truly yours,
COHELAN KHOURY & SINGER



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