

1 Joseph Lavi, Esq. (SBN 209776)
2 Vincent C. Granberry, Esq. (SBN 276483)
3 Courtney M. Miller, Esq. (SBN 327850)
4 Danielle E. Montero, Esq. (SBN 333945)
5 **LAVI & EBRAHIMIAN, LLP**
6 8889 W. Olympic Boulevard, Suite 200
7 Beverly Hills, California 90211
8 Telephone: (310) 432-0000
9 Facsimile: (310) 432-0001
10 Emails: jlavi@lelawfirm.com
11 vgranberry@lelawfirm.com
12 cmiller@lelawfirm.com
13 dmontero@lelawfirm.com
14 wht2@lelawfirm.com

15 Attorneys for Plaintiff MARTIN AGUILAR,
16 on behalf of himself and all other current and former
17 aggrieved California-based hourly non-exempt employees

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

20 MARTIN AGUILAR, on behalf of himself and
21 all other current and former aggrieved
22 California-based hourly non-exempt employees,

23 Plaintiff,

24 vs.

25 ENSIGN UNITED STATES DRILLING
26 (CALIFORNIA) INC.; ENSIGN UNITED
27 STATES DRILLING INC.; and DOES 1 to 100,
28 inclusive,

Defendants.

ELECTRONICALLY FILED
6/20/2022 5:13 PM
Kern County Superior Court
By Alejandra Velazquez, Deputy

Case No.: BCV-22-101531

PAGA ACTION

**PLAINTIFF MARTIN AGUILAR'S
COMPLAINT FOR:**

1. **CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

29 **COMES NOW** Plaintiff MARTIN AGUILAR ("Plaintiff"), on behalf of himself and all
30 other current and former aggrieved California-based hourly non-exempt employees, who alleges
31 and complains against Defendants ENSIGN UNITED STATES DRILLING (CALIFORNIA)
32 INC.; ENSIGN UNITED STATES DRILLING INC.; and DOES 1 to 100, inclusive (collectively

1 “Defendants”) as follows:

2 **I. INTRODUCTION**

3 1. This is a Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*,
4 (“PAGA”) representative action brought by Plaintiff on behalf of himself, all other current and
5 former aggrieved California-based hourly non-exempt employees, and the State of California
6 seeking civil penalties associated with Defendants’ violations of the Labor Code based on
7 Defendants’ (1) failure to pay minimum wages, (2) failure to pay overtime wages (3) failure to
8 authorize or permit meal periods and/or pay meal period premiums, (4) failure to authorize or
9 permit rest periods and/or failure to pay rest period premiums, (5) failure to timely pay earned
10 wages during employment, (6) failure to provide accurate wages statements, (7) failure to pay
11 accrued and vested vacation wages upon termination, and (8) failure to pay final wages upon
12 separation of employment. After filing the requisite notice with the Labor and Workforce
13 Development Agency (“LWDA”), Plaintiff now seeks the following on a representative basis:
14 civil penalties, reasonable attorneys’ fees pursuant to Labor Code section 2699(g)(1) and costs
15 brought on behalf of Plaintiff, all other current and former aggrieved California-based hourly non-
16 exempt employees of Defendants, and the State of California.

17 **II. JURISDICTION AND VENUE**

18 2. This Court has jurisdiction over the claims of Plaintiff and other current and former
19 aggrieved California-based hourly non-exempt employees because Plaintiff’s lawsuit seeks civil
20 penalties on behalf of himself, all other current and former aggrieved California-based hourly non-
21 exempt employees of Defendants, and the State of California in excess of twenty-five thousand
22 dollars (\$25,000); Defendants employed Plaintiff and other current and former aggrieved
23 California-based hourly non-exempt employees in locations throughout California, including Kern
24 County at 3701 Fruitvale Avenue, Bakersfield, California 93308; and the injuries to Plaintiff and
25 other current and former aggrieved California-based hourly non-exempt employees occurred in
26 locations throughout California, including Kern County.

27 ///

28 ///

1 **III. PARTIES**

2 3. Plaintiff brings this action on behalf of himself, all other current and former
3 aggrieved California-based hourly non-exempt employees of Defendants, and the State of
4 California pursuant to PAGA. The named Plaintiff and other aggrieved employees are current,
5 former, and/or future employees of Defendants who work, worked, or will work for Defendants as
6 hourly non-exempt employees in California. At all times mentioned herein, the currently named
7 Plaintiff is and was domiciled in and a resident of California and was employed by Defendants as
8 an hourly non-exempt employee within the one (1) year prior to the filing of the PAGA Claim
9 Notice with the LWDA. More specifically, Plaintiff worked for Defendants as an hourly non-
10 exempt employee from in or around December 2016 until on or about October 14, 2021.

11 4. Plaintiff is informed and believes, and thereon alleges, that Defendant ENSIGN
12 UNITED STATES DRILLING (CALIFORNIA) INC. is authorized to do business within the
13 State of California and is doing business in the State of California and/or that Defendants DOES
14 1-25 are, and at all times relevant hereto, were persons acting on behalf of Defendant ENSIGN
15 UNITED STATES DRILLING (CALIFORNIA) INC. who violated or caused to be violated
16 provisions of the Labor Code and/or the Industrial Welfare Commission's wage orders regulating
17 hours and days of work. Plaintiff is informed and believes, and thereon alleges, that Defendant
18 ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC. was Plaintiff's employer and
19 suffered and permitted Plaintiff and other current and former aggrieved California-based hourly
20 non-exempt employees to work and exercised control over the wages, hours, and working
21 conditions of employment of Plaintiff and other current and former aggrieved California-based
22 hourly non-exempt employees.

23 5. Plaintiff is informed and believes, and thereon alleges, that Defendant ENSIGN
24 UNITED STATES DRILLING INC. is authorized to do business within the State of California
25 and is doing business in the State of California and/or that Defendants DOES 26-50 are, and at all
26 times relevant hereto, were persons acting on behalf of Defendant ENSIGN UNITED STATES
27 DRILLING INC. who violated or caused to be violated provisions of the Labor Code and/or the
28 Industrial Welfare Commission's wage orders regulating hours and days of work. Plaintiff is

1 informed and believes, and thereon alleges, that Defendant ENSIGN UNITED STATES
2 DRILLING INC. was Plaintiff's employer and suffered and permitted Plaintiff and other current
3 and former aggrieved California-based hourly non-exempt employees to work and exercised
4 control over the wages, hours, and working conditions of employment of Plaintiff and other
5 current and former aggrieved California-based hourly non-exempt employees.

6 6. Plaintiff is informed and believes, and thereon alleges, that Defendants DOES 51-
7 75 are corporations, or are other business entities or organizations of a nature unknown to Plaintiff
8 that employed Plaintiff and other current and former aggrieved California-based hourly non-
9 exempt employees to work, and exercised control over the working conditions of employment of
10 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees.

11 7. Plaintiff is informed and believes, and thereon alleges, that Defendants DOES 76-
12 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued individually
13 and in his or her capacity as an agent, shareholder, owner, representative, manager, supervisor,
14 independent contractor and/or employee of each Defendant who violated or caused to be violated
15 the Labor Code and/or any provision of the Industrial Welfare Commission's wage orders
16 regulating working conditions.

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

23 9. Plaintiff makes the allegations in this Complaint without any admission that
24 Plaintiff bears the burden of pleading, proving, or persuading as to any particular allegation, and
25 Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

26 ///

27 ///

28 ///

FIRST CAUSE OF ACTION
**CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF
2004, LABOR CODE SECTIONS 2698, ET SEQ.**

(Against All Defendants by Plaintiff)

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

11. Pursuant to the applicable Industrial Welfare Commission (“IWC”) Wage Order (“Wage Order”) codified at California Code of Regulations, title 8, Defendants were employers of Plaintiff within the meaning of the applicable Wage Order and Labor Code sections. Therefore, each of the Defendants is jointly and severally liable for the wrongs complained of herein in violation of the Wage Order and Labor Code.

12. During the period beginning one (1) year preceding the filing of the PAGA Claim Notice with the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 1194, 1197, and 1198. Specifically, Defendants committed the following violations of the Labor Code:

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

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

15. In this case, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages at the applicable minimum wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but

not limited to: (1) requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to fill out their timesheets to reflect their scheduled shift rather than the hours they actually worked – without paying employees for the extra time they worked that was not reflected in their scheduled shift; (2) requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to don and doff while off the clock – without paying employees for such time; and (3) requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to travel to and from a designated area while they were off the clock during their meal periods – without paying employees for such time.

16. Defendants’ aforementioned policies, practices, and/or procedures resulted in time each day in which Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of Defendants without being compensated for that time, in violation of Labor Code sections 1194 and 1197 and the Wage Order.

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

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

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

Labor Code section 510.

///

1 19. Further, Labor Code section 1198 provides:

2 The maximum hours of work and the standard conditions of labor fixed by the commission
3 shall be the maximum hours of work and the standard conditions of labor for employees.
4 The employment of any employee for longer hours than those fixed by the order or under
 conditions of labor prohibited by the order is unlawful.

5 20. Despite California law requiring employers to pay employees a higher rate of pay
6 for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in any one
7 (1) workweek, and the first eight (8) hours worked on the seventh day of work, Defendants failed
8 to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
9 employees overtime wages due them for their daily overtime hours worked.

10 21. As stated above, Plaintiff and other current and former aggrieved California-based
11 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
12 having worked. Specifically, Defendants employed policies, practices, and/or procedures
13 including, but not limited to: (1) requiring Plaintiff and other current and former aggrieved
14 California-based hourly non-exempt employees to fill out their timesheets to reflect their
15 scheduled shift rather than the hours they actually worked – without paying employees for the
16 extra time they worked that was not reflected in their scheduled shift; (2) requiring Plaintiff and
17 other current and former aggrieved California-based hourly non-exempt employees to don and
18 doff while off the clock – without paying employees for such time; and (3) requiring Plaintiff and
19 other current and former aggrieved California-based hourly non-exempt employees to travel to and
20 from a designated area while they were off the clock during their meal periods – without paying
21 employees for such time.

22 22. To the extent that the foregoing uncompensated time occurred when Plaintiff and
23 other current and former aggrieved California-based hourly non-exempt employees worked more
24 than eight (8) in a workday, more than forty (40) hours in a workweek, and/or seven (7)
25 consecutive days, Defendants failed to pay them at their overtime rate of pay for all overtime
26 hours they worked, in violation of Labor Code sections 510, 1194, and 1198, and the applicable
27 Wage Order.

28 ///

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

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

25. 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; Wage Order at §11.

26. 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: (1) requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to travel to and from a designated area while they were off the clock during their meal periods – resulting in meal periods that were not duty-free and/or were less than thirty (30) minutes; (2) failing to authorize or permit timely meal periods to Plaintiff and other current and former aggrieved California-based hourly non-exempt employees; and (3) failing to authorize or permit second meal periods to Plaintiff and other current and former aggrieved

1 California-based hourly non-exempt employees when they worked shifts exceeding ten (10) hours,
2 including but not limited to, shifts exceeding twelve (12) hours.

3 27. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
4 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
5 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
6 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
7 employees did not receive legally required and compliant meal periods, in violation of Labor Code
8 section 226.7 and Wage Order at § 11.

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

13 28. **Failure to pay wages to hourly non-exempt employees for workdays that**
14 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
15 current and former aggrieved California-based hourly non-exempt employees regularly worked
16 shifts of more than three-and-a-half (3.5) hours and shifts of more than ten (10) hours.

17 29. California law requires every employer to authorize and permit an employee a rest
18 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
19 Code section 226.7; Wage Order at §12. Under California law, "[e]mployees are entitled to 10
20 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
21 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
22 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
23 section 226.7; Wage Order at §12. Rest periods, insofar as practicable, shall be in the middle of
24 each work period. Wage Order at §12. Additionally, the rest period requirement "obligates
25 employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM*
26 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
27 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

28 ///

1 30. If the employer fails to authorize or permit a required rest period, the employer
2 must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday
3 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
4 Wage Order at § 12.

5 31. In this case, Defendants failed to authorize or permit all legally required and
6 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
7 non-exempt employees due to Defendants' policies, practices, and/or procedures including, but not
8 limited to: (1) requiring Plaintiff and other current and former aggrieved California-based hourly
9 non-exempt employees to travel to and from a designated area during their rest periods –resulting
10 in rest periods that were not duty-free and/or were less than a net ten (10) minutes; (2) failing to
11 authorize or permit third rest periods to Plaintiff and other current and former aggrieved
12 California-based hourly non-exempt employees when they worked shifts exceeding ten (10) hours;
13 and (3) maintaining a legally non-compliant rest period policy, including but not limited to a
14 policy as of December 26, 2016, that failed to incorporate the “major fraction thereof” language
15 and/or stated that the supervisor schedules rest periods so as to “avoid interruption of workflow.”

16 32. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
17 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
18 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
19 workday they did not receive legally required and compliant rest periods, in violation of Labor
20 Code section 226.7 and Wage Order at § 12.

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

25 34. **Failure to timely pay earned wages during employment:** In California, wages
26 must be paid at least twice during each calendar month on days designated in advance by the
27 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
28 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the

1 16th and the 26th day of that month and wages earned between the 16th and the last day,
2 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
3 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
4 paid within seven (7) calendar days following the close of the payroll period in which wages were
5 earned. Labor Code section 204(d).

6 35. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
7 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
8 exempt employees' earned wages (including minimum wages, overtime wages, meal period
9 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
10 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
11 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
12 their earned wages within the applicable time frames outlined in Labor Code section 204.

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

26 37. Defendants committed direct violations of Labor Code section 226 as to Plaintiff
27 and on information and belief, other current and former aggrieved California-based hourly non-
28 exempt employees. For example, for the pay date October 7, 2021, Plaintiff's paystub reflects that

1 he worked 85.50 hours, of which 13.50 hours were overtime. However, the paystub incorrectly
2 states that the total hours worked by Plaintiff was 99.00 hours. Furthermore, for the pay date
3 October 21, 2021, Plaintiff's paystub reflects the same issue with the wrong number of total hours
4 in addition to incorrectly including vacation pay in the total hours worked. Finally, the paystubs
5 produced by Defendants as to Plaintiff incorrectly state that the employer is Ensign USD (CA),
6 which is not the legal name of any of the entities that employed Plaintiff.

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

13 39. **Failure to provide accrued and vested vacation wages:** Defendants had a policy
14 and/or procedure where Plaintiff and other aggrieved employees accrued paid vacation time.

15 40. Labor Code section 227.3 states in relevant part "...whenever a contract of
16 employment or employer policy provides for paid vacations, and an employee is terminated
17 without having taken off his vested vacation time, all vested vacation shall be paid to him as
18 wages at his final rate in accordance with such contract of employment or employer policy
19 respecting eligibility or time served...." Given this, vacation wages are deferred wages that vest
20 once accrued and an employer must pay its employees all unused vested vacation at the time of
21 termination at the employees' final rate of pay.

22 41. Defendants had a vacation policy, in which Plaintiff and other aggrieved employees
23 accrued such paid time. Nevertheless, Defendants employed policies and procedures which
24 ensured that Plaintiff and other aggrieved employees were not properly paid accrued and vested
25 vacation time and/or PTO upon termination, in violation of Labor Code section 227.3 and/or
26 California law. For example, Plaintiff's final paystub dated October 21, 2021, shows payment of 8
27 hours of vacation, however, it also shows a vacation balance of 4.07 hours which Defendants
28 never paid to Plaintiff.

1 42. **Failure to pay employees all wages due at time of termination/resignation:** An
2 employer is required to pay all unpaid wages timely after an employee's employment ends. The
3 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
4 hours of resignation (Labor Code section 202).

5 43. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
6 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
7 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
8 rest period premium wages, and/or vacation wages), Defendants failed to pay those employees
9 timely after each employee's termination and/or resignation, in violation of Labor Code sections
10 201, 202, and 203.

11 44. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
12 employee, on behalf of oneself and all other current or former employees, to bring a civil action to
13 recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code
14 section 2699.3.

15 45. Plaintiff has complied with the procedures for bringing suit specified in Labor
16 Code section 2699.3. On April 12, 2022, Plaintiff filed a PAGA Claim Notice with the LWDA
17 and gave notice to Defendants by certified mail, providing notice of the specific provisions of the
18 Labor Code alleged to have been violated and including the facts and theories to support the
19 violations alleged.

20 46. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
21 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
22 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
23 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
24 to investigate Plaintiff's claims.

25 47. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
26 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3,
27 510, 512, 1194, 1197, and 1198, beginning one (1) year preceding Plaintiff sending the PAGA
28 Claim Notice to the LWDA to the present, in the following amounts:

1 Code, including but not limited to sections 2699(f);

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

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

6

7 Dated: June 17, 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

8

9

By: /s/ Courtney M. Miller
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Courtney M. Miller, Esq.
Danielle E. Montero, Esq.
Attorneys for Plaintiff MARTIN AGUILAR,
on behalf of himself and all other current and
former aggrieved California-based hourly
non-exempt employees

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28