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Superior Court of CA,
County of Santa Clara
21CV383079
Reviewed By: R. Walker

Attorneys for Plaintiffs DARRYL F. DECOSTA and DENNIS HARDNETT, as representatives of the State of California and the Labor and Workforce Development Agency ("LDWA"), and on behalf of themselves and other current and former employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF SANTA CLARA

DARRYL F. DECOSTA and DENNIS
HARDNETT,

Plaintiffs,

v.

WACHTER INC., ANISTAR
TECHNOLOGIES CORPORATION and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **21CV383079**

**REPRESENTATIVE ACTION COMPLAINT
FOR CIVIL PENALTIES**

1. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and
5. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Accurate Itemized Wage Statements.

Plaintiffs DARRYL F. DECOSTA and DENNIS HARDNETT (“Plaintiffs” or “Mr. Decosta and Mr. Hardnett”), as representatives of the State of California and the Labor and Workforce Development Agency (“LDWA”), and on behalf of themselves and other current and former employees, complain and allege as follows:

INTRODUCTION

1. This is an action brought on behalf of Plaintiffs and all similarly-situated employees who were subjected to one or more of the violations alleged herein (“Aggrieved Employees”) by Defendants WACHTER, INC. and ANISTAR TECHNOLOGIES, LLC (“Defendants”). The terms “Relevant Time Period” or “Time Period” are defined one (1) year prior to the filing of this complaint through date of entry of judgment. Plaintiffs reserves the right to amend this complaint to reflect a different “Time Period” as further discovery is conducted.

2. Plaintiffs and Aggrieved Employees seek civil penalties from Defendants for violations of numerous Labor Code provisions, including, but not limited to, sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 1174, and 1194.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over the causes of action alleged in this complaint because the Court is a court of general subject matter jurisdiction and is not otherwise excluded from exercising subject matter jurisdiction over said causes of action. The penalties recoverable for Plaintiffs do not exceed seventy-five thousand dollars (\$75,000.00), and collectively amongst all aggrieved employees do not exceed five million dollars (\$5,000,000.00).

4. Defendant Wachter, Inc. is a Kansas corporation and Defendant Anistar Technologies Corporation is a Florida corporation, both doing business throughout the United States and the State of California, and specifically, in Santa Clara County. Plaintiffs were employed by all named Defendants in Santa Clara County. There is no federal question at issue, as the issues herein are based solely on California statutes and law, including the California Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, California Code of Civil Procedure, California Business and Professions Code, and California Rules of Court. By doing business in the state of California, Defendants have purposefully availed themselves of the state’s

jurisdiction. Accordingly, as personal jurisdiction over Defendants would be constitutional, California's long-arm statute provides that California courts may exercise personal jurisdiction over Defendants. (Code Civ. Pro. § 410.10.)

5. Venue is proper in Santa Clara County because Defendants perform business in Santa Clara County, and the acts set forth herein occurred in Santa Clara County.

THE PARTIES

A. Plaintiffs

6. Plaintiff, Mr. Decosta, was employed by Defendants from in or around November 2016 through on or in or around September 2020, at Defendants' Santa Clara, California location. Throughout his employment, Defendants controlled Plaintiff's schedule and directed his duties each day, preventing Plaintiff from exercising any reasonable degree of discretion or independent judgment. Plaintiff furthermore earned less than the applicable minimum wage during the period of his employment. Plaintiff is accordingly non-exempt under California labor laws and thereby entitled to civil penalties and all other rights accruing from the alleged violations described herein.

7. Plaintiff, Mr. Hardnett, was employed by Defendants from on or in or around November 2019 through on or in or around September 14 2020, at Defendants' Santa Clara, California location. Throughout his employment, Defendant controlled Plaintiff's schedule and directed his duties each day, preventing Plaintiff from exercising any reasonable degree of discretion or independent judgment. Plaintiff furthermore earned less than the applicable minimum wage during the period of his employment. Plaintiff is accordingly non-exempt under California labor laws and thereby entitled to civil penalties and all other rights accruing from the alleged violations described herein.

B. Defendants

8. Plaintiffs are informed and believe, and based thereon allege, that Defendant Wachter, Inc. is a Kansas corporation that provides technology services throughout the United States, including California and is and/or was the employer of Plaintiffs and similarly situated employees during the Relevant Time Period. On information and belief, and based thereon, Plaintiffs allege that Defendant is conducting business in good standing in California, and at all

1 time herein mentioned has regularly conducted business throughout the State of California.

2 9. Plaintiffs are informed and believe, and based thereon allege, that Defendant
3 Anistar Technologies Corporation is a Florida corporation that operates as a national
4 infrastructure staffing company and is and/or was the joint employer of Plaintiffs and similarly
5 situated employees during the Relevant Time Period.

6 10. Plaintiffs are ignorant of the true names, capacities, relationships and extent of
7 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
8 inclusive, but on information and belief, allege that said Defendants are legally responsible for
9 the violations alleged herein. Plaintiffs will amend this complaint to allege the true names and
10 capacities of the DOE Defendants when that information is ascertained.

11 11. Plaintiffs are informed and believe, and based thereon allege, that each Defendants
12 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
13 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant
14 are legally attributable to the other Defendants. Furthermore, Defendants operates as a joint
15 venture and/or single business enterprise, integrated enterprise, and/or are agents of one another,
16 are alter egos, joint employers, and conspire with one another to increase profits by engaging in
17 the conduct described in this complaint.

18 12. Plaintiffs are informed and believe, and based thereon allege, that each Defendant
19 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
20 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
21 below was acting, at least in part, within the course and scope of that authority as such agent,
22 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
23 the permission and consent of the co-Defendants. Plaintiffs also allege the acts of each Defendant
24 are legally attributable to the other Defendants.

25 **PAGA ADMINISTRATIVE PREREQUISITES**

26 13. By this complaint, Plaintiffs also brings this case as a representative action seeking
27 penalties for the State of California in a representative capacity, as provided for by the Private
28 Attorneys General Act ("PAGA"), Labor Code section 2698 et seq., to the extent permitted by

1 law, as an aggrieved employee who was employed by Defendants and subject to alleged violations
2 set forth in Labor Code section 2699.5. Plaintiffs specifically alleged the following in his/her
3 notice to the Labor Workforce Development Agency (“LWDA”) and the employer: sections 201,
4 202, 203, 204, 226, 226.7, 227.3, 510, 1174, and 1194.

5 14. Under Labor Code section 2699.3(a), a plaintiff may bring a cause of action
6 under PAGA only after giving the Labor Workforce Development Agency (“LWDA”) and the
7 employer notice of the Labor Code sections alleged to have been violated, and after receiving
8 notice from the LWDA of its intention not to investigate, or after 65 days have passed without
9 notice from the LWDA.

10 15. On March 12, 2021 prior to the filing of this complaint, Plaintiff, Mr. Decosta,
11 gave written notice of the specified provisions alleged to have been violated, including the facts
12 and theories to support the alleged violations, as required by Labor Code section 2699.3. This
13 written notice was given via certified mail to Defendants, and to the LWDA by electronically
14 filing the notice via the Department of Industrial Relations website. Plaintiff was given a LWDA
15 case number of LWDA-CM-825785-21. A true and correct copy of Plaintiff’s notice to the
16 LWDA and Defendants, dated March 12, 2021, is attached hereto as Exhibit A.

17 16. On March 12, 2021 prior to the filing of this complaint, Plaintiff, Mr. Hardnett
18 gave written notice of the specified provisions alleged to have been violated, including the facts
19 and theories to support the alleged violations, as required by Labor Code section 2699.3. This
20 written notice was given via certified mail to Defendants, and to the LWDA by electronically
21 filing the notice via the Department of Industrial Relations website. Plaintiff was given a LWDA
22 case number of LWDA-CM-825784-21. A true and correct copy of Plaintiff’s notice to the
23 LWDA and Defendants, dated March 12, 2021, is attached hereto as Exhibit B.

24 **FACTUAL ALLEGATIONS**

25 17. Plaintiffs and Aggrieved Employees are, and all times relevant herein, have been
26 non-exempt employees within the meaning the California Labor Code, and the implementing
27 rules of the IWC California Wage Orders.

28 18. Plaintiff, Mr. Decosta, was employed by Defendants in a non-exempt, hourly
position from in or on or around November 2016 through in or around September 2020.

1 19. Plaintiff, Mr. Hardnett, was employed by Defendants in a non-exempt, hourly
2 position from in or on or around November 2019 through in or around September 2020.

3 20. Plaintiffs are informed and believe, and based thereon allege, that Defendants'
4 policies and practices described herein are common across each of Defendants' locations within
5 the State of California.

6 21. Plaintiffs allege that Defendants failed to pay them and other aggrieved employees
7 for all hours worked in violation of California law, including both minimum wage and overtime
8 compensation. Defendants failed to utilize a blended rate where it paid two different rates during
9 the same pay period for purposes of paying legally mandated overtime when employees worked
10 over eight (8) hours in a day for forty (40) hours in a week, which caused Plaintiffs' overtime rate
11 to be incorrect. Thus, resulting in lost wages to Plaintiffs and other aggrieved employees

12 22. Plaintiffs further allege that Defendants had a policy and/or practice of rounding
13 the hours worked by Plaintiffs and other aggrieved employees, which systematically
14 undercompensated Plaintiffs and other aggrieved employees.

15 23. Plaintiffs allege that they and other aggrieved employees were often precluded
16 from taking timely and uninterrupted meal and rest breaks in accordance with California law due
17 to the nature of their work. Plaintiffs and other aggrieved employees often did not receive at least
18 one duty-free, uninterrupted meal period with the first five (5) hours worked, and a second meal
19 period before the start of the 11th hour of work. When employees were prevented from taking
20 timely and complete meal periods, they did not receive premium pay for the missed rest break.

21 24. Plaintiffs further allege that they and other aggrieved employees often had to miss
22 rest periods for every four (4) hours worked, or a major fraction thereof, as required by the Labor
23 Code. When employees were prevented from taking rest breaks, they did not receive premium
24 pay for the missed rest break. Further Plaintiffs allege that where a meal period premium was
25 paid, Defendants failed to pay at the proper rates.

26 25. Plaintiffs allege that Defendants failed to provide them and other aggrieved
27 employees with complete and accurate wage statements for all regular hours and overtime hours
28 worked. Also, Defendants failed to keep accurate payroll. Plaintiffs further allege that Defendants

1 failed to include their legal employer on the wage statements. This conduct is in violation of Labor
2 Code sections 226 and 1174.

3 26. Plaintiffs allege that Defendants failed to pay all wages earned at the time their
4 employment ended to him and other aggrieved employees. At the time of Plaintiffs and other
5 aggrieved employees' termination, they were entitled to receive back wages that are owed as a
6 result of Defendants' failure to utilize a blended rate in Plaintiffs and other aggrieved employees'
7 regular rate for purposes of paying overtime as well as wages for the time worked during the meal
8 breaks or the premiums paid in lieu of missed breaks. This conduct is in violation of Labor Code
9 sections 201, 202, 203, and 204.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO**
12 **PAY ALL WAGES**

13 **(Labor Code §§ 204, 206, 510, 1194, 1194.2, 1197, 1197.1, and 1182.12)**

14 **(By Plaintiffs against All Defendants)**

15 27. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as
16 if fully alleged.

17 28. Any employee receiving less than the legal minimum wage or legal overtime
18 compensation is entitled to recover in a civil action the amount of unpaid wages, attorneys' fees,
19 and costs of suit. (Lab. Code, § 1194, subd. (a).)

20 29. Labor Code section 1182.12 provides that on and after July 1, 2014, the minimum
21 wage for all industries shall not be less than nine dollars (\$9.00) per hour, and on and after January
22 1, 2016, the minimum wage for all industries shall not be less than ten (\$10.00) per hour. For
23 employers who employed 26 or more people from January 1, 2017 to December 31, 2017, the
24 minimum wage rate in California was ten dollars and fifty cents (\$10.50) per hour. From January
25 18, 2018 to December 31, 2018, the minimum wage rate in California was eleven dollars (\$11.00)
26 per hour. Plaintiffs are informed and believe Defendants employed more than 26 employees.

27 30. Notwithstanding any other provision of the Labor Code, hourly minimum wage
28 rates are set for all industries according to statute. (Lab. Code, § 1182.12.) Employers must pay

employees no less than minimum wage for each hour worked. (Lab. Code, § 1194.)

31. In any action to recover payment of wages less than the minimum wage an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. (Lab. Code, § 1194.2.)

32. Any work in excess of eight (8) hours in any workday and any work in excess of forty (40) hours in a workweek, shall be compensated at a rate of no less than one and one-half times the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).) Any work in excess of twelve (12) hours in a workday shall be compensated at the rate of twice the regular rate of pay for an employee. (Lab. Code, § 510, subd. (a).)

33. All wages earned in employment are due and payable twice during each calendar month on dates designated in advance by the employer. (Lab. Code, § 204.)

34. In case of a dispute over wages, the employer shall pay, without condition and promptly under the Labor Code all wages conceded due, leaving to the employee all remedies he/she is otherwise entitled to as to any balance claimed. (Lab. Code, § 206.)

35. Notwithstanding any other provision of the Labor Code, hourly minimum wage rates are set for all industries according to statute. (Lab. Code, § 1182.12.) Employers must pay an employee no less than the minimum wage for each hour worked. (Lab. Code, § 1194.)

36. In any action to recover payment of wages less than the minimum wage, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. (Lab. Code, § 1194.2.)

37. Plaintiffs and Aggrieved Employees regularly worked over eight (8) hours per day and forty (40) hours per week. Defendants failed to pay Plaintiffs, and Aggrieved Employees all minimum wage, overtime premiums, and/or double-time premiums for all hours worked in excess of over eight (8) hours per day and/or forty (40) hours per week for work performed for Defendants. Plaintiffs and Aggrieved Employees were not paid all wages earned. Pursuant to Labor Code sections 510, 1182.12, and 1194, the Aggrieved Employees seeks the payment of all minimum wage, overtime, and/or double-time compensation which they earned and accrued four (4) years prior to filing this complaint, according to proof.

38. Further, Defendants have regularly violated the Labor Code with respect to meeting the requirements of paying wages earned, by failing to include all remuneration when calculating the Plaintiffs and Aggrieved Employees' regular rate of pay for purposes of paying overtime and/or double time.

39. Since the LWDA has not indicated that it will be investigating more than 65 days since Plaintiffs provided notice, and because Defendants took no corrective action to remedy the allegations set forth above, Plaintiffs, as representatives of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission, the LWDA and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

40. Plaintiffs are informed and believe that Defendants have violated, and continues to violate, provisions of the Labor Code and applicable Wage Orders related to the payment of minimum wages and overtime.

41. Plaintiffs, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the penalties recovered being reimbursed to the LWDA.

42. Additionally, Plaintiffs and Aggrieved Employees are entitled to liquidated damages, attorneys' fees and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment interest.

SECOND CAUSE OF ACTION

**VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO
PROVIDE MEAL PERIODS OR PREMIUM COMPENSATION IN LIEU THEREOF**

(Labor Code §§ 226.7 and 512)

(By Plaintiffs against All Defendants)

1 43. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as
2 if fully alleged.

3 44. Labor Code sections 226.7 and 512 provide that no employer shall employ any
4 person for a work period of more than five (5) hours without providing a meal period
5 uninterrupted by work duties of not less than thirty (30) minutes, or employ any person for a work
6 period of more than ten (10) hours without a second meal period of not less than thirty (30)
7 minutes.

8 45. Labor Code section 226.7 provides that if an employer fails to provide an
9 employee a meal period in accordance with this section, the employer shall pay the employee one
10 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
11 period is not provided in accordance with this section. Plaintiffs allege Defendants failed to
12 provide legally compliant meal periods, in addition to impeding, discouraging, dissuading, and/or
13 not relieving employees from all work duties during meal periods thereby preventing employees
14 from taking legally compliant meal periods.

15 46. At all times relevant hereto, Plaintiffs and Aggrieved Employees have worked
16 shifts of more than five (5) hours in a workday.

17 47. Plaintiffs individually, and on behalf of the Aggrieved Employees, request
18 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
19 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
20 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
21 by the Labor Code and/or other statutes.

22 48. At varying times relevant hereto, Plaintiffs and Aggrieved Employees have
23 worked shifts more than ten (10) hours in a workday.

24 49. Defendants' failure to schedule Plaintiff and Aggrieved Employees in such a way
25 as to provide meal periods, and/or work free meal periods to Plaintiffs and Aggrieved Employees,
26 and/or to provide on-duty meal periods in accordance with the applicable Wage Order, has caused
27 Plaintiffs and Aggrieved Employees to suffer, and continue to suffer, injury which will be
28 ascertained according to proof at trial.

1 major fraction thereof.

2 56. Labor Code section 226.7, subdivision (b) provides that if an employer fails to
3 provide and employee rest periods in accordance with this section, the employer shall pay the
4 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
5 that the rest period is not provided. Plaintiffs and Aggrieved Employees consistently worked over
6 four (4) hours per shift with no rest breaks, due to Defendants' uniform policies and practices.

7 57. Defendants failed to reasonably make available rest breaks to Plaintiffs and
8 Aggrieved Employees throughout the Relevant Time Period. Plaintiffs, by virtue of their
9 employment with Defendants, Defendants' failure to provide Plaintiffs and Aggrieved Employees
10 with rest breaks, and Defendants' policy of requiring employees to work through their rest periods
11 without receiving compensation in lieu thereof, is an aggrieved employee with standing to bring
12 an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of
13 the general public to enforce California's labor laws, and the penalty provisions identified in
14 Labor Code section 2699.5. Plaintiffs individually, and on behalf of the Aggrieved Employees,
15 requests recovery of rest period compensation pursuant to Labor Code sections 226.7 and 558,
16 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
17 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
18 by the Labor Code and/or other statutes. Plaintiffs, as a representative of the people of the State
19 of California, will seek any and all penalties otherwise capable of being collected by the Labor
20 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
21 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
22 alleged violation of the following provisions: 226.7 and 512.

23 58. Plaintiffs, as personal representatives of the general public, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
26 otherwise only available to public agency enforcement actions. Funds recovered will be
27 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
28 reimbursed to the LWDA.

59. Additionally, Plaintiffs and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

FOURTH CAUSE OF ACTION

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

(Labor Code §§ 201, 202, 203)

(By Plaintiffs against All Defendants)

60. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as if fully alleged herein.

61. Plaintiffs are informed and believe, and thereon allege, that as part of Defendants' ongoing unfair business practices, Defendants failed to pay all employees all wages earned during their employment at the time of their separation in violation of Labor Code sections 200 and 201.

62. Labor Code section 201 provides that an employer is required to pay an employee whose employment is terminated by the employer all wages earned and unpaid immediately upon termination.

63. Labor Code section 202 requires an employer pay to an employee who quits his or her employment, all wages earned and unpaid no later than 72 hours thereafter.

64. Labor Code section 203 provides that an employer who fails to pay all wages earned and due an employee who is discharged or who quits within the timeframe set forth in sections 201 and 202, the wages of the employee shall continue as a penalty from the due date at the same rate of pay until paid, but not more than 30 days. In other words, the employer owes the employee his or her daily rate of pay at their regular rate of pay for each day the full amount of unpaid wages is not paid, for a penalty of up to 30 days' wages.

65. Plaintiffs, as representatives of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 201-203, 226, 226.7, 510, 512, 1174, and 1194. Plaintiffs, as personal representatives of the

1 general public, will and does seek to recover any and all penalties for each and every violation
2 shown to exist or to have occurred during the Relevant Time Period, in an amount according to
3 proof, as to those penalties that are otherwise only available to public agency enforcement actions.
4 Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the
5 penalties recovered being reimbursed to the LWDA.

6 66. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
7 and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

8 **FIFTH CAUSE OF ACTION**

9 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT FOR FAILURE TO** 10 **ISSUE ITEMIZED WAGE STATEMENTS AND MAINTAIN RECORDS**

11 **(Labor Code §§ 226, 1174)**

12 **(By Plaintiffs against All Defendants)**

13 67. Plaintiffs reallege and incorporate by reference all preceding paragraphs herein, as
14 if fully alleged herein.

15 68. Labor Code sections 226, 226.3, 1174, and 1174.5, and applicable IWC Wage
16 Orders provide that employers must keep records and provide employees with itemized wage
17 statements showing all hours worked and each applicable rate of pay in effect during the pay
18 period with the corresponding number of hours worked at each hourly rate.

19 69. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
20 location in California or at the plant or establishment at which the employee is employed, payroll
21 records showing the hours worked daily, and the wages paid to each employee. Labor Code
22 section 226, subdivision (a) requires an employer to provide employees—either as a detachable
23 part of the check, draft, or voucher paying the employee's wages, or separately when wages are
24 paid by personal check or cash—an accurate itemized wage statement in writing, including
25 specified information, including, but not limited to: (1) gross wages earned; (2) total hours worked
26 by the employee; (3) net wages earned; and (4) all applicable hourly rates of pay and
27 corresponding number of hours. Labor Code section 226, subdivision (e) provides that if an
28 employer knowingly and intentionally fails to provide a statement itemizing, inter alia, the gross

1 and net wages earned, the total hours worked by the employee and the applicable hourly overtime
2 rates, causing the employee injury, then the employee is entitled to recover the greater of all actual
3 damages or fifty dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for
4 each subsequent violation, up to four thousand dollars (\$4,000.00). Plaintiffs are informed and
5 believe that Defendants willfully failed to make or keep accurate records for Plaintiffs and
6 Aggrieved Employees.

7 70. The IWC Wage Orders require that every employer shall keep accurate
8 information with respect to each employee, including time records showing when each employee
9 begins and ends each work period, the total daily hours worked by each employee, and the total
10 hours worked in each payroll period, and applicable rates of pay. Plaintiffs are informed and
11 believe that Defendants willfully and intentionally failed to make and/or keep records which
12 accurately reflect the hours worked and accurately reflect all wages earned by Plaintiffs and
13 Aggrieved Employees. Specifically, Defendants knowingly and intentionally failed to provide
14 timely and accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance
15 with Labor Code section 226, subdivision (a), by failing to record the accurate number of hours
16 worked, the accurate rate of pay for each hour worked, the accurate amount of premiums wages
17 earned, the accurate net pay, and the accurate gross pay. Such failure caused injury to Plaintiff and
18 Aggrieved Employees.

19 71. An employee is deemed to suffer injury if the employer fails to provide an accurate
20 wage statement containing all of the required information set forth in Labor Code section 226,
21 subdivision (a). (Lab. Code, § 226, subd. (e)(2).) In addition, the omission of time worked, proper
22 rates of pay, records of missed meal and rest breaks, and/or premium pay make it difficult for
23 employees to determine whether they were paid all wages due without complicated calculations
24 and/or reconstruction of records required to be maintained by the employer.

25 72. For each employee suffering an injury as a result of Defendants' knowing and
26 intentional failure to provide an accurate, itemized wage statement, the employee is entitled to
27 recover the greater of actual damages or fifty dollars (\$50.00) for the initial pay period in which
28 a violation occurs, and one hundred dollars (\$100.00) per employee for each violation in a

subsequent pay period. Plaintiffs allege the “initial violation” occurs in the pay period following receipt of the letter sent by Plaintiffs to the LWDA in notifying the employer of the potential violations.

73. Plaintiffs are informed and believe that Defendants’ failure to keep accurate payroll records, as described above, violated Labor Code section 1174, subdivision (d) and section 226, subdivision (a), and the applicable Wage Order. Plaintiffs intend to seek penalties under Labor Code section 2699, subdivision (f)(2), Plaintiffs and the Aggrieved Employees are entitled to penalties of \$100.00 for the initial violation, and \$200.00 for each subsequent violation, for every pay period during which these records and information were not kept by Defendants.

74. Plaintiffs are informed and believe that Defendants’ failure to keep and maintain accurate records and information and provide to Plaintiffs and Aggrieved Employees accurate itemized wage statements, as described above, was knowing and intentional, and Plaintiffs and Aggrieved Employees are entitled to statutory penalties for each pay period in which a violation occurred. Plaintiffs further seeks recovery of attorneys’ fees and costs pursuant to Labor Code section 226, subdivision (e), and as otherwise permitted by law.

75. Plaintiffs, as personal representatives of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least 75% of the penalties recovered being reimbursed to the LWDA.

76. Additionally, Plaintiffs and Aggrieved Employees are entitled to attorneys’ fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for judgment as follows:

1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee as provided by law, including, but not limited to, those civil penalties provided by statute, provided by PAGA;

1 2. For costs of suit and expenses incurred herein pursuant to Labor Code section
2 2699, subdivision (g), and any other statutory basis or pursuant to the California Rules of Court;

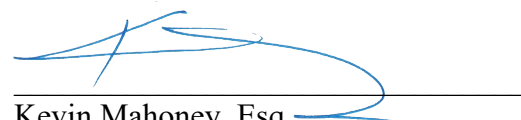
3 3. For reasonable attorneys' fees pursuant to Labor Code section 2699, subdivision
4 (g), and any other statutory basis; and

5 4. For all such other and further relief as the Court may deem just and proper.
6

7 Dated: June 16, 2021

MAHONEY LAW GROUP, APC

8
9
10 By:



Kevin Mahoney, Esq.
Attorney for Plaintiffs DARRYL F.
DECOSTA and DENNIS HARDNETT, as
individuals, and on behalf of all similarly
situated employees.

EXHIBIT A



Kevin Mahoney, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
kmahoney@mahoney-law.net

March 12, 2021

Via Certified Electronic Mail

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

VIA CERTIFIED MAIL # 7019 2970 0000 2983 0924

Return Receipt Requested

Wachter, Inc.
16001 W. 99th Street
Lenexa KS 66219

VIA CERTIFIED MAIL # 7019 2970 0000 2983 0931

Return Receipt Requested

Anistar Technologies, LLC
2002 N. Lois Ave
Suite 310
Tampa, FL 33607

Re: Darryl F. Decosta v. Wachter, Inc./ Anistar Technologies Corporation

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

To: California Labor and Workforce Development Agency; Wachter, Inc.
From: Darryl F. Decosta, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

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

Theories of Labor Code Violations and Remedies

Wachter Inc. (hereinafter "Wachter") is a Kansas corporation that provides technology services of throughout the United States, including the state of California. Anistar Technologies Corporation, is a Florida corporation that operates as a national infrastructure staffing company. Wachter and Anistar Technologies Corporation jointly referred to herein as "Employer." Mr. Decosta began his employment with Employer in or around November 15, 2016 until his termination in or around September 14, 2020.

Mr. Decosta alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 1174 and 1194, by failing to pay Mr. Decosta and all other aggrieved employees all wages owed, including minimum wage and overtime, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Mr. Decosta and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Wachter, Inc./Anistar Technologies Corporation failed to pay Mr. Decosta and other aggrieved employees for all hours worked, in accordance with California law, including both minimum wage and overtime

Employer failed to pay Mr. Decosta and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. As can be seen from Mr. Decosta's wage statements Employer failed utilize a blended rate where it paid two different rates during the same pay period for purposes of paying legally mandated overtime when they worked over eight (8) hours in a day or forty (40) hours in a week, which caused Mr. Decosta's overtime rate to be incorrect. *Huntington Memorial Hospital v. Superior Court of Los Angeles*, 131 Cal. App. 4th 893 (2005). The incorrect overtime rate resulted in lost wages to Mr. Decosta and other aggrieved employees.

The Employer also had a policy and/or practice of rounding the hours worked by Mr. Decosta and other aggrieved employees, which systematically undercompensated Mr. Decosta and other aggrieved employees. See's Candy Shops, Inc. v. Superior Court, (2012) 210 Cal.App.4th 889.

Employer's failure to pay minimum wage and applicable overtime rates to Mr. Decosta and other aggrieved employees as detailed above is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194.

B. Wachter, Inc./Anistar Technologies Corporation failed to provide Mr. Decosta and other aggrieved employees with meal and rest periods, or premium compensation in lieu thereof, in accordance with California law.

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

Mr. Decosta further alleges that he and other aggrieved employees often had to miss rest periods for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Mr. Decosta alleges he and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not provided. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512. Mr. Decosta also alleges that where a meal period premium was paid, Employer failed to pay at the proper rates.

C. Wachter, Inc./Anistar Technologies Corporation failed to provide Mr. Decosta and other aggrieved employees compliant wage statements, and failed to pay all wages earned at the time their employment ended

By failing to include on Mr. Decosta and other aggrieved employees' pay stubs all compensation for all regular hours and overtime hours worked, Employer failed to keep accurate payroll records and failed to provide Mr. Decosta and other aggrieved employees with complete and accurate wage statements. Mr. Decosta alleges that Employer also failed to include his legal employer on the wage statements. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, 203 and 204, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended. At the time of Mr. Decosta and other aggrieved employees' termination, they were entitled to receive back wages that are owed as a result of Employer's failure to utilize a blended rate in Mr. Decosta and other aggrieved employees' regular rate for purposes of paying overtime as well as wages for the time worked during the meal breaks or the premiums paid in lieu of missed breaks. However, Employer failed to pay such wages at the end of Mr. Decosta and other aggrieved employees' employment.

D. Reservation of Rights

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to be 'Kevin Mahoney', with a long horizontal stroke extending to the right.

Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC

EXHIBIT B



Kevin Mahoney, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
kmahoney@mahoney-law.net

March 12, 2021

Via Certified Electronic Mail

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

VIA CERTIFIED MAIL # 7019 2970 0000 2983 0948

Return Receipt Requested

Wachter, Inc.
16001 W. 99th Street
Lenexa KS 66219

VIA CERTIFIED MAIL # 7019 2970 0000 2983 0955

Return Receipt Requested

Anistar Technologies, LLC
2002 N. Lois Ave., Suite 310
Tampa, FL 33607

Re: *Dennis Hardnett* v. Wachter, Inc./ Anistar Technologies, LLC

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

To: California Labor and Workforce Development Agency; Wachter, Inc.
From: Dennis Hardnett, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

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

Theories of Labor Code Violations and Remedies

Wachter Inc. (hereinafter Wachter” or “Employer”) is a Kansas corporation that provides technology services of throughout the United States, including the state of California. Mr. Harndett began his employment with Employer in or around November 2019 until his termination in or around September 14, 2020. Anistar Technologies, LLC, is a Florida corporation that operates as a national infrastructure staffing company.

Mr. Hardnett alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 1174 and 1194, by failing to pay Mr. Hadrnett and all other aggrieved employees all wages owed, including minimum wage and overtime, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Mr. Hadrnett and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Wachter, Inc./Anistar Technologies, LLC failed to pay Mr. Hadrnett and other aggrieved employees for all hours worked, in accordance with California law, including both minimum wage and overtime

Employer failed to pay Mr. Hadrnett and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. As can be seen from Mr. Hardnett’s wage statements Employer failed utilize a blended rate where it paid two different rates during the same pay period for purposes of paying legally mandated overtime when they worked over eight (8) hours in a day or forty (40) hours in a week, which caused Mr. Hardnett’s overtime rate to be incorrect. *Huntington Memorial Hospital v. Superior Court of Los Angeles*, 131 Cal. App. 4th 893 (2005). The incorrect overtime rate resulted in lost wages to Mr. Hadrnett and other aggrieved employees.

The Employer also had a policy and/or practice of rounding the hours worked by Mr. Hardnett and other aggrieved employees, which systematically undercompensated Mr. Hardnett and other aggrieved employees. See’s *Candy Shops, Inc. v. Superior Court*, (2012) 210 Cal.App.4th 889.

Employer’s failure to pay minimum wage and applicable overtime rates to Mr. Hadrnett and other aggrieved employees as detailed above is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194.

B. Wachter, Inc./Anistar Technologies, LLC failed to provide Mr. Hadrnett and other aggrieved employees with meal and rest periods, or premium compensation in lieu thereof, in accordance with California law.

Mr. Hadrnett alleges that he and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their work. Mr. Hadrnett and other aggrieved employees allege that often they did not receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and

a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.). When employees were prevented from taking timely and complete meal periods, they did not receive premium pay as compensation for the missed meal period.

Mr. Hadrnett further alleges that he and other aggrieved employees often had to miss rest periods for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Mr. Hadrnett alleges he and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not provided. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512. Mr. Hadrnett also alleges that where a meal period premium was paid, Employer failed to pay at the proper rates.

C. Wachter, Inc./Anistar Technologies, LLC failed to provide Mr. Hadrnett and other aggrieved employees compliant wage statements, and failed to pay all wages earned at the time their employment ended

By failing to include on Mr. Hadrnett's and other aggrieved employees' pay stubs all compensation for all regular hours and overtime hours worked, Employer failed to keep accurate payroll records and failed to provide Mr. Hadrnett and other aggrieved employees with complete and accurate wage statements. Mr. Hadrnett alleges that Employer also failed to include his legal employer on the wage statements. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, 203 and 204, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended. At the time of Mr. Hadrnett's and other aggrieved employees' termination, they were entitled to receive back wages that are owed as a result of Employer's failure to utilize a blended rate in Mr. Hadrnett and other aggrieved employees' regular rate for purposes of paying overtime as well as wages for the time worked during the meal breaks or the premiums paid in lieu of missed breaks. However, Employer failed to pay such wages at the end of Mr. Hadrnett's and other aggrieved employees' employment.

D. Reservation of Rights

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

LABOR AND WORKFORCE DEVELOPMENT AGENCY

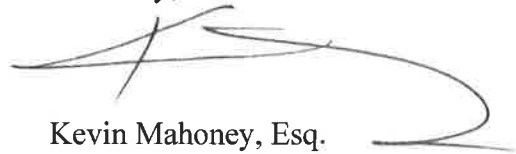
March 12, 2021

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

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

Sincerely,



Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC