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

JOSE RAMIREZ, as an individual and on
behalf of other aggrieved employees,

Plaintiffs,

vs.

NATIONAL CEMENT CO. OF
CALIFORNIA, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: BCV-21-102240

**PAGA REPRESENTATIVE ACTION
COMPLAINT FOR:**

**(1) VIOLATION OF LABOR CODE
§ 2698, *ET SEQ.*, THE PRIVATE
ATTORNEYS GENERAL ACT**

DEMAND OVER \$25,000.00

1 Plaintiff Jose Ramirez (“Plaintiff”) hereby submits this PAGA Representative Action
2 Complaint (“Complaint”) against Defendant National Cement Co. of California, Inc.
3 (“Defendant”) and Does 1 through 50 (collectively, “Defendants”), on behalf of himself and all
4 other aggrieved employees of Defendants, for penalties pursuant to the Private Attorneys
5 General Act, Labor Code § 2698, *et seq.* (“PAGA”), for Defendants’ violations of the California
6 Labor Code, as follows:

7 **INTRODUCTION**

8 1. This representative action is within the Court’s jurisdiction under California
9 Labor Code §§ 226 and 2698, *et seq.*

10 2. This complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide complete and accurate itemized
15 wage statements to Plaintiff and Class Members.

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

20 **JURISDICTION AND VENUE**

21 5. The Court has jurisdiction over the violations of California Labor Code §§ 226
22 and 2698, *et seq.*

23 6. Venue is proper because Defendants do business in Kern County, and Plaintiff
24 worked for Defendants in Kern County, specifically in Lebec, California.

25 **PARTIES**

26 7. Plaintiff was employed by Defendant as a maintenance mechanic from on or
27 about March 15, 2003, until on or about July 12, 2021. Throughout his employment with
28 Defendant, Plaintiff worked as an hourly, non-exempt employee.

1 8. Plaintiff was and is the victim of the policies, practices, and customs of
2 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
3 by California Labor Code §§ 226 and 2698, *et seq.*

4 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant was
5 and is a Delaware corporation doing business in the State of California, and in the County of
6 Kern. Plaintiff is informed and believes, and based thereon alleges, that Defendant is in the
7 business of manufacturing cement and marketing cement products.

8 10. Plaintiff is informed and believes and thereon alleges that at all times herein
9 mentioned Defendant and Does 1 through 50, are and were corporations, business entities,
10 individuals, and partnerships, licensed to do business and actually doing business in the State of
11 California. As such, and based upon all the facts and circumstances incident to Defendants'
12 business, Defendants are subject to the California Labor Code.

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

21 12. At all times herein mentioned, each of said Defendants participated in the doing
22 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
23 Defendants, and each of them, were the agents, servants and employees of each of the other
24 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
25 acting within the course and scope of said agency and employment.

26 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
27 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
28 joint venturer of, or working in concert with each of the other co-Defendants and was acting

1 within the course and scope of such agency, employment, joint venture, or concerted activity.
2 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
3 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
4 Defendants.

5 14. At all times herein mentioned, Defendants, and each of them, were members of,
6 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
7 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

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

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

17 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
18 **AGAINST ALL DEFENDANTS)**

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

21 17. Plaintiff brings this cause of action as a proxy for the State of California and in
22 this capacity, seeks penalties on behalf of all current and former non-exempt employees of
23 Defendants in the State of California and were paid wages, at any time from July 20, 2020,
24 through the present (“Aggrieved Employees”), for Defendants’ violations of Labor Code §
25 226(a).

26 18. Defendants have failed in their affirmative obligation to provide accurate itemized
27 wage statements in violation of Labor Code § 226(a). In this regard, Labor Code § 226(a)
28 requires employers to provide itemized wage statements to its employees that identify accurate

1 information, including without limitation, all applicable hourly rates in effect during the pay
2 period and the corresponding number of hours worked at each hourly rate by the employee, and
3 the total hours worked by the employee in the pay period.

4 19. Here, Plaintiff and Aggrieved Employees were not provided accurate itemized
5 wage statements under Labor Code § 226(a). In this regard, whenever hourly wages (such as
6 regular wages) were paid to Plaintiff and Aggrieved Employees, Defendants failed to identify the
7 rates of pay and applicable number of hours worked for said wages on its wage statements, in
8 violation of Labor Code § 226(a)(9). Instead, Defendants had a policy and practice of listing the
9 hourly wages as a lump sum without any breakdown of the applicable hourly rate and
10 corresponding hours that were used to calculate said wages.

11 20. Defendants also issued inaccurate wage statements to Plaintiff and Aggrieved
12 Employees that failed to identify the total hours worked in the pay period, in violation of Labor
13 Code § 226(a)(2). Additionally, Plaintiff and Aggrieved Employees cannot ascertain the total
14 hours worked by looking at the wage statements, as there is no information provided on the wage
15 statements that would allow them to determine the total hours worked.

16 21. On or about July 20, 2021, Plaintiff sent written notice to the California Labor &
17 Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code § 226(a),
18 pursuant to the PAGA. Plaintiff also provided notice of said Labor Code violations to Defendant
19 via certified mail pursuant to the PAGA.

20 22. As of the date of the filing of this Complaint, the LWDA has not responded to
21 Plaintiff’s written notice nor indicated that it intends to investigate the Labor Code violations
22 provided for in the written notice.

23 23. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
24 applicable civil penalties for Defendants’ violations of Labor Code § 226(a), for the time period
25 described above, on behalf of himself and other Aggrieved Employees.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf
28 this suit is brought against Defendants, jointly and severally, as follows:

1 1. Upon the First Cause of Action, for penalties pursuant to California Labor Code
2 §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees; and

3 2. For such other and further relief that the Court may deem just and proper.
4

5 DATED: September 23, 2021

DIVERSITY LAW GROUP, P.C.

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7 By: _____

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff and Aggrieved Employees
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