

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Rupert Byrdsong

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ATTORNEYS FOR PLAINTIFF

ARTURO NAVARRETE AND THE PAGA GROUP

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

Arturo Navarrete, an individual, on behalf  
of himself and other employees and on  
behalf of the State of California and the  
Labor and Workforce Development  
Agency,

Plaintiffs,

v.

ZAVALA FAMILY, INC., a California  
corporation doing business as SCV  
RECYCLING. JOSE ZAVALA  
SANABRIA, an individual, and DOES 1  
through 100, INCLUSIVE,

Defendants.

CASE NO: **21STCV41260**

CIVIL UNLIMITED

**COMPLAINT FOR DAMAGES &  
EQUITABLE REMEDIES:**

1. HARASSMENT;
2. FAILURE TO PREVENT  
HARASSMENT;
3. WRONGFUL TERMINATION;
4. FAILURE TO PAY WAGES AND/OR  
OVERTIME;
5. FAILURE TO PROVIDE MEAL  
AND/OR REST BREAKS;
6. VIOLATION OF LABOR CODE § 226;
7. VIOLATION OF BUSINESS &  
PROFESSIONS CODE § 17200;
8. WAITING TIME PENALTIES  
PURSUANT TO LABOR CODE § 203;
9. RETALIATION IN VIOLATION OF  
LABOR CODE § 98.6;
10. WHISTLEBLOWER RETALIATION  
(LABOR CODE § 6503);
11. WHISTLEBLOWER RETALIATION  
(LABOR CODE § 1102.5);
12. PRIVATE ATTORNEY GENERAL  
ACTION FOR PENALTIES (LABOR  
CODE § 2699); AND
13. INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS

**DEMAND FOR JURY TRIAL**

Plaintiff Arturo Navarrete alleges on behalf of himself and other employees:

**COMPLAINT FOR DAMAGES & EQUITABLE REMEDIES**

**I. INTRODUCTION**

1. Plaintiff Arturo Navarrete is a former employee of Defendant Zavala Family, Inc. doing business as SCV Recycling (hereinafter referred to as “SCV Recycling”) within the State of California and its principal owner Jose Zavala Sanabria.

**II. PARTIES/VENUE**

2. Plaintiff Arturo Navarrete was at all relevant times an employee of Defendant SCV Recycling.

3. Plaintiff is informed and believes, and upon that basis alleges, Defendant SCV Recycling is a California corporation authorized to and regularly and customarily doing business in California. At all relevant times, SCV Recycling employed Plaintiff Arturo Navarrete.

4. Plaintiff brings this action in part pursuant to Labor Code §§ 98.6, 201, 202, 203, 204, 221, 224, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1199, 2802 seeking wages, penalties, injunctive, declaratory, and other equitable relief, and reasonable attorneys’ fees and costs.

5. For at least one year prior to the filing of this action continuing to the present, Defendants SCV Recycling and the owner Jose Zavala Sanabria (collectively “Defendants”) have had a consistent policy of failing to pay wages for all hours worked.

6. For at least one year prior to the filing of this action continuing to the present, Defendants have had a consistent policy of failing to provide employees meal and rest breaks.

7. For at least one year prior to the filing of this action continuing to the present, Defendants have had a consistent policy of failing to provide employees with accurate itemized wage statements.

8. Plaintiff, pursuant to Business and Professions Code §§ 17200 – 17208, also seeks injunctive relief, restitution and disgorgement of all benefits Defendants’ enjoyed from their unlawful policies and practices.

9. The true names and capacities of Defendants DOES 1 through 100 are

1 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names.  
2 Plaintiff will seek leave to amend his complaint to allege such names and capacities as  
3 soon as they are ascertained. Plaintiff is informed and believes, and upon that basis  
4 alleges, that each of the fictitiously named Defendants is in some manner responsible,  
5 liable, and/or obligated to Plaintiff in connection with the acts alleged herein.

6 10. Plaintiff is informed and believes and upon that basis alleges that DOES 1  
7 through 100 are the controlling entities and/or alter egos of the other Defendants, and of  
8 each other, and ratified, authorized, and/or directed the conduct of Defendant SCV  
9 Recycling. In doing the things hereinafter alleged, the Defendants, and each of them,  
10 acted as the agents, servants and employees of their co-defendants, who acted within the  
11 course and scope of their agency and employment, and with the knowledge, consent and  
12 approval of their co-defendants whereby their conduct was ratified by their co-  
13 defendants.

14 11. Pursuant to California Code of Civil Procedure Sections 393, 395.5 and  
15 Government Code Section 12965(b), jurisdiction and venue are proper in the Superior  
16 Court, State of California, County of Los Angeles.

### 17 **III. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 12. All legal prerequisites for proceeding with the claims contained in this  
19 complaint have been met.

20 13. Plaintiff filed with the California Department of Fair Employment and  
21 Housing a complaint against each Defendant which is attached here as Exhibit A.

22 14. Plaintiff received from the California Department of Fair Employment and  
23 Housing a "right-to-sue" letter against each Defendant which is attached here as  
24 Exhibit B.

25 15. Plaintiff sent a letter to the Labor Workforce Development Agency and to  
26 Defendants on September 3, 2021, pursuant to Labor Code section 2699. At least sixty-  
27 five (65) days have passed since the postmark date of that notice and the LWDA has not  
28 indicated that it intends to investigate the alleged violations. Therefore, pursuant to

1 Labor Code section 2699.3(a)(2)(A), Plaintiff may commence a civil action.

2 **IV. FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

3 16. Arturo Navarrete began his tenure with Defendant SCV Recycling as an  
4 operator on or about June 2019.

5 17. On or about June 2019 and throughout Mr. Navarrete's two year  
6 employment for SCV Recycling, Defendants failed to pay wages for all time worked, and  
7 failed to pay an overtime premium wage for time worked in excess of 8 hours per day or  
8 40 hours per week, which resulted in minimum and overtime premium wage violations.

9 18. Employees, including Mr. Navarrete, were consistently required to report to  
10 work approximately at 6:00 a.m. and worked until their shift ended at 6:00 p.m., working  
11 consistently a total of 11.5 to 12 hours without being compensated for all hours worked.  
12 Additionally, employees, including Mr. Navarrete, were not paid for overtime  
13 compensation when they worked over 8 hours per day and/or forty hours per week.  
14 Defendants would only compensate the Mr. Navarrete his regular hourly rate of \$18 per  
15 hour, with no overtime.

16 19. Further, Navarrete alleges that approximately four to five times per month  
17 Mr. Navarrete was required to work 30 to 45 minutes beyond the end of his shift, which  
18 was beyond 6:00 p.m. resulting in more overtime or doubletime for which Mr. Navarrete  
19 did not receive the appropriate compensation. Thus, Defendants would only compensate  
20 Plaintiff and others similarly situated their regular hourly rate with no time and half for  
21 overtime.

22 20. Additionally, Mr. Navarrete alleges that he, as well as other employees,  
23 were not provided with compliant duty-free meal periods for each day that they worked  
24 over five hours in a shift or a second duty-free meal period after working over 10 hours in  
25 a shift. Mr. Navarrete and other employees were often not provided with uninterrupted  
26 meal periods as Defendants maintained strict guidelines regarding the completion of job  
27 assignments. Therefore, Mr. Navarrete and other employees had to forgo meal and rest  
28 periods so that the job could be completed according to Defendants' specifications.

1 Defendants also failed to authorize and permit rest periods for each four hours worked or  
2 major fraction thereof. Notwithstanding the fact that meal and rest periods were not  
3 authorized or permitted, Defendants failed to pay employees for the time worked and  
4 meal and rest period premium wages.

5 21. The foregoing failure to pay wages was willful in that the Defendants knew  
6 the wages to be due but failed to pay them. Indeed, employees, including Mr. Navarrete  
7 complained about the unfair wages directly to the owner of SCV Recycling, Jose Zavala  
8 Sanabria. Soon after, Jose Zavala Sanabria whom is in his early 30s made discriminatory  
9 remarks about Mr. Navarrete who is 57 stating, "You are too old...you only have another  
10 two years to go of good work" and Jose Zavala Sanabria laughed while he remarked  
11 "You are going to be worthless in a few years."

12 22. Mr. Navarrete complained directly to the owner, Jose Zavala Sanabria and  
13 asked him to stop harassing him because of his age and to show him respect, but Jose  
14 Zavala Sanabria did nothing about these complaints except laugh. Additionally, Mr.  
15 Navarrete reported the ongoing harassment to his supervisor, Romeo Alba, who then  
16 failed to take action.

17 23. In addition to the various complaints of harassment, Mr. Navarrete reported  
18 multiple OSHA violations directly to the owner, Jose Zavala Sanabria for draining the  
19 engines and/or gas tanks, which Mr. Navarrete knows is a potential fire hazard because of  
20 his prior experience in the field. In response, the owner, Jose Zavala Sanabria got upset  
21 when Mr. Navarrete reported the OSHA violations and did nothing to prevent the fire  
22 hazard SCV Recycling engaged in.

23 24. Furthermore, as a result of these unlawful policies and practices,  
24 Defendants also violated time and pay recordkeeping requirements that mandate the  
25 accurate reporting of hours worked and wages earned by its employees, since Defendants  
26 failed to accurately record total hours worked, hourly rates, total wages earned, and  
27 required reimbursements.

28 ///

25. After raising the numerous Labor Code violations with the owner and his supervisor, Mr. Navarrete faced retaliation and discrimination for complaining about owed wages and OSHA violations. Plaintiff Navarrete was wrongfully terminated on or about April 29, 2021.

**FIRST CAUSE OF ACTION  
FOR HARASSMENT  
AGAINST ALL DEFENDANTS  
AND DOES 1 THROUGH 100**

**(Violation of Government Code Section 12940(a))**

26. The allegations set forth in paragraphs 1 through 25 are realleged and incorporated by reference as though fully set forth herein.

27. At all relevant times, Defendant SCV employed Mr. Navarrete and was subject to the provisions of the Fair Employment & Housing Act.

28. Mr. Navarrete was subjected to unwanted harassing conduct by the owner of SCV Recycling, Defendant Jose Zavala Sanabria, because of his age. The harassing conduct was severe or pervasive. A reasonable person over the age 40 in Mr. Navarrete's circumstances would have considered the work environment to be hostile or abusive. The Defendant engaging in the harassment was the owner of the Defendant SCV Recycling. The harassment consisted of threatening and demeaning comments about Plaintiff's age. Demeaning comments and conduct engaged in by Defendant Jose Zavala Sanabria were a constant part of the work environment. These comments, behavior and actions have occurred regularly during Plaintiff's employment with SCV Recycling.

29. Mr. Navarrete has been damaged.

30. Plaintiff's damages include, but are not limited to, lost earnings and other employment benefits. He has also suffered and continues to suffer humiliation, emotional distress, mental and physical pain and anguish, pain and suffering, loss of sleep, loss of appetite, migraines, panic attacks, loss of enjoyment of life, depression, all to his damage in a sum according to proof at trial.

1 31. Defendant's harassment was a substantial factor in causing Mr. Navarrete's  
2 harm.

3 32. Defendant's harassment was willful, knowing, and/or intentional and  
4 otherwise constitutes oppressive conduct entitling Mr. Navarrete to an award of punitive  
5 and exemplary damages in an amount according to proof at trial.

6 33. Plaintiff has incurred and continues to incur legal expenses and attorneys'  
7 fees. Plaintiff will seek the recovery of her attorneys' fees and costs at the conclusion of  
8 this lawsuit.

9 **SECOND CAUSE OF ACTION**  
10 **FOR FAILURE TO PREVENT HARASSMENT**  
11 **AGAINST DEFENDANT ZAVALA FAMILY INC.**  
12 **AND DOES 1 THROUGH 100**  
13 **(Violation of Government Code Section 12940(k))**

14 34. The allegations set forth in paragraphs 1 through 33 are realleged and  
15 incorporated by reference as though fully set forth herein.

16 35. At all relevant times, Plaintiff was an employee of Defendant SCV  
17 Recycling, which was subject to the provisions of the California Fair Employment &  
18 Housing Act.

19 36. Plaintiff was subjected to harassment in violation of the California Fair  
20 Employment & Housing Act.

21 37. Defendant SCV Recycling failed to take reasonable steps to prevent the  
22 harassment.

23 38. Plaintiff has been damaged. His damages include, but are not limited to,  
24 lost earnings and other employment benefits. He has also suffered and continues to  
25 suffer humiliation, emotional distress, mental and physical pain and anguish, pain and  
26 suffering, loss of sleep, loss of appetite, headaches, panic attacks, loss of enjoyment of  
27 life, and depression, all to his damage in a sum according to proof.

28 ///

39. Defendant SCV Recycling's failure to take reasonable steps to prevent harassment in the workplace was a substantial factor in causing Plaintiff's harm.

40. Defendant SCV Recycling's failure to prevent harassment was willful, knowing, and/or intentional and otherwise constitutes oppressive conduct entitling Plaintiff to an award of punitive and exemplary damages in an amount according to proof at trial.

41. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Plaintiff will seek recovery of his attorneys' fees and costs at the conclusion of this lawsuit.

**THIRD CAUSE OF ACTION  
FOR WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY  
AGAINST DEFENDANT ZAVALA FAMILY INC.  
AND DOES 1 THROUGH 100**

42. The allegations set forth in paragraphs 1 through 41 are realleged and incorporated by reference as though fully set forth herein.

43. At all relevant times, Defendant SCV Recycling employed Plaintiff.

44. Defendant SCV Recycling wrongfully discharged Plaintiff on or about April 29, 2021.

45. Pursuant to the California Fair Employment and Housing Act Section 12920, it is contrary to public policy to terminate an employee based on his or her age. It is also against the public policy of this State to terminate an employee because they are complaining about unpaid wages and unsafe and unlawful work conditions.

46. Plaintiff has been damaged.

47. As a proximate result of Defendant's wrongful termination, Plaintiff has sustained and continues to sustain losses in earnings and other employment benefits. As a proximate result of Defendants' wrongful termination against Plaintiff, he has suffered and continues to suffer humiliation, emotional distress, mental and physical pain and anguish, pain and suffering, loss of sleep, loss of appetite, headaches, loss of enjoyment

1 of life, anxiety, depression and shame, all to his damage in a sum according to proof at  
2 trial.

3 48. Defendant's termination was a substantial factor in causing Plaintiff's  
4 harm.

5 49. Defendant's termination was willful, knowing, and/or intentional and  
6 otherwise constitutes oppressive conduct entitling Plaintiff to an award of punitive and  
7 exemplary damages in an amount according to proof at trial.

8 **FOURTH CAUSE OF ACTION**  
9 **FOR FAILURE TO PAY WAGES AND/OR OVERTIME**  
10 **AGAINST ALL DEFENDANTS**  
11 **AND DOES 1 THROUGH 100**

12 50. The allegations set forth in paragraphs 1 through 49 are realleged and  
13 incorporated by reference as though fully set forth herein.

14 51. Defendant Jose Zavala Sanabria is individually liable under Labor Code §  
15 558.1 for personally directing the wage and hour violations specified herein in his  
16 capacity as principal owner and manager of Defendant Zavala Family, Inc.

17 52. At all times relevant herein, Defendant SCV Recycling was required to  
18 compensate Plaintiff for all regular hours worked, and overtime compensation when he  
19 worked over eight (8) hours per day and/or forty (40) hours per week, and double time  
20 when he worked over twelve (12) hours per day.

21 53. As a pattern and practice, Defendant regularly required Plaintiff to work  
22 more hours than were scheduled and recorded on his time sheets without payment of  
23 wages, which resulted in Defendant failing to pay Plaintiff at least the required wages for  
24 all hours worked.

25 54. Plaintiff was required to work on a regular and consistent basis without  
26 receiving compensation for all hours worked at his regular rate or if more than eight (8)  
27 hours a day and/or forty (40) hours per week and/or seven days a week, at the applicable  
28 overtime rate. Plaintiff has not been compensated for this time. Defendant also had a

1 consistent policy of failing to pay Plaintiff for all hours worked.

2 55. By their policy of requiring Plaintiff to work without receiving  
3 compensation for all hours worked at their regular rate, or if in excess of eight (8) hours  
4 in a workday and/or forty (40) hours in a workweek and/or seven days a week, without  
5 compensating Plaintiff at the rate of time and one-half (1 ½), Defendant willfully violated  
6 the provisions of Labor Code § 1194.

7 56. As a result of the unlawful acts of Defendant, Plaintiff has been deprived of  
8 wages and/or overtime in amounts to be determined at trial, and is entitled to recovery of  
9 such amounts, plus liquidated damages, interest and penalties thereon, and attorneys' fees  
10 and costs pursuant to Labor Code § 1194.

11 **FIFTH CAUSE OF ACTION**  
12 **FOR FAILURE TO PROVIDE MEAL AND/OR REST BREAKS**  
13 **AGAINST ALL DEFENDANTS**  
14 **AND DOES 1 THROUGH 100**

15 57. The allegations set forth in paragraphs 1 through 56 are realleged and  
16 incorporated by reference as though fully set forth herein.

17 58. Defendant Jose Zavala Sanabria is individually liable under Labor Code §  
18 558.1 for personally directing the wage and hour violations specified herein in his  
19 capacity as principal owner and manager of Defendant Zavala Family, Inc.

20 59. Employees are entitled to a meal period of at least thirty (30) minutes per  
21 five (5) hour work period.

22 60. Employers must authorize and permit rest breaks. Employees are entitled  
23 to a paid ten (10) minute rest break for every four (4) hours worked.

24 61. Defendant SCV Recycling failed to provide Plaintiff and others with timely  
25 meal breaks of not less than thirty (30) minutes as required by the Labor Code during  
26 their employment. Defendant failed to authorize and permit Plaintiff and others to take  
27 rest breaks of not less than ten (10) minutes as required by the Labor Code during their  
28 employment.

62. Pursuant to Labor Code § 226.7, Plaintiff is entitled to damages in an amount equal to one (1) hour of wages per missed meal break, in a sum to be proven at trial. Plaintiff is also entitled to damages in an amount equal to one (1) hour of wages per missed rest break, in a sum to be proven at trial.

**SIXTH CAUSE OF ACTION  
FOR VIOLATION OF LABOR CODE § 226  
AGAINST ALL DEFENDANTS  
AND DOES 1 THROUGH 100**

63. The allegations set forth in paragraphs 1 through 62 are realleged and incorporated by reference as though fully set forth herein.

64. Defendant Jose Zavala Sanabria is individually liable under Labor Code § 558.1 for personally directing the wage and hour violations specified herein in his capacity as principal owner and manager of Defendant Zavala Family, Inc.

65. Section 226(a) of the California Labor Code requires Defendant to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff. Defendant has knowingly and intentionally failed to comply with Labor Code § 226(a) on each and every wage statement that should have been provided to Plaintiff. By failing to keep adequate records as required by §§ 226 and 1174 (d) of the Labor Code, Defendant has injured Plaintiff and made it difficult to calculate the unpaid wages earned and losses and expenditures not indemnified by Defendant (including wages, interest, and penalties thereon) due to Plaintiff.

66. Section 1174 of the California Labor Code requires Defendant to maintain and preserve, in a centralized location, among other items, records showing the names and addresses of all employees employed, payroll records showing the hours worked daily by and the wages paid to its employees. Defendant has knowingly and intentionally failed to comply with Labor Code § 1174. Defendant's failure to comply with Labor Code § 1174 is unlawful pursuant to Labor Code § 1175.

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67. IWC Wage Orders 4-2001(7), 4-2000(7), require Defendant to maintain time records showing, among other things, when the employee begins and ends each work period, meal periods, split shift intervals and total daily hours worked in itemized wage statements, and must show all deductions and reimbursements from payment of wages, and accurately report total hours worked by Plaintiff.

68. Plaintiff requests relief as described herein and below.

**SEVENTH CAUSE OF ACTION  
FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES IN VIOLATION OF  
BUSINESS & PROFESSIONS CODE § 17200  
AGAINST ALL DEFENDANTS  
AND DOES 1 THROUGH 100**

69. The allegations set forth in paragraphs 1 through 68 are realleged and incorporated by reference as though fully set forth herein.

70. Defendant Jose Zavala Sanabria is individually liable under Labor Code § 558.1 for personally directing the wage and hour violations referenced in the preceding causes of action in his capacity as principal owner and manager of Defendant Zavala Family, Inc.

71. Defendant engaged in unfair, unlawful, fraudulent, deceptive, untrue, and/or misleading business practices through the following, among others:

(a) Defendant failed to compensate Plaintiff with the true and/or correct and/or full amount of his earned hours and overtime pay, in violation of Labor Code § 510 and IWC Wage Order No. 4 §§ 11, 12.

(b) Defendant failed to provide Plaintiff with all of his mandatory meal and/or rest periods as required by California law in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order No. 4 §§ 11, 12.

72. Defendant engaged in unfair, unlawful, fraudulent, deceptive, untrue, and/or misleading business practices in direct violation of California Bus. & Prof. Code § 17200 *et seq.*

73. Defendant's willful and/or reckless conduct constituted unfair business practices and acts because the harm to the general public outweighed any utility that its conduct may have produced.

74. As a direct result of the conduct, act and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff has been harmed and damaged in an amount to be shown at the time of trial, together with prejudgment interest thereon from the time owed until paid, all within an amount within the jurisdictional limits of this Court.

75. Plaintiff is also entitled to all penalties provided by Cal. Bus. & Prof. Code § 17206.

76. Cal. Bus. & Prof. Code § 17205 declares, unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

77. The acts of Defendant and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to California Civil Code § 3294(a) and (b).

78. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

**EIGHTH CAUSE OF ACTION  
FOR WAITING TIME PENALTIES PURSUANT TO LABOR CODE § 203  
AGAINST ALL DEFENDANTS  
AND DOES 1 THROUGH 100**

79. The allegations set forth in paragraphs 1 through 78 are realleged and incorporated by reference as though fully set forth herein.

80. Defendant Jose Zavala Sanabria is individually liable under Labor Code § 558.1 for personally directing the wage and hour violations specified herein in his

1 capacity as principal owner and manager of Defendant Zavala Family, Inc.

2 81. Plaintiff Navarrete is no longer employed by Defendant SCV Recycling  
3 and has not been employed by Defendant for more than 30 days.

4 82. Defendant SCV Recycling's failure to pay wages, as alleged above, was  
5 willful in that Defendant knew wages were due but failed to pay them, thus entitling  
6 Plaintiff to penalties under Labor Code § 203, which provides that an employee's wages  
7 shall continue as a penalty until paid for a period of up to thirty days from the time they  
8 were due. Defendants have failed to pay Plaintiff a sum certain at the time of termination  
9 or within seventy-two hours of resignation, and have failed to pay those sums for thirty  
10 days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiff is entitled to  
11 penalties in the amount of his daily wage multiplied by thirty (30) days.

12 **NINTH CAUSE OF ACTION**  
13 **FOR RETALIATION (Labor Code § 98.6)**  
14 **AGAINST ALL DEFENDANTS**  
15 **AND DOES 1 THROUGH 100**

16 83. The allegations set forth in paragraphs 1 through 82 are realleged and  
17 incorporated by reference as though fully set forth herein.

18 84. Labor Code Section 98.6 protects an employee from, inter alia, retaliation,  
19 discrimination or any adverse action when the employee makes a "written or oral  
20 complaint that he or she is owed unpaid wages, or because the employee has initiated any  
21 action or notice pursuant to Section 2699 . . . or . . . because of the exercise by the  
22 employee or applicant for employment on behalf of himself, herself, or others of any  
23 rights afforded him or her."

24 85. "Any employee who is discharged, threatened with discharge, demoted,  
25 suspended, retaliated against, subjected to an adverse action, or in any other manner  
26 discriminated against in the terms and conditions of his or her employment" because the  
27 employee engaged in any conduct delineated in *inter alia*, Labor Code Section 98.6 or  
28 "because the employee has made a bona fide complaint or claim to the division pursuant

1 to this part, or because the employee has initiated any action or notice pursuant to Section  
2 2699 shall be entitled to reinstatement and reimbursement for lost wages and work  
3 benefits caused by those acts of the employer.”

4 86. An employer who willfully refuses to hire, promote, or otherwise restore an  
5 employee or former employee who has been determined to be eligible for rehiring or  
6 promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of  
7 a misdemeanor. In addition to other remedies available, a civil penalty of up to \$10,000  
8 may be awarded to an employee for each violation of Labor Code Section 98.6.

9 87. Throughout Plaintiff's employment with Defendant SCV Recycling, he  
10 complained about: (a) not getting paid for all hours worked, and (b) not receiving his  
11 proper meal and rest breaks.

12 88. Upon making complaints, Defendants retaliated against Plaintiff and took  
13 adverse actions that include termination.

14 89. Defendants engaged in conduct that, taken as a whole, materially and  
15 adversely affected the terms and conditions of Plaintiff's employment.

16 90. Plaintiff's complaints were a motivating reason for Defendant's retaliatory  
17 conduct and ultimate termination.

18 91. Plaintiff Navarrete has been harmed. Defendants' retaliation is a  
19 substantial factor in causing that harm.

20 92. As a proximate result of Defendants' retaliatory conduct, Plaintiff has  
21 sustained losses in earnings and other employment benefits. As a proximate result of  
22 Defendants' retaliation, Plaintiff has suffered and continues to suffer humiliation,  
23 emotional distress, mental and physical pain and anguish, pain and suffering, loss of  
24 sleep, anxiety, depression and shame.

25 93. In light of Defendant's willful, knowing and intentional retaliation, Mr.  
26 Navarrete seeks an award of punitive and exemplary damages in an amount according to  
27 proof at trial.

28 ///

1 94. Plaintiff has incurred and continues to incur legal expenses and attorneys'  
2 fees. Plaintiff will seek recovery of his attorneys' fees and costs at the conclusion of this  
3 lawsuit.

4 **TENTH CAUSE OF ACTION**  
5 **FOR RETALIATION (Labor Code § 6310 *et al.*)**  
6 **AGAINST ALL DEFENDANTS**  
7 **AND DOES 1 THROUGH 100**

8 95. The allegations set forth in paragraphs 1 through 94 are realleged and  
9 incorporated by reference as though fully set forth herein.

10 96. Labor Code § 6310 prohibits employers from retaliating against employees  
11 who make oral or written complaints regarding employee safety to their employer and  
12 Labor Code § 6311 prohibits retaliation against an employee refusing to perform work  
13 that creates a work safety hazard.

14 97. Plaintiff Navarrete reported multiple OSHA violations directly to the  
15 owner, Jose Zavala Sanabria for draining the engines and/or gas tanks, which Mr.  
16 Navarrete knows is a potential fire hazard because of his prior experience in the field. In  
17 response, the owner, Jose Zavala Sanabria got upset when Mr. Navarrete reported the  
18 OSHA violations and did nothing to prevent the fire hazard SCV Recycling engaged in.

19 98. Plaintiff is entitled to reimbursement for lost wages and work benefits.

20 99. At all relevant times, Plaintiff was an employee of SCV Recycling.

21 100. Plaintiff directly reported OSHA violations to Defendant Jose Zavala  
22 Sanabria.

23 101. Plaintiff was harassed and terminated because he reported these OSHA  
24 violations to his employer and refused to perform work that required committing OSHA  
25 violations.

26 102. Plaintiff's reported concerns about OSHA violations and his refusal to  
27 commit OSHA violations was a substantial motivating reason for his termination.

28 103. Plaintiff was harmed.

104. Defendants' conduct was a substantial factor causing Plaintiff's harm.

105. As a proximate result of Defendants' retaliatory conduct, Plaintiff has sustained losses in earnings and other employment benefits. As a proximate result of Defendants' retaliation, Plaintiff has suffered and continues to suffer humiliation, emotional distress, mental and physical pain and anguish, pain and suffering, loss of sleep, anxiety, depression and shame.

106. In light of Defendant's willful, knowing and intentional retaliation, Mr. Navarette seeks an award of punitive and exemplary damages in an amount according to proof at trial.

107. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Plaintiff will seek recovery of his attorneys' fees and costs at the conclusion of this lawsuit.

**ELEVENTH CAUSE OF ACTION**  
**FOR RETALIATION (Labor Code § 1102.5 *et al.*)**  
**AGAINST ALL DEFENDANTS**  
**AND DOES 1 THROUGH 100**

108. The allegations set forth in paragraphs 1 through 107 are realleged and incorporated by reference as though fully set forth herein.

109. Labor Code § 1102.5 (c) states "[a]n employer, or any person acting on behalf of the employer, shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation." Plaintiff refused to perform work that required committing OSHA violations.

110. An employer violating this provision is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation.

111. At all relevant times, Plaintiff was an employee of SCV Recycling.

112. Plaintiff refused to perform work that required committing OSHA violations including but not limited to improperly draining fuel and gas from engines and

1 tanks.

2 113. Plaintiff had reasonable cause to believe that he was being asked to violate  
3 state law.

4 114. Plaintiff was harassed and terminated because he refused to violate state  
5 law.

6 115. Plaintiff's reported concerns about OSHA violations and his refusal to  
7 commit OSHA violations was a substantial motivating reason for his termination.

8 116. Plaintiff was harmed.

9 117. Defendants' conduct was a substantial factor causing Plaintiff's harm.

10 118. As a proximate result of Defendants' retaliatory conduct, Plaintiff has  
11 sustained losses in earnings and other employment benefits. As a proximate result of  
12 Defendants' retaliation, Plaintiff has suffered and continues to suffer humiliation,  
13 emotional distress, mental and physical pain and anguish, pain and suffering, loss of  
14 sleep, anxiety, depression and shame.

15 119. In light of Defendant's willful, knowing and intentional retaliation, Mr.  
16 Navarette seeks an award of punitive and exemplary damages in an amount according to  
17 proof at trial.

18 120. Plaintiff has incurred and continues to incur legal expenses and attorneys'  
19 fees. Plaintiff will seek recovery of his attorneys' fees and costs at the conclusion of this  
20 lawsuit.

21 **TWELFTH CAUSE OF ACTION**  
22 **FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
23 **AGAINST ALL DEFENDANTS**  
24 **AND DOES 1 THROUGH 100**

25 121. The allegations set forth in paragraphs 1 through 120 are realleged and  
26 incorporated by reference as though fully set forth herein.

27 122. Defendants' conduct caused Plaintiff to suffer severe emotional distress.

28 123. As outlined in the preceding paragraphs, Defendants' conduct was

1 outrageous. Defendants either intended to cause Plaintiff emotional distress or acted with  
2 the reckless disregard of the probability that Plaintiff would suffer emotional distress.  
3 Defendant SCV Recycling ratified the conduct because they had prior notice of  
4 Defendant Jose Zavala Sanabria's misconduct from Plaintiff and also because of its  
5 failure to appropriately respond to Plaintiff's complaints.

6 124. Plaintiff suffered severe emotional distress.

7 125. Defendants' conduct was a substantial factor causing Plaintiff's severe  
8 emotional distress.

9 126. Plaintiff Navarrete's damages include, but are not limited to, lost earnings  
10 and other employment benefits. He has also suffered and continues to suffer humiliation,  
11 emotional distress, mental and physical pain and anguish, pain and suffering, depression,  
12 loss of appetite, loss of sleep, and shame attributable to Defendants intentional infliction  
13 of emotional distress.

14 127. In light of the willful, knowing and/or intentional infliction of emotional  
15 distress by Defendants, Plaintiff Navarrete seeks an award of punitive and exemplary  
16 damages in an amount according to proof at trial.

17 **THIRTEENTH CAUSE OF ACTION**  
18 **FOR PENALTIES PURSUANT TO LABOR CODE SECTION 2699**  
19 **AGAINST ALL DEFENDANTS**  
20 **AND DOES 1 THROUGH 100**

21 128. The allegations set forth in paragraphs 1 through 127 are realleged and  
22 incorporated by reference as though fully set forth herein.

23 129. Plaintiff, an aggrieved employee, hereby seeks recovery of civil penalties as  
24 prescribed by the *Labor Code* Private Attorneys General Act of 2004 on behalf of himself  
25 and other aggrieved employees against whom one or more of the violations of the *Labor*  
26 *Code* were committed.

27 130. On September 3, 2021, Plaintiff sent a certified letter to the Labor  
28 Workforce and Development Agency ("LWDA") and Defendant Cal-Quake

Construction, Inc., as prescribed by *Labor Code* § 2699.3 regarding Plaintiff's claims for penalties pursuant to Labor Code section 226.8, Labor Code § 203, Labor Code § 558, rest and recovery periods, itemized wage statements, and unauthorized withholdings/deductions. At least sixty-five (65) days have passed since the postmark date of that notice and the LWDA has not indicated that it intends to investigate the alleged violations. Therefore, pursuant to *Labor Code* § 2699.3(a)(2)(A), Plaintiff may commence a civil action.

131. Plaintiff and other aggrieved employees are entitled to penalties for the herein alleged violations, to be proven at the time of trial, allocated 75% to the LWDA and 25% to the affected employees, subject to the following formula:

- a. \$100.00 for the initial violation per employee per pay period; and
- b. \$200.00 for each subsequent violation per employee per pay period.

132. The remedies provided under PAGA are intended to be cumulative of other available remedies. *Lab. Code* § 2699(g)(1).

133. Under Labor Code section 226.8, the Court shall require payment of a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation.

134. Plaintiff and the aggrieved employees are also entitled to any and all unpaid wages from Defendant for violating or causing the violations set forth in Plaintiff's PAGA letter pursuant to *Labor Code* § 558, which are payable directly to the affected employees.

#### REQUEST FOR JURY TRIAL

135. Plaintiff requests a trial by jury.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff Arturo Navarrete prays for judgment, including joint and several liability, against each Defendant as follows:

1. For compensatory damages, including past, present and prospective lost wages, employment benefits and medical expenses;

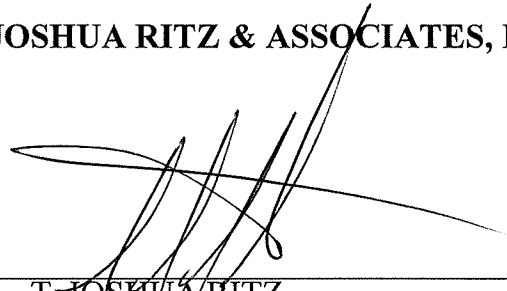
2. For mental and emotional distress damages on all non-wage claims;
3. For penalties pursuant to the Labor Code including but not limited to:
  - (a) Pursuant to Labor Code Section 558, a \$10,350 penalty;
  - (b) Pursuant to Labor Code Section 98.6, a \$10,000 penalty per violation;
  - (c) Pursuant to Labor Code Section 203, thirty days of wages;
  - (d) Pursuant to Labor Code Section 226, a \$4,000 penalty;
  - and
  - (e) Pursuant to Labor Code Section 1198.5, a \$750 penalty;
4. For liquidated damages for minimum wage claims;
5. For general unpaid wages at regular wage rates and overtime at overtime wage rates and such general and special damages as may be appropriate;
6. For liquidated damages, pursuant to *California Labor Code* § 1194.2;
7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;
8. That the Court make an award to Plaintiff of one (1) hour of pay at his regular rate of compensation for each workday that a meal period was not provided;
9. That the Court make an award to Plaintiff of one (1) hour of pay at his regular rate of compensation for each workday that a rest period was not provided;
10. For premiums pursuant to *California Labor Code* § 226.7(b);
11. That the Court declare, adjudge, and decree that Defendants violated the record-keeping provisions of *California Labor Code* § 226(a) as to Plaintiff and willfully failed to provide accurate itemized wage statements thereto;
12. For statutory penalties pursuant to *California Labor Code* § 226(e);
13. For civil penalties pursuant to *California Labor Code* §§ 226(a) and 226.3;

14. That the Court declare, adjudge, and decree that Defendant and DOES 1-100 violated *California Business and Professions Code* §§ 17200, *et seq.* by failing to provide Plaintiff all regular wages, overtime compensation and at least minimum wage for all hours worked, failing to failing to provide meal and rest breaks, failing to provide accurate itemized wage statements, and failing to pay Plaintiff's wages timely as required by *California Labor Code* §§ 201, 202 and 203;
15. For restitution of unpaid wages to Plaintiff and prejudgment interest from the day such amounts were due and payable;
16. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendant and determined to have been wrongfully acquired by Defendant as a result of violations of *California Business and Professions Code* §§ 17200, *et seq.*;
17. That the Court declare, adjudge, and decree that Defendant violated *California Labor Code* §§ 201, 202 and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff;
18. For statutory wage penalties pursuant to *California Labor Code* § 203 for Plaintiff;
19. That the Court declare, adjudge, and decree that Defendant's employment practices violated one or more sections of the *Labor Code*;
20. For civil penalties pursuant to *Labor Code* §§ 226, 1199, 2699;
21. For any and all unpaid wages due to Plaintiff;
22. For penalties pursuant to Cal. Bus. & Prof. Code § 17206;
23. For liquidated damages for wage claims;
24. For disgorgement of ill-gotten gains;
25. For injunctive relief;
26. For punitive damages on all non-wage claims;

27. For an award of attorneys' fees;
28. For an award of interest, including prejudgment interest, at the legal rate;
29. For costs of suit incurred; and
30. For such other and further relief as the Court deems just and appropriate.

DATE: November 9, 2021

**T. JOSHUA RITZ & ASSOCIATES, INC.**



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T. JOSHUA RITZ  
ATTORNEYS FOR PLAINTIFF  
ARTURO NAVARRETE AND THE  
PAGA GROUP