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Attorneys for Plaintiff DARIO MEJIA-CANO
 on behalf of himself and current and former aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

DARIO MEJIA-CANO, on behalf of himself
 and other aggrieved employees,

Plaintiff,

vs.

AIRPORT TERMINAL MANAGEMENT,
 INC.; and DOES 1 to 100, inclusive,

Defendants.

Case No.: **21ST CV 39603**

PAGA ACTION

**PLAINTIFF DARIO MEJIA-CANO'S
 COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
 TO THE PRIVATE ATTORNEYS
 GENERAL ACT OF 2004
 ("PAGA"), LABOR CODE
 SECTION 2698, et seq.**

COMES NOW Plaintiff DARIO MEJIA-CANO ("Plaintiff"), who alleges and complains
 against Defendants AIRPORT TERMINAL MANAGEMENT, INC. and DOES 1 to 100,
 inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys' General Act of 2004, Lab. Code § 2698, et seq.
 ("PAGA"). representative action brought by Plaintiff on behalf of the State of California, himself
 and other current and former aggrieved employees of Defendants who worked as hourly, non-
 exempt employees, in California during the relevant time period seeking civil penalties associated
 with Defendants' violation of the Labor Code based on Defendant's failure to pay wages for all
 hours worked at the employees' minimum wage rate, failure to provide all legally required and/or
 legally compliant meal and rest periods, failure to timely pay earned wages during employment,

1 failure to provide complete and accurate wage statements, and failure to timely pay all unpaid
2 wages following separation of employment. Plaintiff seeks on a representative basis, following
3 notice to the Labor and Workforce Development Agency, civil penalties, reasonable attorney's
4 fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State
5 of California, and other current and former aggrieved hourly non-exempt employees in California.

6 **II. JURISDICTION AND VENUE**

7 2. This Court has jurisdiction over Plaintiff's and other current and former aggrieved
8 hourly non-exempt California-based employee's claims because Plaintiff's lawsuit seeks damages
9 in excess of \$25,000 and Defendants employed the aggrieved employees in California including,
10 but not limited to, Los Angeles County at 216 W. Florence Ave., Inglewood, CA 90301 and
11 injuries occurred in locations in California including, but not limited to, Los Angeles County at
12 216 W. Florence Ave., Inglewood, CA 90301.

13 **III. PARTIES**

14 3. Plaintiff brings this action as a representative of the Labor and Workforce
15 Development Agency on behalf of himself, the State of California, and other current and former
16 aggrieved employees who were subject to Defendants' violations of the Labor Code. The named
17 Plaintiff and the persons on whose behalf this action is filed include current, former and/or future
18 employees of Defendants who worked, work, or will work for Defendants as non-exempt hourly
19 employees in California. At all times mentioned herein, the currently named Plaintiff is and was
20 domiciled and a resident and citizen of California and was employed by Defendants in an hourly
21 position at Defendants' location in Inglewood from 2003 until the present.

22 4. Plaintiff is informed and believes and thereon alleges that Defendant AIRPORT
23 TERMINAL MANAGEMENT, INC. is authorized to do business within the State of California
24 and is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all
25 times relevant hereto were persons acting on behalf of Defendant AIRPORT TERMINAL
26 MANAGEMENT, INC. in the establishment of, or ratification of, the aforementioned illegal wage
27 and hour practices or policies. Defendant AIRPORT TERMINAL MANAGEMENT, INC.
28 operates in Los Angeles County and employed Plaintiff and other current and former aggrieved

hourly non-exempt employees in Los Angeles County, including but not limited to, at 216 W. Florence Ave., Inglewood, CA 90301.

5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51 through 75 are corporations, or are other business entities or organizations of a nature unknown to Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and working conditions of employment of Plaintiff and aggrieved employees.

6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 76 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued individually and in his or her capacity as an agent, shareholder, owner, representative, manager, supervisor, independent contractor and/or employee of each defendant who violated or caused to be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of the Industrial Welfare Commission's wage orders regulating hours and days of work.

7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff sues said defendants by said fictitious names, and will amend this complaint when the true names and capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named defendants is in some manner responsible for the events and allegations set forth in this complaint.

8. Plaintiff makes the allegations in this complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION

CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS

GENERAL ACT OF 2004, LABOR CODE SECTION 2698, et seq.

(Against all Defendants)

9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

10. During the period beginning one-year period preceding the sending of the initial

notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, and the applicable Wage Order.

11. Specifically, Defendants have committed the following violations of California Labor Code:

12. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

13. Labor Code sections 1194 and 1197 require an employer to compensate employees for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the Wage Orders.

14. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but not limited to, the following:

(a) “Rounding” or “shaving” down Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’ daily hours worked to the nearest quarter of an hour at time of their clock ins and clock outs to the benefit of the Defendants and to the detriment of the Plaintiff and other current and former aggrieved California-based hourly non-exempt employees;

(b) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to arrive prior to the start of their shift in order to wait to undergo and to undergo off-the-clock bag checks and/or security checks, including requiring them to undergo X-ray scans, emptying pockets, walking through metal detectors and/or undergoing wand

1 checks, and thereafter requiring Plaintiff and other current and former aggrieved California-based
2 hourly non-exempt employees to walk approximately three (3) minutes to the timeclock in order
3 to clock in prior to the start of their shifts; and

4 (c) Since on or about February 1, 2020, requiring Plaintiff and other current
5 and former aggrieved California-based hourly non-exempt employees to undergo off-the-clock
6 medical screenings including, but not limited to, temperature checks prior to being permitted to
7 clock in for the start of their shifts.

8 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
9 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
10 control without paying wages for that time. This resulted in Plaintiff and other current and former
11 aggrieved California-based hourly non-exempt employees working time for which they were not
12 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
13 Wage Order.

14 16. **Failure to pay wages to hourly non-exempt employees for workdays that**
15 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
16 current and former aggrieved California-based hourly non-exempt employees regularly worked
17 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

18 17. California law requires an employer to authorize or permit an employee an
19 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
20 all duties and the employer relinquishes control over the employee's activities prior to the
21 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker*
22 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
23 employee for a work period of more than ten (10) hours per day without providing the employee
24 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
25 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
26 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
27 period is only permitted when: (1) the nature of the work prevents an employee from being
28 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

1 18. If an employer fails to provide an employee a meal period in accordance with the
2 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
3 for each workday that a legally required and compliant meal period was not provided. Labor Code
4 section 226.7; Wage Order 9 at §11.

5 19. In this case, Defendants failed to authorize or permit legally required and compliant
6 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
7 exempt employees due to Defendants' policies, practices, and/or procedures including, but not
8 limited to, requiring Plaintiff and other current and former aggrieved California-based hourly non-
9 exempt employees to remain on the Defendants' premises during their meal periods, thereby
10 exercising control over how Plaintiff and other current and former aggrieved California-based
11 hourly non-exempt employees spend their meal periods and rendering meal periods not duty-free
12 as required.

13 20. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
14 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
15 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
16 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
17 employees did not receive legally required and compliant meal periods, in violation of Labor Code
18 section 226.7.

19 21. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
20 and other current and former aggrieved California-based hourly non-exempt employees not
21 receiving wages to compensate them for workdays during which Defendants did not provide them
22 with meal periods in compliance with California law.

23 22. **Failure to pay wages to hourly non-exempt employees for workdays that**
24 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
25 current and former aggrieved California-based hourly non-exempt employees regularly worked
26 shifts of more than three-and-a-half (3.5) hours.

27 23. California law requires every employer to authorize and permit an employee a rest
28 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor

1 Code section 226.7; Wage Order 9 at §12. Under California law, “[e]mployees are entitled to 10
2 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
3 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
4 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
5 section 226.7; Wage Order 9 at §12. Rest periods, insofar as practicable, shall be in the middle of
6 each work period. Wage Order 9 at §12. Additionally, the rest period requirement “obligates
7 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
8 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
9 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

10 24. If the employer fails to authorize or permit a required rest period, the employer
11 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
12 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
13 Wage Order 9 at § 12.

14 25. In this case, Defendants failed to authorize or permit all legally required and
15 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
16 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
17 limited to, requiring Plaintiff and other current and former aggrieved California-based hourly non-
18 exempt employees to remain on the Defendants’ premises during their rest periods, thereby
19 exercising control over how Plaintiff and other current and former aggrieved California-based
20 hourly non-exempt employees spend their rest periods and rendering meal periods not duty-free as
21 required.

22 26. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
23 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
24 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
25 workday they did not receive legally required and compliant rest periods, in violation of Labor
26 Code section 226.7.

27 27. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
28 and other current and former aggrieved California-based hourly non-exempt employees not

1 receiving wages to compensate them for workdays in which Defendants did not provide them with
2 rest periods in compliance with California law.

3 **28. Failure to timely pay earned wages during employment:** In California, wages
4 must be paid at least twice during each calendar month on days designated in advance by the
5 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
6 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
7 16th and the 26th day of that month and wages earned between the 16th and the last day,
8 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
9 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
10 paid within seven (7) calendar days following the close of the payroll period in which wages were
11 earned. Labor Code section 204(d).

12 **29.** As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
13 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
14 exempt employees' earned wages (including minimum wages, meal period premium wages and/or
15 rest period premium wages), in violation of Labor Code section 204. Defendants' aforementioned
16 policies, practices, and/or procedures resulted in their failure to pay Plaintiff's and other current
17 and former aggrieved California-based hourly non-exempt employees' their earned wages within
18 the applicable time frames outlined in Labor Code section 204.

19 **30. Failure to provide complete and accurate wage statements:** Labor Code section
20 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
21 employee his or her wages, the employer must "furnish each of his or her employees ... an
22 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
23 employee, except for any employee whose compensation is solely based on a salary and who is
24 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
25 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
26 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
27 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
28 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the

1 name of the employee and his or her social security number, (8) the name and address of the legal
2 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
3 the corresponding number of hours worked at each hourly rate by the employee.”

4 31. Additionally, and a derivative of Plaintiff’s allegations above, Defendants’ failure
5 to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
6 employees all wages earned (including minimum wages, meal period premium wages, and/or rest
7 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
8 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
9 section 226.

10 32. **Failure to pay employees all wages due at time of termination/resignation:** An
11 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
12 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
13 hours of resignation (Labor Code section 202).

14 33. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
15 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
16 all their earned wages (including minimum wages, meal period premium wages, and/or rest period
17 premium wages), Defendants failed to pay those employees timely after each employee’s
18 termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

19 34. Defendants’ violations of Wage Order 9 constituted violations of Labor Code
20 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

21 35. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
22 employee, on behalf of himself or herself and other current or former employees, to bring a civil
23 action to recover civil penalties against all Defendants pursuant to the procedures specified in
24 Labor Code section 2699.3.

25 36. Plaintiff has complied with the procedures for bringing suit specified in Labor
26 Code section 2699.3. On June 1, 2021, Plaintiff filed notice with LWDA and provided notice to
27 Defendants by certified mail which provided notice of the specific provisions of the Labor Code
28 alleged to have been violated, including the facts and theories to support the violations alleged.

1 37. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
2 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
3 within sixty-five (65) days of the date of the complainant's written notice. The LWDA failed to
4 provide the parties notice within sixty-five (65) days of the date of Plaintiff's letter that the LWDA
5 intends to investigate Plaintiff's claims.

6 38. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
7 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510,
8 512, 1194, 1197, and 1198 during the Civil Penalty Period in the following amounts:

9 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, and
10 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
11 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
12 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

13 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
14 for each employee for each pay period for the initial violation, and for each subsequent violation,
15 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
16 established by Labor Code section 226.3].

17 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
18 employee for each pay period for the initial violation, and for each subsequent violation, one
19 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
20 established by Labor Code section 558] and any unpaid wages.

21 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
22 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
23 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
24 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

25 39. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
26 reasonable attorney's fees and costs in connection with his claims for civil penalties.

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28 //

1 **PRAYER FOR RELIEF**

2 **WHEREFORE, PLAINTIFF, ON HIS BEHALF, ON BEHALF OF THE STATE OF**
3 **CALIFORNIA, AND ON BEHALF OTHER CURRENT AND FORMER AGGRIEVED**
4 **EMPLOYEES PRAYS AS FOLLOWS:**

5 **ON THE FIRST CAUSE OF ACTION:**

6 1. That the Defendants be found to have violated the provisions of the Labor Code
7 and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

8 2. For any and all legally applicable penalties during the relevant statute of limitations
9 subject to any permissible tolling, including but not limited to that recoverable under California
10 Labor Code, including but not limited to sections 2699(f).

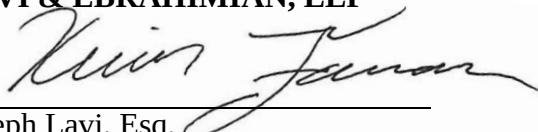
11 3. For attorneys' fees and costs of suit, including but not limited to that recoverable
12 under California Labor Code section 2699(g); and,

13 4. For such and other further relief, in law and/or equity, as the Court deems just or
14 appropriate.

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16 Dated: October 27, 2021

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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18 By:



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Kevin Joseph Farnan, Esq.

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21 Attorneys for Plaintiff
22 DARIO MEJIA-CANO
23 on behalf of himself and current and former
24 aggrieved employees
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