

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Maureen Duffy-Lewis

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Melissa A. Huether, Esq (SBN 316604)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Emails: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
mhuether@lelawfirm.com
wht3@lelawfirm.com

Attorneys for Plaintiff SEAN ARDINAZO
on behalf of himself and current and former aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SEAN ARDINAZO, on behalf of himself and
other aggrieved employees,

Plaintiff,

vs.

ARJO INC.; and DOES 1 to 100, inclusive,

Defendants.

Case No.: **22STCV22505**

PAGA ACTION

**PLAINTIFF SEAN ARDINAZO'S
COMPLAINT FOR:**

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

COME NOW Plaintiff SEAN ARDINAZO ("Plaintiff"), who alleges and complains
against Defendants ARJO INC. and DOES 1 to 100, inclusive (collectively "Defendants") as
follows:

I. INTRODUCTION

1. This is a Private Attorneys' General Act of 2004, Lab. Code § 2698, et seq.
("PAGA"). representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly, non-
exempt employees, in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally
2 required and legally compliant meal and rest periods, failure to timely pay earned wages during
3 employment, failure to provide complete and accurate wage statements, and failure to timely pay
4 all unpaid wages following separation of employment. Plaintiff seeks on a representative basis,
5 following notice to the Labor and Workforce Development Agency, civil penalties, reasonable
6 attorney's fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff,
7 the State of California, and others aggrieved.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
10 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
11 civil penalties on behalf of himself, all other current and former aggrieved California-based hourly
12 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
13 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
14 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
15 aggrieved California-based hourly non-exempt employees occurred in locations throughout
16 California, including but not limited to Los Angeles County at 17502 Fabrica Way, Cerritos, CA
17 90703.

18 **III. PARTIES**

19 3. Plaintiff brings this action as a representative of the Labor and Workforce
20 Development Agency on behalf of himself and other current and former employees subject to
21 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
22 filed include current, former and/or future employees of Defendants who worked, work, or will
23 work for Defendants as non-exempt hourly employees in California. At all times mentioned
24 herein, the currently named Plaintiff is and was domiciled and a resident and citizen of California
25 and was employed by Defendants in an hourly non-exempt position as a Field Service Technician
26 at Defendants' location in Los Angeles County from approximately January 2017 until on or about
27 February 26, 2022.

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1 4. Plaintiff is informed and believes and thereon alleges that Defendant ARJO INC. is
2 authorized to do business within the State of California and is doing business in the State of
3 California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were persons
4 acting on behalf of Defendant ARJO INC. in the establishment of, or ratification of, the
5 aforementioned illegal wage and hour practices or policies. Defendant ARJO INC. operates in Los
6 Angeles County and employed Plaintiff and aggrieved employees in Los Angeles County,
7 including but not limited to, at 17502 Fabrica Way, Cerritos, CA 90703.

8 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
9 through 50 are corporations, or are other business entities or organizations of a nature unknown to
10 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
11 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
12 working conditions of employment of Plaintiff and aggrieved employees.

13 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
14 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
15 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
16 supervisor, independent contractor and/or employee of each defendant who violated or caused to
17 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
18 the Industrial Welfare Commission's wage orders regulating hours and days of work.

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

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

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1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

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

4 **(Against all Defendants)**

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

6 10. During the period beginning one-year period preceding the sending of the initial
7 notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204,
8 226, 226.7, 510, 512, 1194, 1197, and 1198.

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

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

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders. In this case, Plaintiff and other current and former aggrieved California-based
20 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
21 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
22 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
23 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
24 not limited to:

25 (a) Requiring Plaintiff and other current and former aggrieved California-based
26 hourly non-exempt employees to remain on-duty during their off-the-clock meal breaks including
27 requiring them to keep their cell phones on their person, monitor their cell phones, take and
28 respond to calls from Defendants’ management, and guard Defendants’ trucks without paying

1 them for that time;

2 (b) Requiring Plaintiff and other current and former aggrieved California-based
3 hourly non-exempt employees who worked on-call rotations to work on-call from around 11:00
4 p.m. to 6:00 a.m. twice per month, but only paying them the hours that they spent responding a
5 call plus a flat \$12.00 for the seven-hour rotation rather than paying Plaintiff and other current and
6 former aggrieved California-based hourly non-exempt employees for all the on-call hours they
7 worked despite the pervasive degree of control Defendants exercised over Plaintiff and other
8 aggrieved employees during this time, including, but not limited to, the following:

9 i. Effectively imposing excessive geographic restrictions on their
10 movements because of the fixed time limited to respond to calls that was required of them in the
11 event they received a call;

12 ii. Frequent calls during the on-call time rendered it unduly restrictive;

13 iii. The fixed time limit for response was unduly restrictive;

14 iv. Because the employees worked on-call on rotations it was
15 impossible for Plaintiff and other current and former aggrieved California-based hourly non-
16 exempt employees to trade their on-call responsibilities with another employee; and

17 v. These restrictions made it difficult for employees to engage in
18 personal activities during on-call periods.

19 14. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
20 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
21 control without paying wages for that time. This resulted in Plaintiff and other current and former
22 aggrieved California-based hourly non-exempt employees working time for which they were not
23 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
24 Wage Order.

25 15. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
26 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
27 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
28 which includes all time that an employee is under control of the employer and all time the

1 employee is suffered and permitted to work. This includes the time an employee spends, either
2 directly or indirectly, performing services that inure to the benefit of the employer.’

3 16. Labor Code sections 510 and 1194 require an employer to compensate employees a
4 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
5 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

6 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
7 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
8 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
9 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
10 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
11 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
12 seventh day of a workweek shall be compensated at the rate of no less than twice the
13 regular rate of pay of an employee.

14 Labor Code section 510.

15 17. As described above, in this case, Defendants failed to pay Plaintiff and other
16 current and former aggrieved California-based hourly non-exempt employees overtime wages for
17 all overtime hours worked due to Defendants’ policies, practices, and/or procedures including, but
18 not limited to:

19 (a) Requiring Plaintiff and other current and former aggrieved California-based
20 hourly non-exempt employees to remain on-duty during their off-the-clock meal breaks including
21 requiring them to keep their cell phones on their person, monitor their cell phones, take and
22 respond to calls from Defendants’ management, and guard Defendants’ trucks without paying
23 them for that time;

24 (b) Requiring Plaintiff and other current and former aggrieved California-based
25 hourly non-exempt employees who worked on-call rotations to work on-call from around 11:00
26 p.m. to 6:00 a.m. twice per month, but only paying them the hours that they spent responding a
27 call plus a flat \$12.00 for the seven-hour rotation rather than paying Plaintiff and other aggrieved
28 employees for all the on-call hours they worked despite pervasive degree of control Defendants
exercised over Plaintiff and other aggrieved employees during this time including, but not limited
to, the following:

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i. Effectively imposing excessive geographic restrictions on their movements because of the fixed time limited to respond to calls that was required of them in the event they received a call;

ii. Frequent calls during the on-call time rendered it unduly restrictive;

iii. The fixed time limit for response was unduly restrictive;

iv. Because the employees worked on-call on rotations it was impossible for Plaintiff and other aggrieved employees to trade their on-call responsibilities with another employee; and

v. These restrictions made it difficult for employees to engage in personal activities during on-call periods.

18. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code sections 510 and 1194 and the applicable Wage Order.

19. Failure to pay overtime at the proper overtime rate by failing to include all remuneration in calculating the regular rate of pay for purposes of paying overtime: Defendants employ Plaintiff and other current and former aggrieved California-based hourly non-exempt employees with a compensation structure that includes additional remuneration.

20. California Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight hours in a workday:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. (Cal. Lab. Code §510.)

1 21. Regarding the “regular rate,” overtime is based upon an employee’s regular rate of
2 pay. “The regular rate at which an employee is employed shall be deemed to include all
3 remuneration for employment paid to, or on behalf, of the employee.” See Division of Labor
4 Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

5 22. At times, Plaintiff and other current and former aggrieved California-based hourly
6 non-exempt employees worked overtime hours during pay periods that they earned the additional
7 various form of additional remuneration including, but not limited to, for example, “shift
8 differential pay,” “commission,” quarterly bonuses, “COVID-19” pay, “my day” pay, and “otdaj”
9 pay. Even though California law requires employers to include all remuneration as part of the
10 regular rate of pay for determining overtime premium pay, Defendants entirely excluded
11 Plaintiff’s and other aggrieved employees’ additional remuneration in calculating those
12 employees’ overtime rate of pay.

13 23. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
14 and other current and former aggrieved California-based hourly non-exempt employees working
15 hours in excess of eight hours in a workday and/or 40 hours in a workweek and Defendants paying
16 them less overtime than they earned pursuant to California law.

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

21 25. California law requires an employer to authorize or permit an employee an
22 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
23 all duties and the employer relinquishes control over the employee’s activities prior to the
24 employee’s sixth hour of work. Labor Code sections 226.7, 512; Applicable Wage Order at §11;
25 *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not
26 employ an employee for a work period of more than ten (10) hours per day without providing the
27 employee with a second such meal period of not less than thirty (30) minutes prior to the start of
28 the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the

meal period shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal period is only permitted when: (1) the nature of the work prevents an employee from being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

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

27. In this case, Defendants failed to authorize or permit legally required and compliant meal periods to Plaintiff and other current and former aggrieved California-based hourly non-exempt employees due to Defendants’ policies, practices, and/or procedures, including but not limited to:

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to remain on-duty during their off-the-clock meal breaks including requiring them to keep their cell phones on their person, monitor their cell phones, take and respond to calls from Defendants’ management, and guard Defendants’ trucks without paying them for that time; and

(b) Failing to provide Plaintiff and other current and former aggrieved California-based hourly non-exempt employees who worked on-call meal breaks during the hours that they worked on-call.

28. Defendants’ foregoing policies, practices, and/or procedures cut into Plaintiff’s and other aggrieved employees’ meal periods rendering them less than 30 minutes and resulting in Defendants’ failure to provide meal periods of at least 30 minutes.

29. Additionally, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees a meal period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday the employees did not receive all legally required and/or compliant meal periods. Defendants employed policies and procedures which ensured that employees did not receive any meal period premium wages to

1 compensate them for workdays in which they did not receive all legally required and/or compliant
2 meal periods.

3 30. On occasions Defendants did pay Plaintiff and other current and former aggrieved
4 California-based hourly non-exempt employees meal period premium wages during pay periods,
5 Defendants also paid Plaintiff and other aggrieved employees additional remuneration including,
6 but not limited to, for example, “shift differential pay,” “commission,” quarterly bonuses,
7 “COVID-19” pay, “my day” pay, and “otadj” pay and meal period premium wages for missed,
8 late, short, or interrupted meal periods during the same pay periods, Defendants failed to pay the
9 meal period premium wages at one (1) hour of pay at Plaintiff’s and other aggrieved employees’
10 regular rate of pay due to Defendants’ failure to include the additional remuneration when
11 calculating Plaintiff’s and other aggrieved employees’ regular rate of compensation for the
12 purpose of paying premium wages.

13 31. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
14 and other current and former aggrieved California-based hourly non-exempt employees not being
15 provided with all legally required and compliant meal periods, not receiving premium wages to
16 compensate them for such instances, and/or not receiving premium wages at the regular rate of
17 compensation all in violation of California law.

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

22 33. California law requires every employer to authorize and permit an employee a rest
23 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
24 Code section 226.7; Applicable Wage Order at §12. Under California law, “[e]mployees are
25 entitled to 10 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for
26 shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14
27 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004,
28 1029; Labor Code section 226.7; Applicable Wage Order at §12. Rest periods, insofar as

1 practicable, shall be in the middle of each work period. Applicable Wage Order at §12.
2 Additionally, the rest period requirement “obligates employers to permit – and authorizes
3 employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5
4 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and
5 relinquish control over how employees spend their time. *Id.*

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

10 35. In this case, Defendants failed to authorize or permit all legally required and
11 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
12 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
13 limited to:

14 (a) Requiring Plaintiff and other current and former aggrieved California-based
15 hourly non-exempt employees to remain on-duty during their rest breaks including remaining on
16 Defendants’ premises during rest breaks, requiring them to keep their cell phones on their person,
17 monitor their cell phones, take and respond to calls from Defendants’ management, and, when
18 away from Defendants’ premises, guard Defendants’ trucks during rest breaks; and

19 (b) Failing to provide Plaintiff other current and former aggrieved California-
20 based hourly non-exempt employees who worked on-call rest breaks during the hours that they
21 worked on-call.

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

27 37. On occasions Defendants did pay Plaintiff and other current and former aggrieved
28 California-based hourly non-exempt employees rest period premium wages during pay periods

1 Defendants also paid Plaintiff and other aggrieved employees additional remuneration including,
2 but not limited to, for example, “shift differential pay,” “commission,” quarterly bonuses,
3 “COVID-19” pay, “my day” pay, and “otdaj” pay and meal period premium wages for missed,
4 late, short, or interrupted rest periods during the same pay periods, Defendants failed to pay the
5 rest period premium wages at one (1) hour of pay at Plaintiff’s and other aggrieved employees’
6 regular rate of pay due to Defendants’ failure to include the additional remuneration when
7 calculating Plaintiff’s and other aggrieved employees’ regular rate of compensation for the
8 purpose of paying premium wages.

9 38. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
10 and other current and former aggrieved California-based hourly non-exempt employees not being
11 provided with all legally required and compliant rest periods, not receiving premium wages to
12 compensate them for such instances, and/or not receiving premium wages at the regular rate of
13 compensation all in violation of California law.

14 39. **Failure to timely pay earned wages during employment:** In California, wages
15 must be paid at least twice during each calendar month on days designated in advance by the
16 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
17 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
18 16th and the 26th day of that month and wages earned between the 16th and the last day,
19 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
20 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
21 paid within seven (7) calendar days following the close of the payroll period in which wages were
22 earned. Labor Code section 204(d).

23 40. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed
24 to timely pay Plaintiff’s and other current and former aggrieved California-based hourly non-
25 exempt employees’ earned wages (including minimum wages, overtime wages, = meal period
26 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
27 Defendants’ aforementioned policies, practices, and/or procedures resulted in their failure to pay
28 Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’

1 their earned wages within the applicable time frames outlined in Labor Code section 204.

2 **41. Failure to provide complete and accurate wage statements:** Labor Code section
3 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
4 employee his or her wages, the employer must “furnish each of his or her employees ... an
5 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
6 employee, except for any employee whose compensation is solely based on a salary and who is
7 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
8 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
9 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
10 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
11 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
12 name of the employee and his or her social security number, (8) the name and address of the legal
13 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
14 the corresponding number of hours worked at each hourly rate by the employee.”

15 **42.** As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
16 and other current and former aggrieved California-based hourly non-exempt employees all wages
17 earned (including minimum wages, overtime wages, overtime wages at the proper overtime rate,
18 meal period premium wages, meal period premium wages at the regular rate of compensation, rest
19 period premium wages, and/or rest period premium wages at the regular rate of compensation)
20 rendered Plaintiff’s and other current and former aggrieved California-based hourly non-exempt
21 employees’ wage statements inaccurate, in violation of Labor Code section 226.

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

26 **44.** As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
27 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
28 all their earned wages (including minimum wages, overtime wages, meal period premium wages,

1 and/or rest period premium wages), Defendants failed to pay those employees timely after each
2 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

3 45. Defendants' violations of the applicable Wage Order constituted violations of
4 Labor Code section 1198, which prohibits employment under conditions of labor that violate the
5 Wage Orders.

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

10 47. Plaintiff has complied with the procedures for bringing suit specified in Labor
11 Code section 2699.3. On March 1, 2022, Plaintiff filed notice with LWDA and provided notice to
12 Defendants by certified mail which provided notice of the specific provisions of the Labor Code
13 alleged to have been violated, including the facts and theories to support the violations alleged.

14 48. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
15 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
16 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
17 parties notice within 60 days of the date of Plaintiff's letter that the LWDA intends to investigate
18 Plaintiff's claims.

19 49. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
20 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510,
21 512, 1194, 1197, and 1198, during the Civil Penalty Period in the following amounts:

22 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, and
23 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
24 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
25 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

26 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
27 for each employee for each pay period for the initial violation, and for each subsequent violation,
28 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts

1 established by Labor Code section 226.3].

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

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

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

12 **PRAYER FOR RELIEF**

13 **WHEREFORE, PLAINTIFF, ON HIS BEHALF AND ON OTHER AGGRIEVED PRAYS**
14 **AS FOLLOWS:**

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

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

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

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

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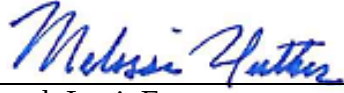
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1 4. For such and other further relief, in law and/or equity, as the Court deems just or
2 appropriate.

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4 Dated: July 12, 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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6 By:



Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Melissa A. Huether, Esq.
Attorneys for Plaintiff SEAN ARDINAZO
on behalf of himself and current and former
aggrieved employees