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

ADEWUNMI OJO, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

PINNACLE LIGHT INDUSTRIAL, LLC;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2021-01201515-CU-OE-CXC

[Assigned for all purposes to the Hon. Glenda
Sanders, Department CX101]

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT:**

(1) VIOLATION OF LABOR CODE § 2802

**(2) VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200 ET SEQ.**

**(3) VIOLATION OF LABOR CODE § 2698
ET. SEQ.**

DEMAND OVER \$25,000.00

1 Plaintiff Adewunmi Ojo (“Plaintiff”), hereby submits this First Amended Class and
2 Representative Action Complaint against Defendant Pinnacle Light Industrial, LLC
3 (“Defendant”) and Does 1-50 (hereinafter collectively referred to as “Defendants”), on behalf of
4 himself and the class of all other similarly situated current and former employees of Defendant
5 for all damages and penalties arising from Defendant’s violations of the California Labor Code
6 as follows:

7 **INTRODUCTION**

8 1. This class and representative action is within the Court’s jurisdiction under
9 California Labor Code sections 204, 2802 and 2698 *et seq.*, the California Industrial Welfare
10 Commission’s (“IWC”) Wage Orders, and Business and Professions Code § 17200 *et seq.*
11 (“UCL”).

12 2. This Complaint challenges systemic illegal employment practices resulting in
13 violations of the California Labor Code and the UCL against employees of Defendant.

14 3. Plaintiff is informed and believes and based thereon alleges that Defendants
15 jointly and severally have acted intentionally and with deliberate indifference and conscious
16 disregard to the rights of all employees by failing to reimburse employees for work-related
17 mileage expenses and failing to timely pay wages to employees.

18 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
19 engaged in, among other things a system of willful violations of the California Labor Code and
20 applicable IWC Wage Orders by creating and maintaining policies, practices and customs that
21 knowingly deny employees the above stated rights and benefits.

22 5. The policies, practices, and customs of Defendant described above and below
23 have resulted in unjust enrichment of Defendant and an unfair business advantage over
24 businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

25 **JURISDICTION AND VENUE**

26 6. The Court has jurisdiction over the violations of the California Labor Code
27 sections 204, 2802 and 2698 *et seq.* and the UCL.

28 7. Venue is proper in Orange County because Defendant maintains operations in

Orange County.

PARTIES

8. Plaintiff is a current employee of Defendant.

9. Plaintiff was and is the victim of the policies, practices, and customs of Defendant complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code sections 204, 2802 and 2698 *et seq.*, the applicable IWC Wage Orders and the UCL.

10. Plaintiff is informed and believes and based thereon alleges that Defendant Pinnacle Light Industrial, LLC was and is a Texas limited liability company that does business in California, including in Orange County.

11. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendant and Does 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

12. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code sections 204, 2802 and 2698 *et seq.*, the applicable IWC Wage Orders and the UCL.

13. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants were responsible in some way for the matters alleged herein and proximately caused Plaintiff, the class and members of the general public to be subject to the illegal employment practices, wrongs and injuries complained of herein.

14. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, the Defendants, and each of them, were the agents, servants and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were

1 acting within the course and scope of said agency and employment.

2 15. Plaintiff is informed and believes and based thereon alleges that at all times
3 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
4 joint venturer of, or working in concert with each of the other co-defendants and was acting
5 within the course and scope of such agency, employment, joint venture, or concerted activity.
6 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
7 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
8 Defendants.

9 16. At all times herein mentioned, Defendants, and each of them, were members of,
10 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
11 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

12 17. At all times herein mentioned, the acts and omissions of various Defendants, and
13 each of them, concurred and contributed to the various acts and omissions of each and all of the
14 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
15 herein mentioned, Defendants, and each of them, ratified each and every act or omission
16 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
17 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
18 the damages as herein alleged.

19 CLASS ACTION ALLEGATIONS

20 18. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
21 California Code of Civil Procedure section 382, of the following class: all current and former
22 employees of Defendant in the State of California who were employed by Defendant and sought
23 reimbursement for mileage expenses from Defendant at any time between May 19, 2017,
24 through the present ("Class" or "Class Members").

25 19. **Numerosity and Ascertainability:** The members of the Class are so numerous
26 that joinder of all members would be impractical, if not impossible. The identity of the members
27 of the Class is readily ascertainable by review of Defendant's records, including payroll records.
28 Plaintiff alleges that Defendant failed to reimburse employees for all business-related expenses,

1 including the costs associated with use of their personal vehicles for work related purposes, in
2 violation of Labor Code section 2802.

3 20. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
4 necessary steps to represent fairly and adequately the interests of the Class defined above.
5 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the Class and
6 individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions
7 in the past and currently have a number of wage-and-hour class actions pending in California
8 courts.

9 21. **Common Question of Law and Fact:** There are predominant common questions
10 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
11 concerning Defendant's policy and practice of failing to reimburse employees for all business-
12 related expenses, including the costs associated with use of their personal vehicles for work
13 related purposes, in violation of Labor Code section 2802.

14 22. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
15 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical
16 manner as the Class Members. As a matter of policy and procedure, Defendant required Plaintiff
17 to use his personal vehicle for work-related purposes. Defendant, however, failed to properly
18 reimburse Plaintiff for his vehicle expenses, such as mileage, gas, and wear and tear to his
19 vehicle. More specifically, while Defendant reimbursed Plaintiff for some miles at \$0.54 cents
20 per mile, other miles were reimbursed at a much lower rate. Accordingly, Plaintiff is a member
21 of the Class and has suffered the alleged violations of California Labor Code section 2802.

22 23. The California Labor Code and upon which Plaintiff bases these claims is broadly
23 remedial in nature. These laws and labor standards serve an important public interest in
24 establishing minimum working conditions and standards in California. These laws and labor
25 standards protect the average working employee from exploitation by employers who may seek
26 to take advantage of superior economic and bargaining power in setting onerous terms and
27 conditions of employment.

28 24. The nature of this action and the format of laws available to Plaintiff and

1 members of the Class identified herein make the class action format a particularly efficient and
2 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
3 file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable
4 advantage since it would be able to exploit and overwhelm the limited resources of each
5 individual Plaintiff with Defendant's vastly superior financial and legal resources. Requiring
6 each Class member to pursue an individual remedy would also discourage the assertion of lawful
7 claims by employees who would be disinclined to file an action against their former and/or
8 current employer for real and justifiable fear of retaliation and permanent damage to their careers
9 at subsequent employment.

10 25. The prosecution of separate actions by the individual class members, even if
11 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
12 to individual Class members against Defendant and which would establish potentially
13 incompatible standards of conduct for Defendant, and/or (b) adjudications with respect to
14 individual Class members which would, as a practical matter, be dispositive of the interest of the
15 other Class members not parties to the adjudications or which would substantially impair or
16 impede the ability of the Class members to protect their interests. Further, the claims of the
17 individual members of the Class are not sufficiently large to warrant vigorous individual
18 prosecution considering all of the concomitant costs and expenses.

19 26. Such a pattern, practice and uniform administration of corporate policy regarding
20 illegal employee compensation described herein is unlawful and creates an entitlement to
21 recovery by the Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
22 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
23 according to the mandate of California Labor Code section 2802, the applicable IWC Wage
24 Orders and Code of Civil Procedure section 1021.5.

25 27. Proof of a common business practice or factual pattern, which the named Plaintiff
26 experienced and is representative of, will establish the right of each of the members of the Class
27 to recovery on the causes of action alleged herein.

28 28. The Class is commonly entitled to a specific fund with respect to the

1 compensation illegally and unfairly retained by Defendant. The Class is commonly entitled to
2 restitution of those funds being improperly withheld by Defendant. This action is brought for the
3 benefit of the entire class and will result in the creation of a common fund.

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF LABOR CODE § 2802**

6 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

7 29. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
8 though fully set forth herein.

9 30. This cause of action is brought pursuant to Labor Code section 2802. At all
10 relevant times, Defendant regularly failed to reimburse and indemnify Plaintiff and Class
11 Members for expenses incurred in the performance of their duties, including, but not limited to,
12 expenses associated with travel mileage. Defendant required Plaintiff and Class Members to use
13 their personal vehicles to travel in the course of performing their duties. Defendant, however,
14 failed to properly reimburse Plaintiff and Class Members for their vehicle expenses such as
15 mileage, gas, and wear and tear to their vehicles.

16 31. Defendant had a uniform corporate pattern, practice and procedure regarding the
17 above practices in violation of Labor Code section 2802.

18 32. Such a pattern, practice and uniform administration of corporate policy regarding
19 illegal employee compensation as described herein is unlawful and creates an entitlement to
20 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
21 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according
22 to the mandate of California Labor Code section 2802.

23 **SECOND CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200 *ET SEQ.***

25 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

26 33. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
27 though fully set forth herein.

28 34. Defendant engaged and continues to engage in unfair and unlawful business

1 practices in California by practicing, employing, and utilizing the employment practices outlined
2 above, inclusive, to wit, by failing to reimburse employees for all business-related expenses,
3 including the costs associated with use of their personal vehicles for work related purposes, in
4 violation of Labor Code section 2802.

5 35. Defendant's utilization of such unfair and unlawful business practices constitutes
6 unfair, unlawful competition and provides an unfair advantage over Defendant's competitors.

7 36. Plaintiff seeks, on behalf of himself and other similarly situated members of the
8 Class, full restitution of monies, as necessary and according to proof, to restore any and all
9 monies withheld, acquired and/or converted by the Defendant by means of the unfair practices
10 complained of herein.

11 37. Plaintiff is informed and believes, and on that basis alleges, that at all times herein
12 mentioned Defendant has engaged in unlawful, deceptive and unfair business practices, as
13 proscribed by California Business and Professions Code section 17200, *et seq.*, including those
14 set forth herein above thereby depriving Plaintiff and other members of the Class the minimum
15 working condition standards and conditions due to them under the California laws as specifically
16 described therein.

17 **THIRD CAUSE OF ACTION**

18 **Violation of Labor Code §§ 2698 Et Seq.**

19 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

20 38. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
21 though fully set forth herein.

22 39. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code
23 section 2698 et seq., Plaintiff brings this cause of action for violation of PAGA as a proxy for the
24 State of California and in this capacity, will seek penalties on behalf of all Aggrieved Employees
25 from May 13, 2020, through the present for Defendant's violations of Labor Code sections 204
26 and 2802, arising from Defendant's policy and practice of: (a) failing to reimburse employees for
27 all business-related expenses, including the costs associated with use of their personal vehicles
28 for work related purposes, in violation of Labor Code section 2802; and (b) failing to timely pay

1 wages to employees, in violation of Labor Code section 204.

2 40. At all relevant times, Defendant regularly failed to reimburse and indemnify
3 Plaintiff and Aggrieved Employees for expenses incurred in the performance of their duties,
4 including, but not limited to, expenses associated with travel mileage. Defendant required
5 Plaintiff and Aggrieved Employees to use their personal vehicles to travel in the course of
6 performing their duties. Defendant, however, failed to properly reimburse Plaintiff and
7 Aggrieved Employees for their vehicle expenses such as mileage, gas, and wear and tear to their
8 vehicles.

9 41. Additionally, Defendant failed to pay earned wages to Plaintiff and Aggrieved
10 Employees in a timely manner. More specifically, wages were paid more than seven days after
11 the close of the payroll period, in violation of Labor Code section 204. For example, for the pay
12 period of April 11, 2021 through April 17, 2021, the wages earned during such pay period were
13 not paid until April 30, 2021, which is more than ten days after the end of the pay period.

14 42. On or about May 13, 2021, Plaintiff sent written notice to the California Labor &
15 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code sections
16 204 and 2802, pursuant to Labor Code § 2698, *et seq.* To date, the LWDA has not responded to
17 Plaintiff's written notice.

18 43. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
19 and all applicable civil penalties for Defendant's violation of Labor Code sections 204 and 2802,
20 for the time period described above, on behalf of himself and other Aggrieved Employees.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays for judgment as an individual and on behalf of all others
23 that this suit is brought against Defendants, jointly and severally, as follows:

- 24 1. For an order certifying the proposed Class;
- 25 2. For an order appointing Plaintiff as the representative of the Class as described
26 herein;
- 27 3. For an order appointing counsel for Plaintiff as Class counsel;
- 28 4. Upon the First Cause of Action, for damages pursuant to California Labor Code

1 section 2802 and for costs and attorneys' fees;

2 5. Upon the Second Cause of Action, for restitution to Plaintiff and other similarly
3 affected members of the general public of all funds unlawfully acquired by Defendants by means
4 of any acts or practices declared by this Court to be in violation of California Business &
5 Professions Code section 17200 *et seq.*;

6 6. Upon the Third Cause of Action, for civil penalties according to proof pursuant to
7 Labor Code section 2698, *et seq.*, and for costs and attorneys' fees;

8 7. On all causes of action, for attorneys' fees and costs as provided by California
9 Labor Code sections 2699 and 2802, and Code of Civil Procedure section 1021.5; and

10 8. For such other and further relief as the Court may deem just and proper.

11
12 DATED: July 16, 2021

DIVERSITY LAW GROUP, P.C.

13
14 By: 

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Kristen M. Agnew

Nicholas Rosenthal

Attorneys for Plaintiff and the Class
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(Code of Civil Procedure Sections 1013a, 2015.5)