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Attorneys for Plaintiff and the aggrieved employees

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

JAIME MORA, an individual, on behalf of
himself and others similarly situated

PLAINTIFF,

v.

HY-TECH TILE, INC.; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. CVRI2105877

**SECOND AMENDED
REPRESENTATIVE ACTION
COMPLAINT**

1. Penalties Pursuant to Labor Code
§2699, et seq.

1 Plaintiff JAIME MORA, an individual, on behalf of himself, and on behalf of the people
2 of the State of California and as an “aggrieved employee” under Labor Code Private Attorneys
3 General Act of 2004, §2699, et seq. (hereafter “PAGA”), complains of Defendant HY-TECH
4 TILE, INC. (“Defendant”) and each of them, as follows:

5 I.

6 INTRODUCTION

7 1. This is a Representative Action, pursuant to Labor Code §2699, et seq., on behalf
8 of the following individuals:

9 All non-exempt employees who are employed or have been
10 employed by Hy-Tech Tile, Inc, in the State of California who
11 worked one or more pay periods since one (1) year prior to the filing
of this action to the present. (“aggrieved employees”)

12 2. For at least one (1) year prior to the filing of this action continuing to the present,
13 Defendant has had a consistent policy of failing to pay wages and/or overtime to all aggrieved
14 employees when they work more than eight hours in a day or forty hours in a week. Plaintiff and
15 other aggrieved employees were not properly compensated for overtime at the appropriate rate of
16 pay because Plaintiff and the aggrieved employees only earn compensation when they are
17 installing. As such, when Plaintiff and the aggrieved employees take their rest periods (as required
18 by California law) they are not paid any compensation during these periods. As a result, they are
19 entitled to minimum wage for each and every rest period provided by Defendant. Additionally,
20 when Plaintiff and the aggrieved employees were paid by the “piece,” the piece rate pay was not
21 blended into their regular rate of pay for the purpose of calculating the overtime rate.

22 3. For at least one (1) year prior to the filing of this action and continuing to the
23 present, Defendant has had a consistent policy of failing to inform aggrieved employees of their
24 right to take rest periods by way of a lawful policy and of failing to provide aggrieved employees
25 within the State of California, including Plaintiff, **paid** rest periods of at least ten (10) minutes per
26 four (4) hours worked or major fraction thereof and failing to pay such employees one (1) hour of
27 pay at the employee’s regular rate of compensation for each workday that the **paid** rest period was
28 not provided, as required by California state wage and hour laws.

4. For at least one (1) year prior to the filing of this action and continuing to the present, Defendant has failed to reimburse Plaintiff and the aggrieved employees the cost of purchasing specialized tools necessary to perform their job duties. The work performed by Plaintiff and the aggrieved employees necessitated the use of special tools. These tools were not provided by Defendant. As a result, Plaintiff and the aggrieved employees purchased these tools and Defendant never reimbursed them for the cost.

5. For at least one (1) year prior to the filing of this action continuing to the present, Defendants have failed to comply with Industrial Welfare Commission (“IWC”) Wage Order 4-2001 and Labor Code § 226(a) by failing to provide itemized wage statements to Plaintiff and the aggrieved employees showing the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate, accurately reporting total hours worked, 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.

6. For at least one (1) year prior to the filing of this action continuing to the present, Defendant has failed to pay all wages due at the time of termination or resignation to Plaintiff and the aggrieved employees.

7. Plaintiff, on behalf of himself and all aggrieved employees brings this representative action pursuant to Labor Code §§2699, et seq., seeking penalties for Defendant's violation of Labor §§ 201, 202, 203, 226(a), 226.7, 510, 1194, 1194.2, 1199, and 2802; Wage Order 4-2001; and California Code of Regulations, Title 8, Section 11040, seeking penalties, reasonable attorneys' fees and costs.

II.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

9. This Court has personal jurisdiction over Defendant because Defendant has caused injuries in the County of Los Angeles and the State of California through their acts, and by their violation of the California Labor Code, California state common law.

10. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendant operates within California and does business within Los Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiff and all aggrieved employees within the State of California and the county of Los Angeles.

11. This case should be classified as complex according to Rule 3.400 of the California Rules of Court, and assigned to a complex litigation judge and department, as it will involve substantial documentary evidence, a large number of witnesses, and is likely to involve extensive motion practice raising difficult or novel issues that will be time-consuming to resolve and would require substantial post judgment judicial supervision.

III.

PARTIES

A. PLAINTIFF

12. Plaintiff JAIME MORA is a resident of California.

13. Plaintiff and all current and former employees are “aggrieved employees” within the meaning of Labor Code § 2699, *et seq.* (see Labor Code §2699(c).)

14. Plaintiff and all aggrieved employees were regularly required to:

- a. Work without being paid for all hours at the appropriate overtime rate;
- b. Work without being provided ***paid*** rest periods;
- c. Work without being reimbursed for their out of pocket expenses; and,
- d. Work without being provided accurate itemized wage statements.

15. Additionally, Defendant willfully failed to compensate Plaintiff and all aggrieved employees for wages at the termination of their employment with Defendant.

B. DEFENDANTS

16. Defendant HY-TECH TILE, INC. is believed to be a California corporation operating within the State of California. Defendant's corporate address is believed to be 1355

1 Palmyoita Ave, Riverside, CA 92507. Upon information and belief, Defendant employed Plaintiff
2 and similarly situated persons as hourly employees within California. Defendant has done and
3 does business throughout the State of California.

4 17. The true names and capacities, whether individual, corporate, associate, or
5 otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to
6 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
7 § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
8 designated herein as a DOE is legally responsible in some manner for the unlawful acts referred
9 to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
10 capacities of the Defendants designated hereinafter as DOES when such identities become known.

11 18. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
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 are
14 legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the
15 employer and/or joint employer of Plaintiff and the aggrieved employees.

16 19. Furthermore, Defendants acted in all respects as the employers or joint employers
17 of the aggrieved employees. Defendants, and each of them, exercised control over the wages, hours
18 or working conditions of the aggrieved employees, or suffered or permitted the aggrieved
19 employees to work, or engaged, thereby creating a common law employment relationship, with
20 the aggrieved employees. Therefore, Defendants, and each of them, employed or jointly employed
21 the aggrieved employees.

22 IV.

23 FACTUAL BACKGROUND

24 20. Plaintiff and the aggrieved employees are, and at all times pertinent hereto, have
25 been classified as non-exempt employees by Defendant. Upon information and belief, Defendant
26 hires employees non-exempt employees who are paid on non-piece rate basis and those who work
27 as piece rate employees who are paid by the “piece.”

28 21. Upon information and belief, Plaintiff and the aggrieved employees are covered by

1 California Industrial Welfare Commission Occupational Wage Order No. 4-2001 (Title 8 Cal.
2 Code of Regs. § 11040).

3 22. On a regular and consistent basis, Plaintiff and the aggrieved employees were not
4 paid at the proper rate of compensation. Defendant has had a consistent policy of failing to pay
5 wages and/or overtime to all aggrieved employees when they work more than eight hours in a day
6 or forty hours in a week. Plaintiff and other aggrieved employees were not properly compensated
7 for overtime at the appropriate rate of pay because Plaintiff and the aggrieved employees only earn
8 compensation when they are installing. As such, when Plaintiff and the aggrieved employees take
9 their rest periods (as required by California law) they are not paid any compensation during these
10 periods. As a result, they are entitled to minimum wage for each and every rest period provided
11 by Defendant. Additionally, when Plaintiff and the aggrieved employees were paid by the “piece,”
12 the piece rate pay was not blended into their regular rate of pay for the purpose of calculating the
13 overtime rate.

14 23. Defendants have had a consistent policy of failing to provide aggrieved employees
15 within the State of California, including Plaintiff, with ***paid*** rest periods of at least ten (10) minutes
16 per four (4) hours worked or major fraction thereof and failing to pay such employees one (1) hour
17 of pay at the employee’s regular rate of compensation for each workday that the ***paid*** rest period
18 was not provided, as required by California state wage and hour laws. Additionally, Defendants
19 failed to inform Plaintiff and the aggrieved employees of their right to take rest periods by way of
20 a lawful policy.

21 24. On a regular and consistent basis, Plaintiff and the aggrieved employees have not
22 been properly reimbursed expenses associated with the cost of tools necessary for the completion
23 of their job duties.

24 25. Defendant engaged in a practice of failing to provide accurate itemized wage
25 statements to Plaintiff and the aggrieved employees in violation of Labor Code § 226(a)(2), (3),
26 and (9), which require that every employer shall, semimonthly or at the time of each payment of
27 wages, furnish each of his or her employees with an accurate itemized statement in writing showing
28 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a

1 piece-rate, total daily hours worked, and all applicable hourly rates in effect during the pay period
2 and the corresponding number of hours worked at each hourly rate by the employee.

3 26. Defendant willfully failed to pay wages and compensation, when Plaintiff and all
4 aggrieved employees quit or were discharged. This failure was willful, without legal justification,
5 and interfered with Plaintiff's and Class Members' rights.

6 27. As a result of the acts alleged herein, Defendant violated Labor Code §2699, *et seq.*

7 **V.**

8 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

9 28. Plaintiff and all current and former employees are aggrieved employees within the
10 meaning of Labor Code § 2699, *et seq.* (see Labor Code §2699(c).)

11 29. Plaintiff and all aggrieved employees were regularly required to:

- 12 a. Work without being paid for all hours at the appropriate overtime rate;
13 b. Work without being provided ***paid*** rest periods;
14 c. Work without being reimbursed for their out of pocket expenses; and,
15 d. Work without being provided accurate itemized wage statements.

16 30. Additionally, Defendant willfully failed to compensate Plaintiff and all aggrieved
17 employees for wages at the termination of their employment with Defendant.

18 **VI.**

19 **FIRST CAUSE OF ACTION**

20 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL**
21 **DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE §2699, ET SEQ. FOR**
22 **VIOLATIONS OF LABOR CODE §§ 201, 202, 203, 226(A), 226.7, 510, 1194, 1194.2, 1199,**
23 **AND 2802**

24 31. Plaintiff, on behalf of himself and all aggrieved employees, realleges and
25 incorporates by reference all previous paragraphs.

26 32. Labor Code §§ 510, 1194 and 1199 require an employer to compensate its
27 employees at the rate of no less than one and one-half times the regular rate of pay for any work
28 in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek.

1 California law also requires that any compensation, including a piece rate pay, must be included
2 in the regular rate of pay.

3 33. From at least one (1) year prior to the filing of this action continuing to the present,
4 Plaintiff and the aggrieved employees were forced to work on a regular and consistent basis
5 without receiving compensation for all hours worked at the proper rate. Specifically, Plaintiff and
6 the aggrieved employees were not paid at the proper overtime rate when they were working more
7 than eight (8) hours in one day or forty (40) hours in one week because when Plaintiff and the
8 aggrieved employees were paid by the “piece,” the piece rate pay was not blended into their regular
9 rate of pay when calculating overtime.

10 34. By their policy of requiring Plaintiff and members of the aggrieved employees to
11 work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without
12 compensating them at the rate of one-half (1 ½) their regular rate of pay, Defendant willfully
13 violated the provisions of Labor Code §§ 510, 1194 and 1199.

14 35. As piece rate employees, Plaintiff and the aggrieved employees only earn
15 compensation when they are taking their ten-minute rest period. As such, when Plaintiff and the
16 aggrieved employees take their rest periods (as required by California law) they are not paid any
17 compensation during these periods. As a result, they are entitled to minimum wage for each and
18 every rest period provided by Defendant.

19 36. As a result of the unlawful acts of Defendant, Plaintiff and the aggrieved employees
20 have been deprived of wages and/or overtime in amounts to be determined at trial, and are entitled
21 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs.

22 37. Labor Code § 226.7 requires an employer to pay an additional hour (1) of
23 compensation for each rest period the employer fails to provide. Employees are entitled to a paid
24 ten (10) minute rest break for every four (4) hours worked (or major fraction thereof). Defendant
25 failed to maintain a policy informing Plaintiff and the aggrieved employees of this right.

26 38. From at least one (1) year prior to the filing of this action continuing to the present,
27 Plaintiff and the aggrieved employees consistently worked shifts with no rest breaks, and
28 Defendant failed to maintain an accurate policy advising Plaintiff and the aggrieved employees of

1 these rest breaks and failed to provide Plaintiff and the aggrieved employees with rest breaks of
2 not less than ten (10) minutes as required by the Labor Code during the relevant time period.

3 39. Plaintiff and the Class worked shifts where their rest periods were unpaid. As
4 explained above, as a result of Defendant's common policy of paying Plaintiff and the aggrieved
5 employees by the "piece," Plaintiff and the aggrieved employees were not compensated for their
6 rest periods.

7 40. Pursuant to Labor Code § 226.7, Plaintiff and the aggrieved employees are entitled
8 to damages in an amount equal to one (1) hour of wages per missed rest period, in a sum to be
9 proven at trial.

10 41. Labor Code § 2802 requires employers to indemnify employees for all necessary
11 expenditures incurred by employees in the discharge of their duties.

12 42. From at least one (1) year prior to the filing of this action continuing to the present,
13 Defendant has failed to reimburse Plaintiff and the aggrieved employees for the cost of using tools
14 that were not provided by Defendant but were necessary for the performance of Plaintiff and the
15 aggrieved employees' job duties.

16 43. As a result of the unlawful acts of Defendants, Plaintiff and the aggrieved
17 employees have been deprived of reimbursement in the amounts to be determined at trial, and are
18 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

19 44. California Labor Code § 226(a) requires employers to issue wage statements that
20 accurately show the number of piece-rate units earned, total hours worked, and accurately report
21 appropriate rates of pay and the corresponding number of hours worked at each hourly rate by the
22 employee. (Labor Code §§ 226(a)(2), (3), and (9).)

23 45. From at least one (1) year prior to the filing of this action continuing to the present,
24 Defendant failed to issue Plaintiff and the aggrieved employees accurate itemized wage statements
25 according to Labor Code § 226(a).

26 46. Labor Code § 226(a)(2) requires that every employer shall semimonthly or at the
27 time of each payment of wages, furnish each of his or her employees, an accurate itemized
28 statement in writing showing the total hours worked by the employee. Plaintiff and the aggrieved

1 employees are issued wage statements that do not include the total hours worked by the employee.

2 47. Labor Code § 226(a)(3) requires that every employer shall semimonthly or at the
3 time of each payment of wages, furnish each of his or her employees, an accurate itemized
4 statement in writing showing the number of piece-rate units earned and any applicable piece rate
5 if the employee is paid on a piece-rate basis. Plaintiff and the aggrieved employees are issued
6 wage statements that do not show the number of piece-rate units earned and any applicable piece
7 rate if the employee is paid on a piece-rate basis.

8 48. Labor Code § 226(a)(9) requires that every employer shall semimonthly or at the
9 time of each payment of wages, furnish each of his or her employees, an accurate itemized
10 statement in writing showing all applicable hourly rates in effect during the pay period and the
11 corresponding number of hours worked at each hourly rate by the employee. Plaintiff and the
12 aggrieved employees are issued wage statements that do not include all applicable hourly rates in
13 effect during the pay period and the corresponding number of hours worked at each hourly rate by
14 the employee.

15 49. As a result of Defendant's failure to pay wages as described above, Defendant has
16 failed to include the appropriate rates of pay and the accurate hours worked on itemized wage
17 statements for Plaintiff and the aggrieved employees.

18 50. Defendant's failure to provide accurate itemized wages statements according to
19 Labor Code § 226(a) was all done on a regular and consistent basis.

20 51. An employee suffering injury as a result of a knowing and intentional failure by an
21 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual
22 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
23 dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
24 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and
25 reasonable attorneys' fees.

26 52. Numerous members of the aggrieved employees including the Plaintiff are no
27 longer employed by Defendant. They were either fired or quit Defendant's employ.

28 53. Defendant's failure to pay wages, as alleged above was willful in that Defendant

1 knew wages to be due but failed to pay them, thus entitling Plaintiff and the aggrieved employees
2 to penalties under Labor Code § 203, which provides that an employee's wages shall continue as
3 a penalty until paid for a period of up to thirty (30) days from the time they were due.

4 54. Defendant has failed to pay Plaintiff and others a sum certain at the time of
5 termination or within seventy-two (72) hours of their resignation, and have failed to pay those
6 sums for thirty (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiff and
7 the aggrieved employees are entitled to a penalty in the amount of Plaintiff's and the aggrieved
8 employees' daily wage multiplied by thirty (30) days.

9 55. Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 1194,
10 1194.2, 1199, and 2802 was all done on a regular and consistent basis.

11 42. As a result of the acts alleged above and specifically incorporated herein, Plaintiff
12 seeks penalties under Labor Code §2699, et seq use of Defendant's violation of Labor Code §§
13 201, 202, 203, 226(a), 226.7, 510, 1194, 1194.2, 1199, 2802; IWC 4-2001; and California Code
14 of Regulations, Title 8, Section 11040, which call for civil penalties.

15 43. For each such penalty, Plaintiff and the aggrieved employees are entitled to
16 penalties in an amount to be shown at trial, subject to the following formula:

17 a. \$100 for the initial violation per employee per pay period.

18 b. \$200 for each subsequent violation per employee per pay period.

19 44. These penalties shall be allocated seventy-five percent (75%) to the LWDA and
20 twenty-five percent (25%) to the affected employees.

21 45. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded a notice letter to the
22 LWDA¹ and mailed a letter by certified mail to Defendant HY-TECH TILE, INC.'s entity
23 address, which is 1355 Palmyoita Ave, Riverside, CA 92507, as proscribed by the Code on June
24 10, 2021, describing Defendant's conduct in violation of Labor Code §§ 201, 202, 203, 226(a),
25 226.7, 510, 1194, 1194.2, 1199, and 2802. (see Exhibit "1.") Plaintiff also obtained an e-filing
26 confirmation from the LWDA confirming receipt of the notice (see Exhibit "2").

27 ¹ Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California
28 Labor and Workforce Development Agency / Department of Industrial Relations website
(<https://dir.tfaforms.net/308>).

1 As no letter evidencing the LWDA's intention to investigate was received by Plaintiff's
2 Counsel within sixty-five (65) calendar days, Plaintiff is entitled to commence a civil action as
3 though the LWDA had not chosen to investigate pursuant to Labor Code §2699.3(a)(2)(A).
4 Plaintiff will also provide the LWDA with a filed-stamped copy of the First Amended Class and
5 Representative Action Complaint immediately.

6 **RELIEF REQUESTED**

7 **WHEREFORE**, Plaintiff prays for the following relief:

- 8 1. For penalties under Labor Code §2699, *et seq.* for Defendant's violation of Labor
9 Code §§ 201, 202, 203, 226(a), 226.7, 510, 1194, 1194.2, 1199, 2802, and IWC 4-2001.
10 2. An award providing for payment of costs of suit;
11 3. An award of attorneys' fees; and
12 4. Such other and further relief as this Court may deem proper and just.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.
15

16 DATED: February 23, 2022

KINGSLEY & KINGSLEY, APC

17
18 By: 

Liane Katzenstein Ly

Attorneys for Plaintiff Jaime Mora and all aggrieved
employees
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EXHIBIT "1"

KINGSLEY & KINGSLEY

| L A W Y E R S |

June 10, 2021

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Hy-Tech Tile, Inc.
1355 Palmyoita Ave
Riverside, CA 92507

Re: Jaime Mora v. Hy-Tech Tile, Inc
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents Jaime Mora (“Plaintiff”) and a proposed group of current and former employees working for Hy-Tech Tile, Inc (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by Hy-Tech Tile, Inc, in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present. (“aggrieved employees”).

Defendant has violated Labor Code §§ 510, 1194, 1194.2 and 1199. These statutes require an employer to compensate its employees at the minimum wage rate for all hours worked and at a rate of no less than one and one-half times the regular rate of pay for any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek.

Here, Defendant has had a consistent policy of failing to pay wages and/or overtime to Plaintiff and all aggrieved employees. The pay periods issued to Plaintiff and the aggrieved employees include an hourly rate, but in actuality, Plaintiff and the aggrieved employees are paid a piece rate based on installations. Plaintiff and the aggrieved employees were not properly compensated for overtime because when they were paid by the “piece,” the piece rate pay was not blended into their regular rate of pay for the purpose of calculating the overtime rate. As such, Plaintiff is an aggrieved employee within the meaning PAGA and Defendants has violated §§ 510, 1194, 1194.2 and 1199 with respect to Plaintiff and all aggrieved employees.

Pursuant to Labor Code § 226.7 and Wage Order 4-2001, Defendant failed to provide Plaintiff and

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the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Plaintiff and all other aggrieved employees were not properly compensated for all hours worked because Defendant does not provide paid rest periods to Plaintiff and the aggrieved employees. As piece rate employees, when Plaintiff and the aggrieved employees took their ten-minute rest periods, they were not compensated in any way. As such, they are entitled to the ten minutes of pay. Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each unpaid rest period as required by labor Code § 226.7. Defendant failed to provide Plaintiff and the aggrieved employees with lawful rest periods due to the fact that they were unpaid. As such, Plaintiff is an aggrieved employee within the meaning PAGA and Defendant has violated § 226.7 with respect to Plaintiff and all aggrieved employees.

In addition, Labor Code § 2802 provides that an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. Defendant has failed to reimburse Plaintiff and aggrieved employees the cost of using their personal tools for business related purposes. Defendant required that Plaintiff and the aggrieved employees purchase tools/equipment to perform their installations, and this was necessary to perform their job duties. These tools/equipment were not provided by Defendant, and Defendant failed to reimburse Plaintiff and the aggrieved employees for the costs associated with using these personal tools/equipment.

Defendant also engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a) which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate, accurately reporting total hours worked, 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)(2) requires that every employer shall semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing the total hours worked by the employee. Plaintiff and the employees are issued wage statements that do not include the total hours worked by the employee.

Labor Code § 226(a)(3) requires that every employer shall semimonthly or at the time of each payment of wages, furnish each of his or her employees, an accurate itemized statement in writing showing the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis. Defendant issues Plaintiff and the aggrieved employees wage statements that do not include number of piece-rate units earned and any applicable piece rate.

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California Labor Code §2699 Penalties

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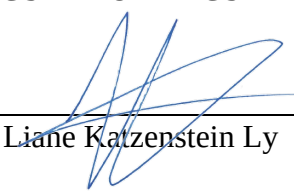
Also, Defendant issued to Plaintiff and the aggrieved employees itemized wage statements that did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code § 226(a)(9). The itemized wage statements provided to Plaintiff and the aggrieved employees did not applicable show all hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. As such, Plaintiff is an aggrieved employee within the meaning PAGA and Defendant has violated § 226(a) with respect to Plaintiff and all aggrieved employees.

Labor Code § 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.” Here, Plaintiff and all aggrieved employees were not paid all wages due upon their separation from Defendant’s employ. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 2802, 510, 1194, 1194.2, and 1199 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Liane Katzenstein Ly

LKL/gm

- Cc: 1. LWDA Letter filed via Electronic Submission: <https://dir.tfaforms.net/308>
2. Hy-Tech Tile, Inc via USPS Certified Mail # 7019 2970 0001 4016 5097

EXHIBIT "2"



State of California

Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Liane

Your Last Name *

Ly

Firm Name (if any) *

Kingsley & Kingsley

(Enter "in pro per" if you are representing yourself)

Your Email Address *

service@kingsleykingsley.

Your Street Name, Number and Suite/Apt *

16133 Ventura Blvd Ste 12

Your Mobile Phone Number

8189908300

Your City *

Encino

Your Work Phone Number

Your State *

California

Your Zip/Postal Code *

91436

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Jaime Mora

Plaintiff/Aggrieved Employee Occupation *

Installer

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Corporation

Employer Name *

Hy-Tech Tile, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt

1355 Palmyoita Ave

Employer City

Riverside

Employer State

California



Employer Zip/Postal Code

92507

Employer Industry *

Other



Employer Industry for "Other" *

Tile Installation

Add additional defendants

- ☐ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

50

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☒ Minimum Wage
- ☒ Overtime
- ☐ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☐ Other

Child Labor – Specify Ages

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Eric

Billing Last Name *

Kingsley

Billing Email *

service@kingsleykingsley.

Billing Phone

8189908300

Billing Street Name, Number and Suite/Apt *

16133 Ventura Blvd., Suite 1200

Billing City *

Encino

Billing State *

California

Billing Zip/Postal Code *

91436

Credit Card Type *

Visa

Credit Card Number *

CVV Number *

Credit Card Expiration Month *

Credit Card Expiration Year *

mm

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

 PAGA Letter – ...h Tile Inc.pdf

Other Attachment – (if any) (must be a .pdf)

 No file chosen[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Service Email](#)
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, June 10, 2021 9:25:41 AM

6/10/2021

LWDA Case No. LWDA-CM-834597-21
Law Firm : Kingsley & Kingsley
Plaintiff Name : Jaime Mora
Employer: Hy-Tech Tile, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Service Email](#)
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation
Date: Thursday, June 10, 2021 9:25:51 AM

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-834597-21

Order Number: ORD-000112843

Total:\$75.00

Card Type: Visa

Date: 6/10/2021

Billing Information

Name: Eric Kingsley

Email: service@kingsleykingsley.com

Billing Address:

16133 Ventura Blvd., Suite 1200

Encino, California

91436

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On February 23, 2022, I served all interested parties in this action the following documents described as: **SECOND AMENDED REPRESENTATIVE ACTION COMPLAINT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

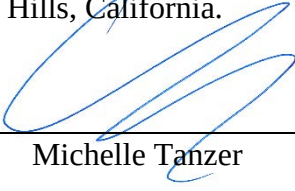
Matthew C. Sgnilek
Andrea Rosenkranz
Sanam Aghnami
msgnilek@ohaganmeyer.com
arosenkranz@ohaganmeyer.com
saghnami@ohaganmeyer.com
O'HAGAN MEYER LLP
4695 MacArthur Court, Suite 210
Newport Beach, CA 92660

☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **(BY ELECTRONIC MAIL TRANSMISSION)** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 23, 2022, at Woodland Hills, California.



Michelle Tanzer