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Superior Court of CA,
County of Santa Clara
22CV396584
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

JESUS BELTRAN,	)	CASE NO.: 22CV396584
	)	
Plaintiff,	)	COMPLAINT FOR DAMAGES FOR:
	)	
vs.	)	1) FAILURE TO COMPENSATE FOR
	)	ALL HOURS WORKED;
	)	2) FAILURE TO PAY MINIMUM
	)	WAGES;
RECOLOGY SOUTH BAY;	)	3) FAILURE TO PAY OVERTIME;
SALVATORE CONIGLIO; and	)	4) FAILURE TO PROVIDE
DOES 1 to 25, inclusive,	)	ACCURATE ITEMIZED WAGE
	)	STATEMENTS;
	)	5) FAILURE TO PAY WAGES WHEN
	)	EMPLOYMENT ENDS;
Defendants.	)	6) FAILURE TO PAY WAGES OWED
	)	EVERY PAY PERIOD;
	)	7) VIOLATION OF LABOR CODE
	)	SECTION 558;
	)	8) FAILURE TO MAINTAIN
	)	ACCURATE RECORDS;
	)	9) FAILURE TO GIVE REST BREAKS;
	)	10) FAILURE TO GIVE MEAL BREAKS
	)	11) PRIVATE ATTORNEYS GENERAL
	)	ACT ("PAGA");
	)	12) FAILURE TO REIMBURSE FOR
	)	BUSINESS EXPENSES;
	)	13) VIOLATION OF CALIFORNIA
	)	BUSINESS AND PROFESSIONS
	)	CODE SECTION 17200.

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, JESUS BELTRAN (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Santa Clara in this judicial district because Defendants RECOLOGY SOUTH BAY, SALVATORE CONIGLIO, and DOES 1 to 25, inclusive, do business in the County of Santa Clara and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Santa Clara is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the County of Santa Clara, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant RECOLOGY SOUTH BAY is and was a California corporation, doing business in Santa Clara County, California, and which employed Plaintiff.

4. Defendant SALVATORE CONIGLIO is a citizen of California based on Plaintiff’s information and belief.

5. In relevant part, Labor Code section 558.1 states:

(a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

(b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

6. Plaintiff is informed and believes and thereon alleges that SALVATORE CONIGLIO is a natural person and an owner, director, officer, and/or managing agent of Defendant RECOLOGY SOUTH BAY, who directly or indirectly, or through an agent or any other person, employed or exercised control over the wages, hours, or working conditions of Plaintiff and the Aggrieved Employees (as defined below). Therefore, he is liable to Plaintiff and the Aggrieved Employees for his violations of, or causing Defendants to violate, Labor Code sections 203, 226,

226.7, and the Wage Order (nos. 4/9) pursuant to Labor Code section 558.1. RECOLOGY SOUTH BAY and SALVATORE CONIGLIO are hereinafter collectively referred to as “Defendants” or “RECOLOGY”.

7. The “Aggrieved Employees” are all current and former hourly non-exempt employees who worked for RECOLOGY at any of their California locations during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

8. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

9. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

GENERAL ALLEGATIONS

10. Plaintiff started working for RECOLOGY on or around June 2021 as a trash truck driver. During his tenure, Plaintiff was classified as an hourly, non-exempt employee. Plaintiff’s employment with RECOLOGY ended on or around early December 2021.

11. It is Plaintiff’s position that RECOLOGY has violated numerous California Labor Code Sections against Plaintiff.

12. RECOLOGY did not provide Plaintiff and other similarly situated aggrieved employees with the minimum wages to which they were entitled for all work performed and as such did not compensate Plaintiff and others for all hours worked at the minimum wage rate pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because the company had a

1 policy of rounding down employee hours to the detriment of the employees, which resulted in
2 employees such as Plaintiff not being paid for all hours worked, including the minimum wage.
3 Moreover, to the extent Plaintiff and others worked through his meal periods while “off the
4 clock” or his meal periods were interrupted due to driving obligations and he was not
5 compensated for that time, RECOLOGY would have violated California’s minimum wage laws.

6 13. Due to the above “off the clock” violations, including the time shaving/rounding,
7 RECOLOGY also violated Labor Code §510 because it failed to pay Plaintiff and other similarly
8 situated aggrieved employees the correct amount of overtime, even though they worked more
9 than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment.
10 Furthermore, RECOLOGY did not include bonuses and other forms of additional compensation,
11 including incentive pay, in calculating the correct regular rate of pay for purposes of then
12 calculating the correct overtime rate of pay.

13 14. RECOLOGY violated Labor Code § 226.7 and the applicable Industrial Welfare
14 Commission Wage Order (nos. 4/9) because it failed to provide Plaintiff and other similarly
15 situated aggrieved employees 10-minute rest periods for every four hours of work, or majority
16 portion thereof, throughout their employment. RECOLOGY did not completely relieve Plaintiff
17 of all duty during said rest periods. RECOLOGY did not pay to Plaintiff one additional hour of
18 pay at Plaintiff’s regular rate of compensation for each workday that one or more statutory rest
19 periods was not provided. It was not part of the company policy and culture for employees such
20 as Plaintiff and others to take timely, statutory rest breaks. Despite the fact that Plaintiff and
21 others were not really able to take statutory rest breaks due to their driving and trash pick-up
22 obligations, RECOLOGY would input that Plaintiff and others did in fact receive the rest breaks
23 when they did not. Timely, uninterrupted rest breaks were not always enforced at RECOLOGY.

24 15. RECOLOGY violated Labor Code §§ 512 and 226.7 and the applicable Industrial
25 Welfare Commission Wage Order (nos. 4/9) because it failed to provide Plaintiff and other
26 similarly situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for
27 every five (5) hours of work (and before the fifth hour) throughout their employment, and
28 Plaintiff did not validly waive said meal periods. RECOLOGY did not completely relieve
Plaintiffs of all duties during said meal periods. RECOLOGY did not pay to Plaintiff one

1 additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
2 more statutory meal periods was not provided. Like the rest breaks, receiving a timely (and
3 before the 5th hour worked), thirty-minute uninterrupted meal break was not part of the company
4 culture and was not always enforced by RECOLOGY. It was the normal practice and custom of
5 RECOLOGY not to authorize, permit, and enforce timely, uninterrupted statutory meal periods
6 due to the nature of Plaintiff's work. Furthermore, Plaintiff would have to finish his work
7 obligations before being able to think about a meal break, which often meant the meal breaks
8 were either late (after the 5th hour worked) or interrupted.

9 16. It is important to note that while Plaintiff and others punch-in and punch-out for work,
10 the company itself manually inputs meal and rest break times. The latter is because Plaintiff and
11 other similarly situated aggrieved employees were not able to receive timely, uninterrupted
12 statutory meal and rest breaks, but the company would make it seem "on paper" like the company
13 was following California law.

14 17. Furthermore, during the relevant time period, and due to the above labor code violations,
15 RECOLOGY failed to pay Plaintiff and other similarly situated aggrieved employees all wages
16 due to them within any time period specified by California Labor Code section 204.
17 RECOLOGY was also in violation of California Labor Code section 226(a) by failing to include
18 pertinent information on the wage statements, including but not limited to, all hourly rates, all
19 hours worked, overtime hours worked, correct overtime pay, gross wages earned, net wages
20 earned, premium pay for missed/late/short meal and rest breaks, all deductions, the correct start
21 and end of the pay period, all employee identifying information, the correct name and address of
22 the legal employer, and reimbursement for business expenses, among others. As such,
23 RECOLOGY did not provide Plaintiff and other similarly situated aggrieved employees with
24 complete, accurate itemized wage statements.

25 18. RECOLOGY violated Labor Code § 203 because it willfully failed to pay Plaintiff and
26 other similarly situated aggrieved employees earned and due wages upon separation of
27 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
28 These earned but unpaid wages include the unpaid minimum wages/compensation for all hours

1 worked, overtime, premium pay for missed/late/short meal and rest breaks, and business expense
2 reimbursement, among others.

3 19. During the relevant time period, RECOLOGY also failed to keep accurate and complete
4 payroll records showing the correct wages paid to Plaintiff and other aggrieved employees
5 pursuant to California Labor Code sections 1174(d).

6 20. Alternatively, during the relevant time period, Plaintiff and other aggrieved employees
7 incurred necessary, business-related expenses and costs that were not reimbursed by
8 RECOLOGY. These costs include, but are not limited to, the use of personal cell phones for
9 work purposes in terms of calling the office or receiving/sending text messages regarding his
10 routes. Accordingly, RECOLOGY was in violation of California Labor Code sections 2800 and
11 2802.

12 21. Moreover, RECOLOGY failed to provide Worker's Compensation coverage for Plaintiff
13 and other aggrieved employees in violation of Labor Code Section 3700.5 and also failed to
14 provide sick pay in violation of Labor Code Sections 232 and 246.

15 **FIRST CAUSE OF ACTION**

16 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

17 **(California Industrial Welfare Commission Order 4/9-2001, California Code of
18 Regulations Title 8 Section 11040/11090, and California Labor Code Section 1198)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 22. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 21, inclusive, of this Complaint as though fully set forth herein.

22 23. At all times relevant herein, Defendants were required to compensate their employees for
23 all hours worked upon reporting for work at the appointed time stated by the employer pursuant
24 to Industrial Welfare Commission Order 4/9-2001, California Code of Regulations, Title 8,
25 Section 11040/11090.

26 24. For the three (3) years preceding filing of this action, Defendants failed to compensate
27 Plaintiff for all hours worked.

28 25. Under the aforementioned wage order and regulations, Plaintiff is to recover
compensation for all hours worked but not paid by Defendants for the three (3) years

1
2 preceding the filing of this Complaint.

3 26. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
4 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
5 this Court.

6 27. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
7 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
8 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
9 reasonable attorney's fees and costs of suit.

10 28. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
11 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
12 amount known to Plaintiff once he has obtained all of his payroll records from
13 Defendants.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

16 **(California Labor Code Sections 1194, 1194.2, 1197)**

17 **(Plaintiff against all named defendants and all DOE defendants)**

18 29. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 28, inclusive, of this Complaint as though fully set forth herein.

20 30. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
21 to suffer or permit a California employee to work without paying wages at the minimum wage
22 rate for all hours worked as required by the applicable Industrial Welfare Commission
23 (hereinafter "IWC") Wage Order Nos. 4/9-2001, codified at California Code of Regulations,
24 Title 8, Section 11040/11090, subdivision 4.

25 31. Pursuant to IWC Wage Order nos. 4/9-2001, subdivision 2(K) and 2(H) respectively, at
26 all relevant times, "hours worked" included "the time during which an employee is subject to
27 the control of an employer, and includes all the time the employee is suffered or permitted to
28 work, whether or not required to do so..."

32. During his employment, Plaintiff was regularly required as a matter of uniform policy

1 and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid
2 less than the minimum wage rate by Defendants for hours worked in violation of California
3 Labor Code Section 1197 and the applicable California Industrial Wage Commission wage
4 order(s).

5 33. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
6 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
7 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
8 to believe that their acts or omissions were not contrary to California law.

9 34. For all hours worked by Plaintiff for which he was paid less than the minimum wage
10 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
11 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
12 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
13 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

14 35. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME**

19 **(California Industrial Welfare Commission Order 9-2001, California Code of
20 Regulations Title 8 Section 11040/11090; California Labor Code Section 510)**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 36. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 35, inclusive, of this Complaint as though fully set forth herein.

24 37. Pursuant to Industrial Welfare Commission Order No. 4/9-2001, Cal. Code of
25 Regs., Title 8, Section 11040/11090, for the period of Plaintiff's employment, Defendants were
26 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
27 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
28 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a

1 week.

2 38. Plaintiff was a non-exempt employee entitled to the protections of the California
3 Industrial Welfare Commission Order No. 4/9-2001, California Code of Regulations,
4 Title 8, Section 11040/11090.

5 39. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in
6 a single workweek on numerous occasions.

7 40. Plaintiff was entitled to the above overtime premiums.

8 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times
9 Plaintiff's regular rate of pay for hours worked past eight (8) in a day.

10 42. Defendants did not pay Plaintiff premium wages of at least one and one-half times
11 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

12 43. Plaintiff worked at least one pay period in which he was not properly paid overtime
13 within the three (3) years prior to the initiation of this lawsuit.

14 44. Defendants know or should know the actual dates of overtime worked, the amount of
15 overtime worked, and the amount of unpaid overtime due.

16 45. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
17 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
18 Court.

19 46. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
20 Regulations, Title 8, Sections 11040/11090, Plaintiff is entitled to recover damages for the
21 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
22 reasonable attorney's fees and costs of suit.

23 47. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
24 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
25 trial.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **(California Labor Code Section 226)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 48. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 47, inclusive, of this Complaint as though fully set forth herein.

7 49. Pursuant to California Labor Code Section 226, every employer must furnish each
8 employee an itemized statement of wages and deductions at the time of payment of wages.

9 50. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
10 accurately reflected all information required by Labor Code Section 226, including but not
11 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
12 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
13 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed
14 to maintain and provide accurate itemized wage statements to Plaintiff in accordance with
15 California Labor Code Section 226(a).

16 51. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
17 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
18 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
19 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
20 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
21 the 3-year period immediately preceding the date this lawsuit was filed.

22 52. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
23 sustained damages, including loss of earnings, in an amount to be established at trial. As a
24 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
25 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
26 and attorney's fees pursuant to statute.

27 53. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
trial.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

3 **(California Labor Code Sections 201, 203)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 54. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 53, inclusive, of this Complaint as though fully set forth herein.

7 55. Pursuant to California Labor Code Section 201(a), an employer who discharges an
8 employee must immediately pay for all compensation due and owing.

9 56. Pursuant to California Labor Code Section 202, when an employee resigns, the
10 employer must pay all compensation due and owing within 72 hours of resignation, or on the
11 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

12 57. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
13 without abatement or reduction, any wages of an employee whose employment ends, the wages
14 of the employee shall continue as a penalty from the due date at the same rate until paid or until
15 an action is commenced; however, the wages shall not continue for more than 30 days for
16 failure to pay an employee owed wages.

17 58. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
18 from his employment, Defendants willfully refused and continue to refuse to pay his unpaid
19 wages as required by Labor Code Section 203.

20 59. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
21 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
22 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
23 preceding the filing of this lawsuit.

24 60. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
25 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
26 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

27 61. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
trial.

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(California Labor Code Section 204)
(Plaintiff against all named defendants and all DOE defendants)

63. California Labor Code Section 204 establishes the fundamental right of all employees in the State of California to be paid wages in a timely fashion for their work.

65. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including overtime hours, the minimum wage, and premium pay for missed meal and rest breaks.

67. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

VIOLATION OF LABOR CODE SECTION 558

(Plaintiff against all named defendants and all DOE defendants)

69. California Labor Code Section 558 states that any person acting on behalf of an

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2 employer who violates, or causes to be violated, a section of this chapter or any provision
3 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
4 subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid
5 employee for each pay period for which the employee was underpaid in addition to an amount
6 sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one
7 hundred dollars (\$100) for each underpaid employee for each pay period for which the
8 employee was underpaid in addition to an amount sufficient to recover underpaid wages.
9 Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was
10 filed.

11 70. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus,
12 Defendants are subject to civil penalties under the following laws:

- 13 a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular
14 wages, including minimum wages, and overtime wages for overtime hours worked.
15 Defendants also failed to Plaintiff premium pay for missed meal and rest breaks. As
16 such, Defendants violated Section 558 under which penalties are due. Plaintiff
17 therefore prays for penalties of \$50.00 for the first pay period and \$100.00 for each
18 subsequent violation for each pay period for which Plaintiff was underpaid in
19 addition to an amount sufficient to recover underpaid wages.
- 20 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
21 relief associated with Plaintiff's prosecution of this cause of action under California
22 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
23 paying Plaintiff for his overtime hours worked and for all hours worked (including
24 the minimum wage).
- 25 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
26 fees for relief associated with Plaintiff's prosecution of this cause of action under
27 California Labor Code Sections 200, et seq.

28 71. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
the statutes, regulations, and wage orders alleged in this cause of action along with any

allowable interest, penalties, attorney's fees, and costs according to proof at trial.

72. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs and attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

EIGHTH CAUSE OF ACTION

FAILURE TO MAINTAIN ACCURATE RECORDS

(California Labor Code Section 1174(d))

(Plaintiff against all named defendants and all DOE defendants)

73. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 72, inclusive, of this Complaint as though fully set forth herein.

74. Labor Code section 1174(d) requires that employers, including Defendants, maintain accurate records showing the hours worked daily by its employees and to whom wages were paid.

75. Additionally, the "Records" section of the applicable IWC Wage Order obligates the employer, including Defendants, to keep accurate information with respect to each one of their employees including, but not limited to, the total wages paid each payroll period, and time records showing when the employee begins and ends each work period, meal periods, split shift intervals; the total daily hours worked; the total hours worked in the payroll period, and the applicable rates of pay.

76. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails to maintain accurate and complete records required by Labor Code section 1174(d) is subject to a penalty. On information and belief, Defendants intentionally failed to maintain accurate records of Plaintiff's total daily hours, the total hours worked in the payroll period, the applicable rates of pay, and total wages earned for the payroll period.

77. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and continues to suffer substantial losses related to Defendants' failure to record and maintain records of meal and rest periods as well as time records.

78. Plaintiff seeks all available remedies for Defendants' violations including, but not limited to penalties, and costs to the extent permitted by law and according to proof at trial.

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FAILURE TO GIVE REST BREAKS

79. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 78, inclusive, of this Complaint as though fully set forth herein.

a. Title 8 of the California Code of Regulations Sections 11040/11090(12)(A), which provides that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period.

b. Title 8 of the California Code of Regulations Sections 11040/11090(12)(B), which provides that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at employee's regular rate of compensation for each workday that the rest period is not provided;

d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest period is not provided.

COMPLAINT FOR DAMAGES

1 break after every four (4) hours of work or major fraction thereof, as required by California
2 law.

3 82. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
4 regulations, and wage orders alleged in this cause of action along with any allowable
5 interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff
6 prays for the foregoing moneys calculated from 3 years immediately preceding the filing
7 of this lawsuit.

8 83. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
9 fees as well as interest under Labor Code section 218.6.

10 84. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
11 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
12 trial.

13 **TENTH CAUSE OF ACTION**

14 **FAILURE TO GIVE MEAL BREAKS**

15 **(Plaintiff against all named defendants and all DOE defendants)**

16 85. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 84, inclusive, of this Complaint as though fully set forth herein.

18 86. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 19 a. California Labor Code section 512(a), which requires that employees be given a 30-
20 minute uninterrupted meal break after five (5) hours of work, and a second
21 uninterrupted meal break after ten (10) hours of work;
- 22 b. California Labor Code section 226.7, which states that (a) no employer shall require
23 any employee to work during any meal period mandated by an applicable order of
24 the Industrial Welfare Commission, and (b) if any employer fails to provide an
25 employee a meal period in accordance with an applicable order of the Industrial
26 Welfare Commission, the employer shall pay the employee one (1) additional hour
27 of pay at the employee's regular rate of compensation for each workday that the
28 meal period is not provided;
- c. California Industrial Welfare Commission Order Nos. 4/9 sections 11(B) and

1 11(D), as codified under Title 8 of the California Code of Regulations Section
2 11040/11090, which states that if an employer fails to provide an employee a meal
3 period in accordance with the applicable provisions of the Wage Order, the
4 employer shall pay the employee one (1) hour of pay at the employee's regular rate
5 of compensation for each workday that the meal period is not provided;

6 d. California Industrial Welfare Commission Wage Order Nos. 4/9 Section 7(A)(3), as
7 codified under Title 8 of the California Code of Regulations Section 11040/11090,
8 which requires an employer to maintain records documenting its employees' meal
9 periods;

10 e. California Industrial Welfare Commission Wage Order Nos. 4/9 Section 20(A), as
11 codified under California Code of Regulations Section 11040/11090, which
12 penalizes the employer \$50.00 for each initial violation, per employee, of any
13 provision of the Wage Order, and \$100.00 for each additional violation thereafter
14 per employee; and

15 f. California Labor Code section 1171 and 1173, which have given the California
16 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos.
17 4/9) as enforceable law.

18 87. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
19 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
20 take a second relieved meal break after ten (10) hours of work, as required by California law.
21 California Labor Code section 512(a) and California Industrial Welfare Commission Order
22 Nos. 4/9, as codified under California Code of Regulations Sections 11040/11090 et. seq.
23 requires that employees receive uninterrupted meal periods every five (5) hours of consecutive
24 work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of
25 all work duty. California Labor Code section 226.7 provides that employers may not require
26 their employees to work through their meal periods. California Labor Code section 226.7 and
27 California Code of Regulations section 11040/11090 requires that if the employer fails to
28 provide the employee with an uninterrupted meal period, the employer must pay the employee
one (1) hour of pay for each work day that the meal period is not given.

1 88. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
2 regulations, and wage orders alleged in this cause of action along with any allowable interest,
3 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
4 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

5 89. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
6 fees as well as interest under Labor Code section 218.6.

7 90. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
8 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
9 trial.

10 **ELEVENTH CAUSE OF ACTION**

11 **PRIVATE ATTORNEYS GENERAL ACT**

12 **Individual and Representative Claim for PAGA penalties under California Labor Code**
13 **sections 201, 202, 203, 204 and/or 204b, 226, 226.3, 226.7, 232, 246, 510, 512, 558, 558.1,**
14 **1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5)**

15 **(Against all Defendants and all DOE Defendants)**

16 91. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 90, inclusive, of this Complaint as though fully set forth herein.

18 92. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
19 Defendants of the specific violations of the California Labor Code that Defendants and DOE
20 defendants have violated and continue to violate.

21 93. Pursuant to California Labor code section 2699.3, no response was received from
22 the LWDA within 65 days of the postmark date of the above-alleged letter.

23 94. Plaintiff therefore has exhausted all administrative remedies required of him under
24 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
25 cause of action and pursue penalties in a representative action for Defendants' violations of the
26 Labor Code.

27 95. Pursuant to California Labor Code section 2699, any provisions of the Labor
28 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
departments, divisions, commissions, boards, agencies, or employees for violation of the code

1 may, as an alternative, be recovered through a civil action brought by an aggrieved employee on
2 behalf of himself or herself and other current or formal employees pursuant to the
3 procedures specified in California Labor Code section 2699.3.

4 96. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
5 violator and had one or more of the alleged violations committed against him, and therefore is
6 properly suited to represent the interests of other current and former employees, including all
7 hourly, non-exempt employees who worked for RECOLOGY in the state of California during
8 the applicable PAGA period.

9 97. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
10 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
11 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

12 98. Plaintiff therefore has exhausted all administrative remedies required of him under
13 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
14 cause of action and pursue penalties in a representative action for Defendants’ violations of the
15 Labor Code.

16 99. California Labor Code section 2699 et seq. imposes penalties upon culpable
17 Defendants for violating the Labor Code.

18 100. California Labor Code section 558 establishes a civil penalty as follows: Any
19 employer or other person action on behalf of an employer who violates, or causes to be
20 violated, a section of this chapter or any provision regulating hours and days of work in any
21 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
22 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
23 dollars (\$50) for each underpaid employee for each pay period for which the employee was
24 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
25 employee for each pay period for which the employee was underpaid ...;

26 101. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
27 by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is
28 not seeking individual/victim specific relief or underpaid wages under this particular cause of
action.

1 102. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted
2 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
3 the following:

4 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
5 226.3, 226.7, 232, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1198, 2802
6 via 2698 and 2699, 3700.5, and any other Labor Codes and Industrial Welfare Commission
7 Wage Orders (nos. 4/9) violated based on the facts alleged in this Complaint.

8 103. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's
9 fees, costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
10 employees as alleged herein in an amount to be shown according to proof at trial and within the
11 jurisdictional limits of this Court.

12 **TWELFTH CAUSE OF ACTION**

13 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

14 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

15 104. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 103, inclusive, of this Complaint as thought fully set forth herein.

17 105. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
18 employee for all necessary expenditures or losses incurred by the employee in direct
19 consequence of the discharge of his or her duties."

20 106. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
21 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
22 of completing his job duties, which were not reimbursed by Defendants. These costs include, but
23 are not limited to, the use of personal cell phones for work purposes in terms of calling the office
24 or receiving/sending text messages regarding his routes. Plaintiff is entitled to reimbursement
25 for these necessary expenditures, plus interest and attorney's fees and costs, under Labor Code
26 section 2802.

27 **THIRTEENTH CAUSE OF ACTION**

28 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

(California Business and Professions Code Section 17200)

(Plaintiff against All Defendants and all DOE defendants)

107. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

108. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants constitutes unfair and unlawful business practices under California Business and Professions Code Section 17200, et seq.

109. Defendant's violations of California labor laws and the Labor Code constitutes a business practice because it was done repeatedly over a significant period of time in a systematic manner that was detrimental to Plaintiff.

110. For the four years preceding the filing of this action, Plaintiff has suffered damages and request damages and/or restitution of all monies and profits to be disgorged from Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of this Court.

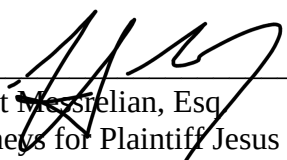
WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as follows:

1. For special and consequential damages to the extent allowed by law;
2. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
4. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
5. For restitution and disgorgement for all unfair business practices by Defendants against Plaintiff in an amount subject to proof at trial;
6. For an order enjoining Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
7. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
8. For one hour of wages due to Plaintiff for each work period of four (4) hours or major

- fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
9. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim;
10. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;
11. For the imposition of civil penalties and/or statutory penalties;
12. For all interest as allowed by law;
13. For all costs and disbursements incurred in this suit;
14. Reasonable attorney's fees where available by law, including but not limited to, pursuant to the California Labor Code and/or other applicable laws; and
15. For such other and further relief as this Court may deem proper.

DATED: March 30, 2022

MESSRELIAN LAW INC.

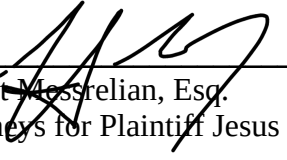
By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Jesus Beltran

DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: March 30, 2022

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Jesus Beltran