

MESSRELIAN LAW INC.

Harout Messrelian, Esq., SB# 272020

500 N. Central Ave., Suite 840

Glendale, California 91203

Telephone: (818) 484-6531

Facsimile: (818) 956-1983

Email: hm@messrelianlaw.com

Attorneys for Plaintiff Andy De Paz-Agustin

SUPERIOR COURT OF THE STATE OF CALIFORNIA**FOR THE COUNTY OF LOS ANGELES**

ANDY DE PAZ-AGUSTIN ,

Plaintiff,

vs.

CENTURY MAINTENANCE GROUP,
INC.; OSCAR SOSA; and DOES 1 to 25,
inclusive,

Defendants.

) CASE NO.: **22STCV23422**) **COMPLAINT FOR DAMAGES FOR:**) **1) FAILURE TO COMPENSATE FOR**
ALL HOURS WORKED;) **2) FAILURE TO PAY MINIMUM**
WAGES) **3) FAILURE TO PAY OVERTIME;**) **4) FAILURE TO PROVIDE**
ACCURATE ITEMIZED WAGE
STATEMENTS;) **5) FAILURE TO PAY WAGES OWED**
EVERY PAY PERIOD;) **6) FAILURE TO PAY WAGES WHEN**
EMPLOYMENT ENDS;) **7) FAILURE TO GIVE REST BREAKS;**) **8) FAILURE TO GIVE MEAL BREAKS**) **9) PRIVATE ATTORNEYS GENERAL**
ACT ("PAGA");) **10) FAILURE TO REIMBURSE**
BUSINESS EXPENSES;) **11) VIOLATION OF CALIFORNIA**
BUSINESS AND PROFESSIONS
CODE SECTION 17200.) **DEMAND FOR JURY TRIAL**

1 COMES NOW Plaintiff, ANDY DE PAZ-AGUSTIN (hereinafter "Plaintiff"), and
2 alleges as follows:

3 **PARTIES, JURISDICTION, VENUE**

4 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in
5 County of Los Angeles in this judicial district because Defendants CENTURY
6 MAINTENANCE GROUP, INC.; OSCAR SOSA; and DOES 1 to 25, inclusive do business
7 in the County of Los Angeles and because Defendants' obligations and liabilities arise therein,
8 and because the work that was performed by Plaintiff in the County of Los Angeles is the
9 subject of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.
10

11 2. Plaintiff is a male resident of the County of Los Angeles, State of California.

12 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
13 CENTURY MAINTENANCE GROUP, INC. is and was a California corporation, doing
14 business in Los Angeles County, and which employed Plaintiff.
15

16 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
17 OSCAR SOSA is male resident of the County of Los Angeles, State of California, and the
18 owner and managing agent of CENTURY MAINTENANCE GROUP, INC. Plaintiff is
19 informed and believes and thereon alleges that OSCAR SOSA managed and was directly
20 involved in the day-to-day operations of CENTURY MAINTENANCE GROUP, INC. and is
21 being included in this lawsuit pursuant to Labor Code Section 558.1 as he controlled the
22 wages, hours, and working conditions of Plaintiff and others similarly situated. CENTURY
23 MAINTENANCE GROUP, INC. and OSCAR SOSA are hereinafter collectively referred to as
24 "CENTURY" or "Defendant(s)".
25

26 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
27
28

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

7
8 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
9 that information and belief, alleges that at all times herein mentioned, each of the remaining
10 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
11 under the authority of their agency, employment, or representative capacity, with the consent
12 of his/her codefendants.

13 14 **GENERAL ALLEGATIONS**

15 7. Plaintiff started working for CENTURY in 2021. During his employment tenure,

16 8. Plaintiff was classified as an hourly, non-exempt employee and was paid \$17 per hour.

17 9. CENTURY has committed the below labor code violations against Plaintiff and other
18 hourly, non-exempt employees. In the case of Huff v. Securitas Sec. Servs. USA, Inc., 23 Cal.
19 App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the Defendant
20 Employer, Securitas Security Services USA, Inc., an onsite security provider. After about a
21 year of employment, Huff resigned. Huff then filed suit against Securitas under PAGA. In his
22 claim, Huff specifically alleged violations to the Labor Code requiring immediate payment of
23 wages upon termination of employment and weekly payment of wages to temporary
24 employees. The trial court determined Huff was not a temporary employee, and therefore,
25 lacked standing to bring the claim. Thus, Securitas was granted a motion for summary
26 judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the grant of a
27 new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue for Labor
28

1 Code violations that did not directly affect him. Securitas unsuccessfully argued that the PAGA
2 statute only allows the PAGA representative to sue for violations that the representative has
3 personally suffered. The PAGA statute states that an “aggrieved employee” is able to file suit
4 on behalf of themselves and others. The statute also states that an “aggrieved employee” is
5 “any person who was employed by the alleged violator and against whom one or more of the
6 alleged violations was committed.” Because at least one of the violations that Huff had alleged
7 had affected him personally, the Court of Appeal denied Securitas’ motion.

8 10. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
9 other employees, it allows for suits broader than the specific violations the named employee
10 experienced. Therefore, even if the employee did not personally experience the Labor Code
11 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
12 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
13 other hourly employees, including hourly non-exempt employees.

14 11. Furthermore, it is Plaintiff’s position that CENTURY has committed numerous labor
15 code violations against Plaintiff and other hourly, non-exempt employees who worked for
16 CENTURY at any of their California locations during the relevant PAGA period.

17 12. CENTURY did not provide Plaintiff and other similarly situated aggrieved employees
18 with the minimum wages to which they were entitled for all work performed and did not
19 compensate him and others for all hours worked pursuant to California Labor Code sections
20 1194, 1197 and 1197.1. Plaintiff and others were not paid for all hours worked and consistently
21 worked “off the clock” in that the company had a policy and practice of rounding down work
22 hours to the detriment of employees, which is akin to a minimum wage violation. In addition,
23 Plaintiff would consistently be shorted on every paycheck. He would not be paid for all hours
24 worked and would complain to the owner, Oscar, regarding the fact that he wasn’t paid for all
25 of his hours, in violation of California’s minimum wage laws and in violation of Labor Code
26 section 204 for timely wages. The owner would simply reply that Plaintiff would get the
27 “difference” on his next paycheck. Moreover, to the extent employees such as Plaintiff and
28

1 others worked through their meal periods or their meal periods were interrupted, they were not
2 compensated for that time, which would be akin to a minimum wage violation. Furthermore,
3 since the company did not have a digital and accurate time keeping system, Plaintiff's and
4 others' clock-in and clock-out records were not accurate, were rounded down, and also resulted
5 in minimum wage violations.

6 13. Due to the above "off the clock" work, CENTURY also violated Labor Code §510
7 because it failed to pay Plaintiff and others similarly situated overtime compensation, even
8 though they worked more than 8 hours per day, 12 hours per day and/or 40 hours per week
9 throughout their employment. Overtime compensation was simply not part of the company
10 culture as evidenced by Plaintiff's and others' pay stubs. Moreover, CENTURY did not factor
11 in any bonuses or incentive payments in deciphering Plaintiff's and others' regular rate of pay
12 for purposes of figuring out the overtime rate of pay.

13 14. CENTURY violated Labor Code § 226.7 along with Industrial Welfare Commission
14 Wage Order no. 4/5 because it failed to provide Plaintiff and other similarly situated aggrieved
15 employees 10-minute rest periods for every four hours of work, or majority portion thereof,
16 throughout their employment. CENTURY did not completely relieve Plaintiff of all duty during
17 said rest periods. CENTURY did not pay to Plaintiff one additional hour of pay at Plaintiff's
18 regular rate of compensation for each workday that one or more statutory rest periods was not
19 provided. Rest breaks were not authorized or enforced at the company. In fact, it was not part of
20 CENTURY's culture for employees such as Plaintiff and others to take at least one 10-minute
21 rest break every day wherein they are relieved of all work duties. In fact, it is our position that
22 the company tried to add any potential rest breaks to a meal period time. The latter grouping is
23 not allowed in California and is a violation of the California labor code.

24 15. CENTURY also violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
25 Commission Wage Order No. 4/5 because it failed to provide Plaintiff and other similarly
26 situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five
27 (5) hours of work throughout their employment, and Plaintiff did not validly waive said meal
28

1 periods. CENTURY did not completely relieve Plaintiff of all duties during said meal periods.
2 CENTURY did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of
3 compensation for each workday that one or more statutory meal periods was not provided. If
4 CENTURY had Plaintiff sign a meal period waiver, it would not be valid and enforceable since
5 Plaintiff and others generally worked more than a 6-hour shift. If CENTURY had Plaintiff sign
6 an on-duty meal period agreement wherein Plaintiff agreed to work through his meal period, it
7 would also be invalid and unenforceable because the nature of Plaintiff's job does not prevent
8 him from taking a meal period. As such, Plaintiff and others did not consistently receive
9 statutory, timely meal periods during their employment. In other words, there wasn't always an
10 uninterrupted and timely 30-minute meal period for any employees, including Plaintiff, that was
11 taken before the 5th hour worked. As was the case with rest periods, consistent meal breaks were
12 definitively not part of the CENTURY's culture. The meal periods were not always authorized
13 and were not enforced.

14 16. Furthermore, even if CENTURY did in fact provide meal or rest period penalties to
15 Plaintiff and others for late, short, interrupted, or no meal or rest periods, that does not absolve
16 CENTURY of PAGA penalties. In Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th
17 1244, 1256, the Court stated that "section 226.7 does not give employers a lawful choice between
18 providing *either* meal and rest breaks *or* an additional hour of pay" (emphasis in original). Thus,
19 the extra hour of pay does not excuse the violation; the employer has still committed a violation
20 even if the remedy for the violation has been paid. See also Wert v. U.S. Bancorp (S.D. Cal. Mar.
21 22, 2016, 2016 WL 1110302 at *4).

22 17. Furthermore, during the relevant time period, and due to the above-cited labor code
23 violations, CENTURY failed to pay Plaintiff and other similarly situated aggrieved employees
24 all wages due to them within any time period specified by California Labor Code section 204,
25 including the minimum wages and overtime as described above as well as meal/rest break
26 premiums, especially since Plaintiff only received partial paychecks every 2 weeks.

27 18. CENTURY was also in violation of California Labor Code section 226(a) by not
28

1 providing access to paystubs and failing to include pertinent information on the wage statements,
2 including but not limited to, all hours worked, gross wages earned, net wages earned, all
3 deductions, premium payments for meal and rest breaks, overtime compensation, the correct
4 legal name and address of employing, the correct beginning and end of the pay period, all
5 applicable hourly rates, and all identifying employee information, among other items. As such,
6 CENTURY did not provide Plaintiff and other similarly situated aggrieved employees with
7 complete, accurate itemized wage statements.

8 19. CENTURY violated Labor Code § 203 because it willfully failed to pay Plaintiff and
9 other aggrieved employees earned and due wages upon separation of employment, either
10 immediately upon involuntary termination, or within 72 hours of resignation. These earned but
11 unpaid wages include compensation for all hours worked including minimum wages, overtime,
12 and premiums for the missed meal and rest breaks.

13 20. During the relevant time period, CENTURY also failed to keep accurate and complete
14 payroll records showing the actual hours worked per day (including the time for meal periods)
15 and the wages paid to Plaintiff and other aggrieved employees pursuant to California Labor Code
16 sections 1174(d). Plaintiff was also given a personal check instead of a business check which is
17 also a violation of California law.

18 21. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
19 business-related expenses and costs that were not reimbursed by CENTURY. These costs
20 include, but are not limited to, use of personal cell phones for work purposes, especially for
21 Plaintiff to call his supervisors. Moreover, Plaintiff was asked to purchase professional work
22 boots and equipment to effectuate his job duties, which was not reimbursed by the company.
23 Accordingly, CENTURY was in violation of California Labor Code sections 2800 and 2802.

24 22. In addition, CENTURY failed to provide a suitable rest break area for employees such
25 as Plaintiff and others in contravention of Industrial Welfare Commission Wage Order no. 4-
26 2001/5-2001.

27 ///

FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 4/5-2001, California Code of Regulations Title 8 Section 11040/11050, and California Labor Code Section 1198)

(Plaintiff against all named defendants and all DOE defendants)

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

24. At all times relevant herein, Defendants were required to compensate its employees for all hours worked upon reporting for work at the appointed time stated by the employer pursuant to Industrial Welfare Commission Order 4/5-2001, California Code of Regulations, Title 8, Section 11040/11050.

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

26. 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 preceding the filing of this Complaint.

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

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

29. 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 which will equal an amount known to Plaintiff once he has obtained all of his payroll records from Defendants.

///

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(California Labor Code Sections 1194, 1194.2, 1197)

(Plaintiff against all named defendants and all DOE defendants)

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

31. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the minimum wage rate for all hours worked as required by the applicable Industrial Welfare Commission Wage Order No. 4/5-2001, codified at California Code of Regulations, Title 8, Section 11040/11050, subdivision 4.

32. Pursuant to IWC Wage Order no. 4/5-2001, subdivision 2(K), at all relevant times, "hours worked" included "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so..."

33. During his employment, Plaintiff was regularly required as a matter of uniform policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid less than the minimum wage rate by Defendants for hours worked in violation of California Labor Code Section 1197 and the applicable California Industrial Wage Commission wage order(s).

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

35. For all hours worked by Plaintiff for which he was paid less than the minimum wage rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount

1 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
2 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

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

6 **THIRD CAUSE OF ACTION**

7 **FAILURE TO PAY OVERTIME**

8 **(California Industrial Welfare Commission Order 4/5-2001, California Code of**
9 **Regulations Title 8 Section 11040/11050)**

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

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

13 38. Pursuant to Industrial Welfare Commission 4-2001/5-2001, California Code of
14 Regulations, Title 8, Section 11040/11050 for the period of Plaintiff's employment,
15 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
16 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
17 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
18 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
19 consecutive work day in a week.

20 39. Plaintiff was a non-exempt employee entitled to the protections of the California
21 Industrial Welfare Commission Order No. 4-2001/5-2001, California Code of Regulations,
22 Title 8, Section 11040/11050.

23 40. Plaintiff worked more than eight (8) hours or twelve (12) hours in a single workday or
24 forty (40) hours in a single workweek on numerous occasions.

25 41. Plaintiff was entitled to the above overtime premiums.

26 42. Defendants did not pay Plaintiff premium wages of at least one and one-half times
27 Plaintiff's regular rate of pay for hours worked past eight (8) in a day and two-times Plaintiff's
28

regular rate of pay for hours worked past twelve (12) in a day.

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

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

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

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

47. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus reasonable attorney's fees and costs of suit.

48. 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.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(California Labor Code Section 226)

(Plaintiff against all named defendants and all DOE defendants)

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

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

51. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that accurately reflected all information required by Labor Code Section 226, including but not limited to, gross wages earned, including overtime, net wages earned, total hours worked by

1 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
2 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
3 Plaintiff in accordance with California Labor Code Section 226(a).

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

10 53. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
11 sustained damages, including loss of earnings, in an amount to be established at trial. As a
12 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
13 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
14 and attorney's fees pursuant to statute.

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

18 **FIFTH CAUSE OF ACTION**

19 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

20 **(California Labor Code Section 204)**

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

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

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

26 57. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
27 full amount of all owed wages when due as required by California Labor Code Section 204.
28

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

5 59. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
6 amount, subject to proof, to the extent he was not paid all wages each pay period. The precise
7 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
8 from Defendants' records or indirectly based on information from Defendants' records.

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

12 **SIXTH CAUSE OF ACTION**

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

14 **(California Labor Code Sections 201, 202, 203)**

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

16 61. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 60, inclusive, of this Complaint as though fully set forth herein.

18 62. Pursuant to California Labor Code Section 201(a), an employer who discharges an
19 employee must immediately pay for all compensation due and owing.
20

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

24 64. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
25 without abatement or reduction, any wages of an employee whose employment ends, the wages
26 of the employee shall continue as a penalty from the due date at the same rate until paid or until
27 an action is commenced; however, the wages shall not continue for more than 30 days for
28

1 failure to pay an employee owed wages.

2 65. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
3 continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

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

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

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

14 **SEVENTH CAUSE OF ACTION**

15 **FAILURE TO GIVE REST BREAKS**

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

17 69. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 68, inclusive, of this Complaint as though fully set forth herein.

19 70. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 20 a. Title 8 of the California Code of Regulations Sections 11040/11050(12)(A), which
21 provides that every employer shall authorize and permit all employees to take rest
22 periods, which insofar as practicable shall be in the middle of each work period.

23 The authorized rest period time shall be based on the total hours worked daily at the
24 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

- 25 b. Title 8 of the California Code of Regulations Sections 11040/11050(12)(B), which
26 provides that if an employer fails to provide an employee a rest period in
27
28

1 accordance with the applicable provisions of this order, the employer shall pay the
2 employee one (1) hour of pay at employee's regular rate of compensation for each
3 workday that the rest period is not provided;

4 c. Title 8 of the California Code of Regulations sections 11040/11050(20)(A), which
5 penalizes the employer \$50.00 for each initial violation, per employee, of any
6 provision of the Wage Order, and \$100.00 for each additional violation thereafter
7 per employee; and

8
9 d. California Labor Code section 226.7, which states that (a) no employer shall require
10 any employee to work during any rest period mandated by an applicable order of
11 the Industrial Welfare Commission, and (b) if an employer fails to provide an
12 employee a rest period in accordance with an applicable order of the Industrial
13 Welfare Commission, the employer shall pay the employee one (1) additional hour
14 of pay at employee's regular rate of compensation for each work day that the rest
15 period is not provided.

16
17 71. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
18 rest break after every four (4) hours of work or major fraction thereof, as required by California
19 law.

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

24 73. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
25 fees as well as interest under Labor Code section 218.6.

26
27 74. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
28

1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial.

3 **EIGHTH CAUSE OF ACTION**

4 **FAILURE TO GIVE MEAL BREAKS**

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

6 75. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 74, inclusive, of this Complaint as though fully set forth herein.

8 76. Plaintiff brings this cause of action under the following laws, for the following
9 reasons:

- 10
- 11 a. California Labor Code section 512(a), which requires that employees be given a 30-
12 minute uninterrupted meal break after five (5) hours of work, and a second
13 uninterrupted meal break after ten (10) hours of work;
- 14 b. California Labor Code section 226.7, which states that (a) no employer shall require
15 any employee to work during any meal period mandated by an applicable order of
16 the Industrial Welfare Commission, and (b) if any employer fails to provide an
17 employee a meal period in accordance with an applicable order of the Industrial
18 Welfare Commission, the employer shall pay the employee one (1) additional hour
19 of pay at the employee's regular rate of compensation for each workday that the
20 meal period is not provided;
- 21
- 22 c. California Industrial Welfare Commission Order No. 4/5 section 11(B), as codified
23 under Title 8 of the California Code of Regulations Section 11040/11050, which
24 states that if an employer fails to provide an employee a meal period in accordance
25 with the applicable provisions of the Wage Order, the employer shall pay the
26 employee one (1) hour of pay at the employee's regular rate of compensation for
27 each workday that the meal period is not provided;
28

- 1 d. California Industrial Welfare Commission Wage Order No. 4/5 Section 7(A)(3), as
2 codified under Title 8 of the California Code of Regulations Section 11040/11050,
3 which requires an employer to maintain records documenting its employees' meal
4 periods;
- 5 e. California Industrial Welfare Commission wage order No. 4/5 Section 20(A), as
6 codified under California Code of Regulations Section 11040/11050, which
7 penalizes the employer \$50.00 for each initial violation, per employee, of any
8 provision of the Wage Order, and \$100.00 for each additional violation thereafter
9 per employee; and
- 10 f. California Labor Code section 1171 and 1173, which have given the California
11 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4
12 and 5) as enforceable law.

14 77. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
15 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
16 take a second relieved meal break after ten (10) hours of work, as required by California law.
17 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
18 4/5, as codified under California Code of Regulations Sections 11040/11050 et. seq. requires
19 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
20 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
21 work duty. California Labor Code section 226.7 provides that employers may not require their
22 employees to work through their meal periods. California Labor Code section 226.7 and
23 California Code of Regulations section 11040/11050 requires that if the employer fails to
24 provide the employee with an uninterrupted meal period, the employer must pay the employee
25 one (1) hour of pay for each work day that the meal period is not given.
26
27
28

1 78. 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 79. 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 80. 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 **NINTH CAUSE OF ACTION**

11 **PRIVATE ATTORNEYS GENERAL ACT**

12 **Representative Claim for PAGA penalties under California Labor Code sections 201,**
13 **202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1,**
1198, 2802, and IWC Wage Order no. 4/5)

14 **(Against All Named Defendants and all DOE Defendants)**

15 81. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 80, inclusive, of this Complaint as though fully set forth herein.

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

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

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

26 85. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
27
28

1 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
2 departments, divisions, commissions, boards, agencies, or employees for violation of the code
3 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
4 on behalf of himself or herself and other current or former employees pursuant to the
5 procedures specified in California Labor Code section 2699.3.

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

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

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

18 89. California Labor Code section 2699 et seq. imposes penalties upon culpable
19 Defendants for violating the Labor Code.

20 90. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
21 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
22 seeking individual/victim specific relief or underpaid wages for himself or other employees
23 under this specific PAGA cause of action. Plaintiff has separate causes of action in this
24 Complaint for individual wages but is not seeking wages through the PAGA action.

25 91. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
26 the following:

27 Violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 210,
28

226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, and 2802
via 2698 and 2699, 3700.5, and any other Labor Codes/Industrial Welfare Commission
Orders (4 or 5) violated based on the facts alleged in this Complaint.

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

TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE FOR BUSINESS EXPENSES

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

93. Plaintiff re-alleges and incorporates by reference each and every allegation in
paragraphs 1 through 92, inclusive, of this Complaint as thought fully set forth herein.

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

95. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
their duties for Defendants, Plaintiff and the others incurred reasonable and necessary expenses
in the course of completing his job duties, which were not reimbursed by Defendants. These
costs include, but are not limited to, use of personal cell phones for work purposes, especially
for Plaintiff to call his supervisors. Moreover, Plaintiff was asked to purchase professional work
boots and equipment to effectuate his job duties, which was not reimbursed by the company

96. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
and attorney's fees and costs, under Labor Code section 2802.

ELEVENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(California Business and Professions Code Section 17200)

(Plaintiff against Century Maintenance Group, Inc. and all DOE defendants)

1 97. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 96, inclusive, of this Complaint as though fully set forth herein.

3 98. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendant
4 constitutes unfair and unlawful business practices under California Business and
5 Professions Code Section 17200, et seq.

6 99. Defendants' violations of California labor laws and the labor code, as alleged above
7 constitutes a business practice because it was done repeatedly over a significant period of time
8 in a systematic manner that was detrimental to Plaintiff and other similarly situated aggrieved
9 employees.

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

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

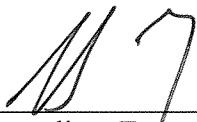
- 16 1. For special and consequential damages to Plaintiff in an amount subject to proof at
17 trial;
- 18 2. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
19 at trial;
- 20 3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
21 subject to proof at trial;
- 22 4. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
23 proof at trial;
- 24 5. For restitution and disgorgement for all unfair business practices by Century
25 Maintenance Group, Inc. against Plaintiff in an amount subject to proof at trial;
- 26 6. For an order enjoining Century Maintenance Group, Inc. from further unfair and
27
28

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/action;
10. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
11. For restitution and/or damages for all amounts unlawfully withheld from the wages of Plaintiff, as may be proven;
12. For the imposition of civil penalties and/or statutory penalties;
13. For all interest as allowed by law;
14. For all costs and disbursements incurred in this suit;
15. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, and/or other applicable laws; and
16. For such other and further relief as this Court may deem proper.

DATED: July 19, 2022

MESSRELIAN LAW INC.

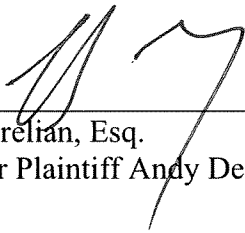
By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Andy De Paz-Agustin

DEMAND FOR JURY TRIAL

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

DATED: July 19, 2022

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Andy De Paz-Agustin