

LAW OFFICES OF MARK YABLONOVICH
Mark Yablonovich (SBN 186670)
Mark@Yablonovichlaw.com
Tony Roberts (SBN 315595)
Tony@Yablonovichlaw.com
9595 Wilshire Boulevard, Suite 900
Beverly Hills, California 90212
Telephone: (310) 286-0246 • Fax: (310) 407-5391

Attorneys for Plaintiff David Guzman, a proxy for the State of California
as an aggrieved employee pursuant to the Private Attorneys General Act

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

DAVID GUZMAN, a proxy for the State of
California as an aggrieved employee
pursuant to the Private Attorneys General
Act ("PAGA"),

Plaintiff,

vs.

GAMA AVIATION ENGINEERING,
INC., and DOES 1 through 10, inclusive,

Defendants.

Case No.: **22CV399013**

ENFORCEMENT ACTION UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 *ET*
SEQ.

**COMPLAINT FOR CIVIL PENALTIES
FOR VIOLATIONS OF CALIFORNIA
LABOR CODE, PURSUANT TO PAGA, §§
2698, ET SEQ.**

Jury Trial Demanded

1 Plaintiff David Guzman (“Plaintiff”), a proxy for the State of California as an aggrieved
2 employee, alleges, on behalf the State of California and all aggrieved employees, as follows:

3 JURISDICTION AND VENUE

4 1. This is a law enforcement action under the Labor Code Private Attorneys
5 General Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil
6 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
7 current and former employees who worked for Gama Aviation Engineering, Inc. and DOES 1
8 through 10, inclusive (collectively “Defendants”) in California as non-exempt, hourly-paid
9 employees, and against whom one or more violations of any provision in Division 2 Part 2
10 Chapter 1 of the Labor Code or any provision regulating hours and days of work in the
11 applicable Industrial Welfare Commission (“IWC”) Wage Order were committed, as set forth in
12 this complaint (“Aggrieved Employees”), at any time between one year before Plaintiff’s
13 submission of the LWDA Notice (defined below) in advance of Plaintiff’s filing of this
14 complaint (in addition to all days the period was stayed or tolled) until judgment. Plaintiff’s pro-
15 rata share of civil penalties sought in this action does not exceed \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because Defendants are either
20 citizens of California, have sufficient minimum contacts in California, or otherwise intentionally
21 avail themselves of the California market so as to render the exercise of jurisdiction over them
22 by the California courts consistent with traditional notions of fair play and substantial justice.

23 4. There is no basis for federal diversity jurisdiction in this action given that the
24 State of California, the real party in interest, is not a “citizen” for purposes of satisfying
25 diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013)
26 (holding when the real party in interest is a state, it cannot be a “citizen” for purposes of
27 diversity jurisdiction). *Urbino* also holds that civil penalties cannot be aggregated to satisfy the
28 amount in controversy requirement for federal diversity jurisdiction in this action, and that

diversity jurisdiction cannot be established when Plaintiff's share of the civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

5. Venue is proper in this Court because Defendants employ Aggrieved Employees in this county and Labor Code violations occurred throughout California, including in this county. *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal.App.5th 1069, 1075 (2021) ("Venue is proper in any county in which an aggrieved employee worked and Labor Code violations allegedly occurred.")

6. PAGA authorizes aggrieved employees to sue as private attorneys general their current or former employers for civil penalties for violations of various provisions in the California Labor Code.

7. The State of California is the real party in interest under PAGA.

THE PARTIES

8. Plaintiff is a resident of California. Defendants employed Plaintiff from approximately April 2018, to approximately October 2021, as a non-exempt hourly-paid employee, whose job duties included, but were not limited to, performing aviation maintenance and repair as a mechanical technician at Defendants' location in Van Nuys, California. Plaintiff typically worked ten hours or more per workday, four or more days per week, and forty hours or more per week.

9. Plaintiff is informed and believes, and thereon alleges, that Defendant Gama Aviation is a corporation authorized to do, and doing business in California, and at all times, an employer whose employees are engaged throughout this county and the State of California.

10. Plaintiff is informed and believes, and thereon alleges, that Defendant Gama Aviation provides business aviation services for individuals and corporations throughout the United States, including in California.

11. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10 and will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

are the partners, agents, owners, shareholders, managers, or employees of the named Defendant, and that each and all of the acts and omissions alleged were performed by, or are attributable to Defendant, each acting as the agent, employee, alter ego, joint employer, and/or joint venturer of, or working in concert with, each of the other co-Defendants and were acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others' behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

12. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of in this complaint. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the harm and violations alleged in this PAGA only complaint.

13. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged in this complaint.

PAGA REPRESENTATIVE ALLEGATIONS

14. Plaintiff is informed and believes that Defendants maintain a centralized Human Resources department for all non-exempt, hourly-paid employees working for Defendants in California, including Plaintiff and Aggrieved Employees. At all relevant times, Defendants issued and maintained uniform, standardized practices and procedures for all non-exempt, hourly-paid employees in California, including Plaintiff and Aggrieved Employees, regardless of their location or position.

15. Upon information and belief, Defendants process payroll for all non-exempt, hourly-paid employees working for Defendants in California, including Plaintiff and Aggrieved Employees. Further, Defendants issue the same uniform and formatted wage statements to all non-exempt, hourly-paid employees in California, irrespective of their work location, position, or manner in which each employee's employment ended. Defendants' payroll department processed payroll for non-exempt, hourly-paid employees in the same manner throughout California. In other words, Defendants utilized the same methods and formulas when calculating

1 wages and any other remunerations due to Plaintiff and Aggrieved Employees in California.

2 16. Defendants continue to employ non-exempt, hourly-paid employees in
3 California.

4 17. Plaintiff is informed and believes, and thereon alleges, that at all times,
5 Defendants were advised by skilled lawyers and other professionals, employees and advisors
6 knowledgeable about California labor and wage law, employment and personnel practices, and
7 about the requirements of California law.

8 18. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and
9 Aggrieved Employees were not fully compensated because, among other reasons, all hours
10 worked may not have been recorded and because Defendants did not always pay for all hours
11 worked.

12 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and Aggrieved Employees were entitled to receive certain
14 wages for overtime compensation and that they were not receiving overtime wages at the correct
15 overtime rate and/or for work that was required to be performed.

16 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and Aggrieved Employees were entitled to receive at least
18 minimum wages for all hours worked. In violation of the California Labor Code, Plaintiff and
19 Aggrieved Employees were not paid at least minimum wages for all work performed.

20 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and Aggrieved Employees were entitled to meal periods in
22 accordance with the Labor Code; that Plaintiff and Aggrieved Employees were entitled to
23 payment of one additional hour of pay at their regular rates of compensation when they were not
24 provided with timely, uninterrupted, thirty-minute meal periods; and that Plaintiff and
25 Aggrieved Employees were not provided with all meal periods nor payment of one additional
26 hour of pay at their regular rates of compensation when they did not receive a timely,
27 uninterrupted, thirty-minute meal period.

28 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and Aggrieved Employees were entitled to rest periods in
2 accordance with the Labor Code and applicable IWC Wage Order, that Defendants knew or
3 should have known that Plaintiff and Aggrieved Employees were entitled to payment of one
4 additional hour of pay at their regular rates of compensation when they were not provided with a
5 compliant rest period, and that Plaintiff and Aggrieved Employees were not provided compliant
6 rest periods nor payment of one additional hour of pay at their regular rates of compensation
7 when they were not provided a compliant rest period.

8 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and Aggrieved Employees were entitled to receive complete
10 and accurate wage statements in accordance with California law. In violation of the California
11 Labor Code, Plaintiff and Aggrieved Employees were not provided complete and accurate wage
12 statements.

13 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that they had a duty to maintain accurate and complete payroll records in
15 accordance with the Labor Code and applicable IWC Wage Order but failed to do so.

16 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that they had a duty to maintain accurate and complete time records in
18 accordance with the Labor Code and applicable IWC Wage Order, but failed to do so.

19 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and Aggrieved Employees were entitled to timely payment of
21 wages during their employment. In violation of the California Labor Code, Plaintiff and
22 Aggrieved Employees did not receive payment of all wages, including, but not limited to,
23 overtime wages, minimum wages, meal period and rest period premium wages, vacation pay,
24 and reporting time pay, within permissible time periods.

25 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and Aggrieved Employees were entitled to timely payment of
27 all wages earned upon termination of employment. In violation of the California Labor Code,
28 Plaintiff and Aggrieved Employees did not receive payment of all wages due, including, but not

1 limited to, overtime wages, minimum wages, meal period and rest period premium wages,
2 vacation pay, and reporting time pay, within permissible time periods.

3 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that they had a duty to provide Plaintiff and Aggrieved Employees with
5 written notice of the material terms of their employment with Defendants as required by the
6 California Wage Theft Prevention Act but failed to do so.

7 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that they had a duty to timely comply with requests from Plaintiff and other
9 Aggrieved Employees to inspect or receive a copy of their employment and personnel records in
10 accordance with the Labor Code, but failed to do so.

11 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and Aggrieved Employees were entitled to have all unused
13 vested vacation wages paid out upon termination, but failed to do so.

14 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and Aggrieved Employees were entitled to receive at least two
16 hours of pay, or at least half of their regularly scheduled hours worth of pay for those shifts
17 regularly over four hours when Plaintiff or Aggrieved Employees reported to work for their
18 scheduled shift but were put to work for less than half of their scheduled shift, but failed to do
19 so.

20 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other Aggrieved Employees were entitled to
22 reimbursement for all business-related expenditures and/or losses they incurred during the
23 course and scope of their employment, and that they did not receive reimbursement of
24 applicable business-related expenditures and/or losses they incurred.

25 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that they had a duty to provide reasonably comfortable work areas for their
27 employees consistent with industry-wide standards, but failed to do so.

28 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that they had a duty to provide Plaintiff and Aggrieved Employees with
2 written notice setting forth the amount of paid sick leave available, or paid time off leave an
3 employer provides in lieu of sick leave, for use on either the employees' itemized wage
4 statement or in a separate writing provided on the designated pay day with the employees'
5 payment of wages, but failed to do so in violation of the California Labor Code. Further,
6 Defendants knew or should have known that they had a duty to provide Plaintiff and other
7 Aggrieved Employees with no less than 24 hours of accrued sick leave by the 120th calendar
8 day of employment, but failed to do so.

9 35. Plaintiff is informed and believes, and thereon alleges, that at all times,
10 Defendants knew or should have known that they had a duty to compensate Plaintiff and
11 Aggrieved Employees for all hours worked, and that Defendants had the financial ability to pay
12 such compensation, but failed to do so, and falsely represented to Plaintiff and Aggrieved
13 Employees that they were properly denied wages, all in order to increase Defendants' profits.

14 36. At all times, PAGA provides that any provision of law under the Labor Code and
15 applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by the
16 Labor and Workforce Development Agency ("LWDA") for violations of the California Labor
17 Code and applicable IWC Wage Order may, as an alternative, be recovered by aggrieved
18 employees in a civil action brought on behalf of themselves and other current or former
19 employees pursuant to procedures outlined in Labor Code section 2699.3.

20 37. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
21 person who was employed by the alleged violator and against whom one or more of the alleged
22 violations was committed."

23 38. Plaintiff and other current and former employees of Defendants are "aggrieved
24 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current or
25 former employees and one or more of the alleged violations were committed against them.

26 39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
27 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
28 requirements have been met:

- 1 (a) The aggrieved employee or representative shall give written notice by
2 online filing with the LWDA and by certified mail to the employer of the
3 specific provisions of the California Labor Code alleged to have been
4 violated, including the facts and theories to support the alleged violation.
- 5 (b) An aggrieved employee's notice filed with the LWDA pursuant to
6 Section 2699.3(a) and any employer response to that notice shall be
7 accompanied by a filing fee of seventy-five dollars (\$75).
- 8 (c) The LWDA shall notify the employer and the aggrieved employee or
9 representative by certified mail that it does not intend to investigate the
10 alleged violation ("LWDA Notice") within sixty (60) calendar days of the
11 postmark date of the aggrieved employee's notice. Upon receipt of the
12 LWDA Notice, or if no LWDA Notice is provided within sixty-five (65)
13 calendar days of the postmark date of the aggrieved employee's notice,
14 the aggrieved employee may commence a civil action pursuant to
15 California Labor Code section 2699 to recover civil penalties.

16 40. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
17 through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision
18 other than those listed in Section 2699.5 after the following requirements have been met:

- 19 (a) The aggrieved employee or representative shall give (a) written notice by
20 online filing with the LWDA and by certified mail to the employer of the
21 specific provisions of the California Labor Code alleged to have been
22 violated (other than those listed in Section 2699.5), including the facts
23 and theories to support the alleged violation.
- 24 (b) An aggrieved employee's notice filed with the LWDA pursuant to
25 Section 2699.3(c) and any employer response to that notice shall be
26 accompanied by a filing fee of seventy-five dollars (\$75).
- 27 (c) The employer may cure the alleged violation within thirty-three (33)
28 calendar days of the postmark date of the notice sent by the aggrieved

1 employee or representative. The employer shall give written notice within
2 that period of time by certified mail to the aggrieved employee or
3 representative and by online filing with the LWDA if the alleged
4 violation is cured, including a description of actions taken, and no civil
5 action pursuant to Section 2699 may commence. If the alleged violation
6 is not cured within the 33-day period, the aggrieved employee may
7 commence a civil action pursuant to Section 2699.

8 41. On or about April 5, 2022, Plaintiff provided written notice by online filing to the
9 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
10 Code alleged to have been violated, including facts and theories to support the alleged
11 violations, accompanied by the applicable filing fee of seventy-five dollars (\$75). A true and
12 correct copy of Plaintiff's written notice to the LWDA and Defendants dated April 5, 2022, is
13 attached as Exhibit 1.

14 42. As of the filing of this complaint, 65 days have passed since Plaintiff sent the
15 LWDA Notice described above to the LWDA, and the LWDA has not responded that it intends
16 to investigate Plaintiff's claims and Defendants have not cured the violations.

17 43. Thus, Plaintiff has satisfied the administrative prerequisites under California
18 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants, in
19 addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204,
20 223, 225.5, 226(a), 226(c), 226.7, 227.3, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197,
21 1197.1, 1198, 1198.5, 1199, 2800, 2802, and 2810.5, as well as all applicable IWC Wage
22 Orders.

23 44. Defendants, at all times relevant to this complaint, were employers or persons
24 acting on behalf of an employer who violated Plaintiff's and Aggrieved Employees' rights by
25 violating various sections of the California Labor Code as set forth herein.

26 45. As set forth below, Defendants have violated numerous provisions of both the
27 Labor Code sections regulating hours and days of work, as well as the applicable IWC Wage
28 Order.

46. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all Aggrieved Employees, and the State of California against Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226(a), 226(c), 226.7, 227.3, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, and 2810.5, as well as all applicable IWC Wage Orders.

FIRST CAUSE OF ACTION

For Civil Penalties Pursuant to California Labor Code sections 2698, *et seq.*

(Against all Defendants)

47. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

48. California Labor Code sections 2698, *et seq.* permit Plaintiff to recover various civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates, among others, Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and 2810.5.

49. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including Sections 225.5, 226(c), 246, 1182.12, and 1198.5.

50. Defendants' conduct, as alleged, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violations of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and Aggrieved Employees with all required overtime pay, as set forth below;
- (b) Violations of Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and Aggrieved Employees with at least minimum wages for all hours worked, as set forth below;

- 1 (c) Violations of Labor Code sections 226.7, 512(a), and 1198, and the
2 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
3 and Aggrieved Employees with meal periods and/or pay meal period
4 premiums, as set forth below;
- 5 (d) Violations of Labor Code sections 226.7 and 1198, and the applicable
6 IWC Wage Order for Defendants' failure to provide Plaintiff and
7 Aggrieved Employees with rest periods and/or pay rest period premiums,
8 as set forth below;
- 9 (e) Violations of Labor Code sections 226(a) and 1198, and the applicable
10 IWC Wage Order for failure to provide accurate and complete wage
11 statements to Plaintiff and Aggrieved Employees, as set forth below;
- 12 (f) Violations of Labor Code sections 1174(d) and 1198, and the applicable
13 IWC Wage Order for failure to maintain accurate payroll records, as set
14 forth below;
- 15 (g) Violations of Labor Code section 1198 and the applicable IWC Wage
16 Order for failure to maintain accurate time records, as set forth below;
- 17 (h) Violations of Labor Code section 204 for failure to timely pay all wages
18 during employment, as set forth below;
- 19 (i) Violations of Labor Code sections 201, 202, and 203, for failure to timely
20 pay all earned wages upon termination, as set forth below;
- 21 (j) Violations of Labor Code sections 1198 and 2810.5(a)(1) for failure to
22 provide Plaintiff and Aggrieved Employees with written notice of
23 information material to Plaintiff's and Aggrieved Employees'
24 employment with Defendants, as set forth below;
- 25 (k) Violations of Labor Code sections 226(c) and 1198.5 for failure to
26 provide the right to inspect and/or product Plaintiff's employment records
27 upon request within the required time frame, as set forth below:
- 28 (l) Violations of Labor Code section 227.3 for failure to properly pay

vacation pay, as set forth below;

(m) Violations of Labor Code section 1198 and the applicable IWC Wage Order for failure to provide reporting time pay, as set forth below;

(n) Violations of Labor Code section 2802 for failure to reimburse necessary business expenditures and losses, as set forth below;

(o) Violations of Labor Code section 1198 and the applicable IWC Wage Order for failure to provide suitable working conditions, as set forth below; and

(p) Violations of Labor Code section 246 for failure to provide compliant sick leave, as set forth below.

**FAILURE TO PAY OVERTIME WAGES IN
VIOLATION OF LABOR CODE SECTIONS 510 AND 1198 AND
CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11040 SUBD. 3**

51. Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

52. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

53. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and Aggrieved Employees working more than eight hours in a day or more than forty hours in a workweek, at the rate of time and one-half for all hours worked in excess of eight hours in a day or more than forty hours in a workweek.

54. The applicable Wage Order further provides that Defendants are and were required to pay Plaintiff and Aggrieved Employees working more than twelve hours in a day,

overtime compensation at a rate of two times their regular rate of pay and required to pay Plaintiff and Aggrieved Employees at a rate of two times their regular rate of pay for hours worked in excess of eight hours on the seventh consecutive day of a work in a workweek.

55. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

56. California Labor Code section 510 codifies the right to overtime compensation at one and one-half times the regular rate of pay for hours worked in excess of eight hours in a day or forty hours in a week or for the first eight hours worked on the seventh day of work, and to overtime compensation at twice the employee's regular rate of pay for hours worked in excess of twelve hours in a day or in excess of eight hours in a day on the seventh day of work.

57. At all relevant times, Defendants failed to pay all overtime wages owed to Plaintiff and Aggrieved Employees. During the relevant time period, Plaintiff and other Aggrieved Employees were not paid overtime premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of forty hours in a week, and/or for the seventh consecutive day of work, sometimes because all hours that they worked were not recorded, and other times because they were simply not paid for all hours that were recorded and/or worked. As a result, Plaintiff believes the hours he and other Aggrieved Employees worked may not have been properly recorded and/or paid, and therefore, Plaintiff and other Aggrieved Employees may not have been properly compensated for all hours that were recorded and/or worked. In addition, Plaintiff and Aggrieved Employees have been subject to Defendants' control during pre-shift and post-shift times, as well as during unpaid meal periods resulting in unpaid overtime where they are not getting paid, which, when working overtime eligible shifts results in underpaid overtime compensation. Based on information and belief, not all recorded work hours were paid because of inaccurate timekeeping policies and practices. For example, upon information and belief, not all recorded hours were paid because of rounding practices and/or inaccurate timekeeping policies and practices. Defendants' policies are, and continue to be, unfair and have, over time, resulted in the underpayment of wages to Plaintiff and other Aggrieved Employees. To the extent

Defendants' policies have taken away time worked that was eligible for overtime, Plaintiff and other Aggrieved Employees were denied overtime pay for all hours worked. As a result, Plaintiff believes the hours he and other Aggrieved Employees worked may not have been properly recorded and/or paid, and therefore, Plaintiff and other Aggrieved Employees may not have been properly compensated for all hours that were recorded and/or worked.

58. Defendants knew or should have known that, as a result of their policies, practices and/or procedures, Plaintiff and other Aggrieved Employees were at times performing their assigned duties off-the-clock, were subject to control of Defendants, and/or were suffered or permitted to perform work for which they were not paid. Defendants also knew, or should have known, that they did not compensate Plaintiff and other Aggrieved Employees for off-the-clock work or all hours worked. Because Plaintiff and other Aggrieved Employees sometimes worked shifts longer than eight hours a day, more than forty hours a week, and/or seven consecutive days, some of the off-the-clock work qualified for overtime premium pay. At other times, Defendants simply did not pay for all the hours that were recorded due to rounding and other timekeeping policies. Therefore, Plaintiff and other Aggrieved Employees were not paid overtime wages for all of the overtime hours they actually worked. Defendants' failure to pay Plaintiff and other Aggrieved Employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198 and Wage Order No. 4.

59. Based on the foregoing, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest for violations of Labor Code sections 510 and 1198 and Wage Order No. 4, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f), and (g).

**FAILURE TO PAY MINIMUM WAGES IN
VIOLATION OF LABOR CODE SECTIONS 223, 1182.12, 1194, 1197, 1197.1 AND 1198
AND CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11040, SUBD. 4**

60. At all relevant times, California Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the

1 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
2 fixed is unlawful. Compensable work time defined in Wage Order No. 4 as “the time during
3 which an employee is subject to the control of an employer and includes all the time the
4 employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs.
5 tit. 8, § 11040(2)(K) (defining “Hours Worked”).

6 61. Defendants have not paid for all the time Plaintiff and Aggrieved Employees
7 have worked throughout the day including all time spent working through meal periods and/or
8 any other time in the day when the employees were performing work tasks subject to
9 Defendants’ control. Plaintiff and other Aggrieved Employees are subjected to Defendants’
10 control pre-shift, post-shift, and throughout the workday, even during unpaid periods of the
11 workday such as unpaid meal periods.

12 62. As set forth above, Plaintiff is informed and believes, and thereon alleges, that
13 Defendants’ rounding and other timekeeping policies and practices Plaintiff and other
14 Aggrieved Employees were not paid for all hours worked. Additionally, Defendants’ policy
15 and/or practice of understaffing, among other things, has caused a lack of meal and rest period
16 coverage and lead employees to perform off-the-clock work during their meal periods.
17 Defendants did not pay minimum wages for these off-the-clock hours that Plaintiff and other
18 Aggrieved Employees worked, including but not limited to before or after shifts as well as
19 during meal and rest periods.

20 63. Defendants also have had a continuous policy of not paying Plaintiff and
21 Aggrieved Employees for all hours worked throughout the day, including, but not limited to,
22 before shifts start, after shifts end, and/or any other time in the day when the employees were
23 performing work tasks, subject to Defendants’ control.

24 64. To the extent that the off-the-clock work and/or recorded hours did not qualify
25 for overtime premium payment, Defendants did not pay at least minimum wages for those hours
26 worked off-the-clock or that were recorded but not paid in violation of Labor Code sections 223,
27 1182.12, 1194, 1197, 1197.1, and 1198 and Wage Order No. 4. Plaintiff and other Aggrieved
28 Employees are therefore entitled to recover civil penalties, attorneys’ fees, costs, and interest,

1 pursuant to Labor Code sections 225.5, 1194, 1197.1, and/or 2699(a), (f), and (g).

2 **FAILURE TO PROVIDE MEAL PERIODS IN**
3 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198 AND**
4 **CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11040 SUBD. 11**

5 65. At all relevant times, California Labor Code sections 226.7, 512(a), and 1198,
6 and the applicable IWC Wage Order have applied to Plaintiff's and Aggrieved Employees'
7 employment by Defendants.

8 66. At all relevant times, California Labor Code section 512(a) provides that an
9 employer may not require, cause, or permit an employee to work for a period of more than five
10 hours per day without providing the employee with a meal period of not less than thirty minutes,
11 except that if the total work period per day of the employee is not more than six hours, the meal
12 period may be waived by mutual consent of both the employer and the employee. Under
13 California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v.*
14 *Super. Ct.*, 53 Cal. 4th 1004, 1041-1042 (2012).

15 67. At all relevant times, California Labor Code sections 226.7, 512(a), and 1198
16 provide that no employer shall require an employee to work during any meal period mandated
17 by an applicable order of the IWC. The wage order's meal period requirement is satisfied if "the
18 employee (1) has at least 30 minutes uninterrupted, (2) is free to leave the premises, and (3) is
19 relieved of all duty for the entire period." *Brinker Rest. Corp.*, 53 Cal. 4th at 1036.

20 68. At all relevant times, Labor Code sections 226.7, 512(a), and 1198, and the
21 applicable IWC Wage Order also require employers to provide a second meal period of not less
22 than thirty minutes if an employee works over ten hours per day, and if one is not provided, pay
23 an employee one additional hour of pay at the employee's regular rate of compensation, except
24 that if the total hours worked is no more than twelve hours, the second meal period may be
25 waived by mutual consent of the employer and the employee only if the first meal period was
26 not waived.

27 69. Plaintiff is informed and believes, and thereon alleges, that Defendants prevented
28 Plaintiff and other Aggrieved Employees from taking all timely, uninterrupted meal periods,

1 including second meal periods, to which they were entitled. As a result of these policies and/or
2 practices, Plaintiff and other Aggrieved Employees continued to perform their assigned duties
3 without being able to take timely, compliant meal periods. Plaintiff and other Aggrieved
4 Employees had to work through part or all of their meal periods, had their meal periods
5 interrupted, and/or had to wait extended periods of time before taking meal periods. Moreover,
6 Defendants' policies and/or practices of communicating with employees regarding work-related
7 matters as well as directing employees to continue working and/or return to work during meal
8 periods resulted in employees not receiving timely, uninterrupted thirty-minute meal periods.

9 70. Defendants knew or should have known that as a result of these policies and/or
10 practices, Plaintiff and other Aggrieved Employees were prevented from being relieved of all
11 duties and required to perform some of their assigned duties during meal periods and that they
12 did not receive timely meal periods. As a result, Plaintiff and other Aggrieved Employees had to
13 work through all or part of their meal periods, have their meal periods interrupted, and/or wait
14 extended periods of time before taking meal periods.

15 71. Defendants have failed to provide meal periods to Plaintiff and other Aggrieved
16 Employees. As a matter of policy and practice, Defendants have not provided Plaintiff and
17 other Aggrieved Employees with full thirty-minute meal periods for each day worked where
18 they are free from Defendants' required duties and control. Defendants have subjected
19 Plaintiff and other Aggrieved Employees to control and demanding duties throughout their
20 workday, even during times which should constitute uninterrupted duty-free meal periods.
21 Defendants encouraged employees to stay working and/or under employer control, as opposed
22 to encouraging the rest and nourishment meal periods are designed to provide.

23 72. Defendants also engaged in a systematic, company-wide policy and/or practice of
24 not properly training Plaintiff and other Aggrieved Employees on their entitlement to meal
25 period premium payments resulting from meal period violations. As such, Plaintiff was unaware
26 of when meal period premiums were owed to him. Accordingly, Plaintiff and other Aggrieved
27 Employees did not receive all meal period premium wages owed when compliant meal periods
28 were not provided. To the extent that Defendants did pay meal period premium wages to

1 Aggrieved Employees, such payments were admissions of their failure to provide meal periods.

2 73. Accordingly, Defendants failed to provide all meal periods and/or pay all meal
3 period premiums in violation of Labor Code sections 226.7, 512, and 1198 and Wage Order No.
4 4. Plaintiff and other Aggrieved Employees are therefore entitled to civil penalties, attorneys'
5 fees, costs, and interest, pursuant to Labor Code sections 226.7, 512, 558, 1198, and 2699(a),
6 (f), and (g).

7 **FAILURE TO PROVIDE REST PERIODS IN**
8 **VIOLATION OF LABOR CODE SECTIONS 226.7 AND 1198 AND**
9 **CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11040 SUBD. 12**

10 74. At all relevant times, California Labor Code sections 226.7 and 1198, and the
11 applicable IWC Wage Order have applied to Plaintiff and Aggrieved Employees' employment
12 by Defendants.

13 75. At all relevant times, the applicable IWC Wage Order provides that "[e]very
14 employer shall authorize and permit all employees to take rest periods, which insofar as
15 practicable shall be in the middle of each work period" and that the "rest period time shall be
16 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
17 hours or major fraction thereof" unless the total daily work time is less than three and one-half
18 hours.

19 76. At all relevant times, California Labor Code section 226.7 provides that no
20 employer shall require an employee to work during any rest period mandated by an applicable
21 order of the California IWC. To comply with its obligation to provide rest periods under
22 California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must
23 "relinquish any control over how employees spend their break time, and relieve their employees
24 of all duties — including the obligation that an employee remain on call. A rest period, in short,
25 must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270
26 (2016). Pursuant to Labor Code section 226.7(c) and the applicable IWC Wage Order, Plaintiff
27 and Aggrieved Employees are entitled to recover from Defendants one additional hour of pay at
28 their regular rates of compensation for each workday that a required rest period was not

1 provided.

2 77. Plaintiff and Aggrieved Employees frequently worked shifts three and one-half
3 hours or longer, in excess of six hours, and/or ten hours or longer without receiving all
4 uninterrupted net ten-minute rest periods to which they were entitled.

5 78. Upon information and belief, during the relevant time period, Defendants'
6 company-wide policy and practice of understaffing their business locations which resulted in a
7 lack of break coverage and prevented Plaintiff and Aggrieved employees from taking all timely,
8 uninterrupted rest periods to which they were entitled. Defendants' policies and practices fail to
9 relinquish all control over the employees during breaks.

10 79. Plaintiff is further informed and believes that Defendants have also engaged in a
11 systematic, company-wide practice and/or policy of not paying rest period premiums owed
12 when rest periods are not provided. Additionally, Defendants paid rest period premiums at the
13 incorrect rates. Thus, Defendants denied Plaintiff and Aggrieved Employees rest periods and
14 failed to pay them rest period premium wages due, in violation of Labor Code section 226.7 and
15 the applicable IWC Wage Order.

16 80. As with meal periods, Defendants' policies and/or practices prevented Plaintiff
17 and other Aggrieved Employees from being relieved of all duties and to take compliant rest
18 periods. As a result, Plaintiff and other Aggrieved Employees would frequently work shifts
19 three and one-half hours or longer, in excess of six hours, and/or in excess of ten hours without
20 receiving all uninterrupted ten-minute rest periods to which they were entitled.

21 81. Defendants have failed to authorize and permit rest periods to Plaintiff and
22 other Aggrieved Employees. As a matter of policy and practice, Defendants have not provided
23 Plaintiff and other Aggrieved Employees with net ten-minute rest periods for each day worked
24 where they are free from Defendants' required duties and control. Defendants have subjected
25 Plaintiff and other Aggrieved Employees to control and demanding duties throughout their
26 workday, even during times which should constitute uninterrupted duty-free rest periods.
27 Defendants encouraged employees to stay working and/or under employer control, as opposed
28 to encouraging the rest and nourishment rest periods are designed to provide.

82. Defendants also engaged in a systematic, company-wide policy and/or practice of not properly training Plaintiff and other Aggrieved Employees on their entitlement to rest period premium payments resulting from rest period violations. As such, Plaintiff was unaware of when rest period premiums were owed to him. Accordingly, Plaintiff and other Aggrieved Employees did not receive all rest period premium wages owed when compliant rest periods were not provided. To the extent that Defendants did pay rest period premium wages to Aggrieved Employees, such payments were admissions of their failure to provide rest periods.

83. Accordingly, Defendants failed to provide all rest periods and/or pay all rest period premiums in violation of Labor Code sections 226.7, and 1198 and Wage Order No. 4. Plaintiff and other Aggrieved Employees are therefore entitled to civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 226.7, 1198, and 2699(a), (f), and (g).

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS IN
VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 226(a) AND 1198**

84. At all relevant times, Labor Code sections 226(a) and 1198, and the Wage Order have applied to Plaintiff and the Aggrieved Employees.

85. At all relevant times, Labor Code section 226(a) requires employers to make, keep and furnish true, accurate, and complete employment records. Defendants have not provided Plaintiff and other Aggrieved Employees with properly itemized wage statements. Moreover, an aggrieved employee may seek civil penalties under Labor Code section 2699 for violations of wage statement requirements without the need to establish injury. *Lopez v. Friant & Associates, LLC*, 15 Cal.App.5th 773, 788 (2017) ("a plaintiff seeking civil penalties under PAGA for a violation of section 226(a) does not have to satisfy the 'injury' and 'knowing and intentional' requirements of section 226(e)(1)."). Rather, Labor Code section 226.3 provides that any employer who violates Section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

86. Defendants have provided Plaintiff and other Aggrieved Employees with

incomplete and inaccurate wage statements. Specifically, Defendants violated, among others, Sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9). Because Defendants did not record all the hours Plaintiff and other Aggrieved Employees worked while off-the-clock and/or did not pay all hours recorded, Defendants did not list the correct amount of gross wages earned by Plaintiff and other Aggrieved Employees in compliance with Section 226(a)(1). Similarly, Defendants failed to list the correct amount of net wages earned by Plaintiff and other Aggrieved Employees in violation of Section 226(a)(5). In addition, upon information and belief, the total regular and overtime hours listed in Defendants' wage statements, when added together, do not sum up to the total hours worked by the employee during the pertinent time period. Likewise, Defendants provide wage statements which do not properly itemize the total hours worked because Defendants itemize the incorrect total number of hours worked. Without additional information regarding the wage statement and undecipherable codes, an employee cannot simply 'arrive at the sum of hours worked.' As such, Defendants' wage statements do not comply with Labor Code section 226(a)(2). Additionally, upon information and belief, because Defendants did not calculate other Aggrieved Employees' regular rate of pay correctly for purposes of paying overtime and/or premium wages, they did not list the correct amount of gross wages and net wages earned by other Aggrieved Employees in compliance with Sections 226(a)(1) and (5). Defendants also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for meal period and rest period premium wages, in violation of Section 226(a)(9). Furthermore, because Defendants failed to pay all meal period and rest period premiums to Plaintiff and other Aggrieved Employees, Defendants did not list the correct amount of gross wages earned by Plaintiff and other Aggrieved Employees in compliance with Section 226(a)(1). For the same reasons, Defendants failed to list the correct amount of net wages earned by Plaintiff and other Aggrieved Employees in violation of Section 226(a)(5). Additionally, Defendants failed to itemize the amount of paid sick leave/paid time off Plaintiff and other Aggrieved Employees had available each pay period.

87. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil

penalties, attorneys' fees, costs, and interest pursuant to Labor Code sections 226(a), 226.3, 1198.5, and/or 2699(a), (f), and (g).

**FAILURE TO MAINTAIN ACCURATE PAYROLL RECORDS IN
VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 1174(d) AND 1198 AND
CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11040 SUBD. 7**

88. At all relevant times, Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by Section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), Defendants wilfully failed to maintain accurate payroll records for Plaintiff and other Aggrieved Employees showing the daily hours they worked and the wages paid as a result of failing to record all hours worked and/or failing to correctly list the gross wages and/or net wages earned by them in violation of Labor Code section 1174(d).

89. Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order(s). Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. Cal. Code Regs. tit. 8, § 11040, subd. 7. During the relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of shift, and meal period, start and stop times, along with daily hours worked, for Plaintiff and other Aggrieved Employees, in violation of Section 1198 and Wage Order No. 4.

1 90. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil
2 penalties, attorneys’ fees, costs, and interest pursuant to Labor Code sections 1174.5 and/or
3 2699(a), (f), and (g).

4 **FAILURE TO MAINTAIN ACCURATE TIME RECORDS IN**
5 **VIOLATION OF CALIFORNIA LABOR CODE SECTION 1198 AND CALIFORNIA**
6 **CODE OF REGULATIONS TITLE 8, SECTION 11040 SUBD. 7**

7 91. At all relevant times, California Labor Code section 1198 provides that the
8 maximum hours of work and the standard conditions of labor shall be those fixed by the Labor
9 Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further
10 provides that “[t]he employment of any employees for longer hours than those fixed by the
11 order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the
12 applicable IWC Wage Order, employers are required to keep accurate time records showing
13 when the employee begins and ends each work period and meal period. Cal. Code Regs. tit. 8, §
14 11040(7)(A).

15 92. During the relevant time period, Defendants failed, on a company-wide basis, to
16 keep accurate records of shift, and meal period, start and stop times for Plaintiff and other
17 Aggrieved Employees, in violation of Section 1198 and Wage Order No. 4.

18 93. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil
19 penalties, attorneys’ fees, costs, and interest pursuant to Labor Code sections 1174.5 and/or
20 2699(a), (f), and (g).

21 **FAILURE TO PAY WAGES DURING EMPLOYMENT IN**
22 **VIOLATION OF LABOR CODE SECTION 204**

23 94. At all times relevant herein set forth, California Labor Code section 204 provides
24 that all wages earned by any person in any employment between the first and the fifteenth days,
25 inclusive, of any calendar month, other than those wages due upon termination of an employee,
26 are due and payable between the sixteenth and the twenty-sixth day of the month during which
27 the labor was performed.

28 95. At all times relevant herein, Labor Code section 204 provides that all wages

1 earned by any person in any employment between the sixteenth and the last day, inclusive, of
2 any calendar month, other than those wages due upon termination of an employee, are due and
3 payable between the first and the tenth day of the following month.

4 96. At all times relevant herein, Labor Code section 204 provides that all wages
5 earned for labor in excess of the normal work period shall be paid no later than the payday for
6 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
7 204 provides that the requirements of this section are deemed satisfied by the payment of wages
8 for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
9 calendar days following the close of the payroll period.

10 97. At all relevant times herein, Defendants failed to pay Plaintiff and other
11 Aggrieved Employees all wages due to them, including, but not limited to, overtime wages,
12 minimum wages, meal period and/or rest period premium wages, within any time period
13 specified by Labor Code section 204.

14 98. Plaintiff and other Aggrieved Employees are entitled to recover civil penalties,
15 attorneys' fees, costs, and interest, pursuant to Labor Code sections 210 and/or 2699(a), (f), and
16 (g).

17 **FAILURE TO PAY WAGES UPON TERMINATION IN**
18 **VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 201, 202 AND 203**

19 99. At all relevant times, Labor Code sections 201 and 202 provide that if an
20 employer discharges an employee, the wages earned and unpaid at the time of discharge are due
21 and payable immediately, and that if an employee voluntarily leaves his or her employment, his
22 or her wages shall become due and payable not later than seventy-two hours thereafter, unless
23 the employee has given seventy-two hours previous notice of his or her intention to quit, in
24 which case the employee is entitled to his or her wages at the time of quitting.

25 100. Defendants wilfully failed to pay Plaintiff and other Aggrieved Employees who
26 are no longer employed by Defendants all their earned wages at the time of discharge, or within
27 seventy-two hours of their leaving Defendants' employ in violation of California Labor Code
28 sections 201-202, including but not limited to, overtime wages, minimum wages, vacation pay,

1 sick pay, and/or meal period and rest period premium wages.

2 101. Defendants' failure to pay Plaintiff and Aggrieved Employees who are no longer
3 employed by Defendants their wages earned and unpaid at the time of discharge, or within 72
4 hours of their leaving Defendants' employment, violates Labor Code sections 201, 202 and 203.
5 Plaintiff and Aggrieved Employees are therefore entitled to recover civil penalties, attorneys'
6 fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

7 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
8 **EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 1198 AND 2810.5**

9 102. California's Wage Theft Prevention Act was enacted to ensure that employers
10 provide employees with basic information material to their employment relationship at the time
11 of hiring, and to ensure that employees are given written and timely notice of any changes to
12 basic information material to their employment. Codified at California Labor Code section
13 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
14 provide written notice to employees containing basic and material payroll information,
15 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,
16 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the
17 regular payday designated by the employer, and any allowances claimed as part of the minimum
18 wage, including meal or lodging allowances.

19 103. Effective January 1, 2015, an employer's written notice pursuant to section
20 2810.5 must also include a statement that the employee may accrue and use sick leave; has a
21 right to request and use accrued paid sick leave; may not be terminated or retaliated against for
22 using or requesting the use of accrued paid sick leave; and has the right to file a complaint
23 against an employer who retaliates.

24 104. During the relevant time period, Defendants failed to provide written notice to
25 Plaintiff and other Aggrieved Employees that lists the requisite information set forth in Labor
26 Code section 2810.5(a)(1)(A)-(C) on a company-wide basis.

27 105. Defendants' failure to provide Plaintiff and other Aggrieved Employees with
28 written notice of basic information regarding their employment with Defendants is in violation

of Labor Code section 2810.5. Plaintiff and Aggrieved Employees are entitled to recover penalties, attorneys' fees, costs, and interest pursuant to Labor Code sections 2699(a), (f), and (g).

**FAILURE TO PROVIDE OR PRODUCE EMPLOYMENT RECORDS IN VIOLATION
OF CALIFORNIA LABOR CODE SECTIONS 226(c), 1198.5, AND 1198**

106. At all relevant times herein set forth, California Labor Code section 226(b) provides that every employer shall furnish current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. Labor Code section 226(c) provides that an employer must comply with a request made pursuant to Labor Code section 226(b) no later than 21 calendar days from the date of the employee's request.

107. Additionally, Labor Code section 226(c) provides in relevant part:
An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.

108. Similarly, Labor Code section 1198.5 requires an employer to timely produce certain employment records upon the request of an employee or their representative. Specifically, Section 1198.5 provides in relevant part:

(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee...

(b)(1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request...

(k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer...

109. At all times relevant herein, California Labor Code section 226(f) states “[a] failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.”

110. At all times relevant herein, California Labor Code section 226(h) states “[a]n employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.”

111. At all times relevant herein, the IWC Wage Order No. 4-2001, section 7(A), provides “[e]very employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor. (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.”

112. During the relevant time period, Plaintiff sent Defendants reasonable written requests for documents and records relating to his employment with Defendants. During the relevant time period, Defendants failed to produce for inspection and copying or otherwise permit inspection and copying of documents and records relating to Plaintiff’s employment.

113. Plaintiff requested that Defendants produce his employment records pursuant to California Labor Code sections 226(c) and 1198.5. Defendants did not fully comply with this request. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of Labor Code sections 226(c) and 1198.5. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys’ fees, costs, and interest, pursuant to Sections 2699(a), (f), and (g).

1 **FAILURE TO PAY EARNED VACATION WAGES AT TERMINATION IN**
2 **VIOLATION OF LABOR CODE SECTION 227.3**

3 114. At all relevant times set forth, Labor Code section 227.3 provides that whenever
4 a contract of employment or employer policy provides for paid vacations, and an employee is
5 terminated without having used the employee's vested vacation time, all vested vacation shall
6 be paid to the employee as wages at the employee's final rate in accordance with such contract
7 of employment or employer policy respecting eligibility or time served; provided, however, that
8 an employment contract or employer policy shall not provide for forfeiture of vested vacation
9 time upon termination.

10 115. During the relevant time period, on information and belief, Defendants have
11 implemented a policy and practice that provided for paid vacations and that Defendants denied
12 Plaintiff and other Aggrieved Employees of their vacation pay at their final rates of pay at the
13 time of termination.

14 116. Defendants' conduct has violated Labor Code section 227.3. Plaintiff and other
15 Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest,
16 pursuant to Labor Code sections 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE REPORTING TIME PAY IN VIOLATION OF CALIFORNIA**
18 **LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF REGULATIONS TITLE**
19 **8, SECTION 11040 SUBDIVISION 5(A)**

20 117. At all relevant times herein set forth, Labor Code section 1198 and the IWC
21 Wage Order were applicable to Plaintiff's and Aggrieved Employees' employment by
22 Defendants.

23 118. At all relevant times herein, pursuant to Wage Order No. 4: "Each workday an
24 employee is required to report for work and does report, but is not put to work or is furnished
25 less than half said employee's usual or scheduled day's work, the employee shall be paid for
26 half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than
27 four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum
28 wage." Cal. Code Regs. Tit. 8 § 11040, subd. 5(A).

119. During the relevant time period, upon information and belief, Defendants violated Labor Code section 1198 and Wage Order No. 4, because Defendants failed to pay Plaintiff and Aggrieved Employees reporting time pay when they reported to work for the scheduled shift but were put to work for less than half of the scheduled hours. For instance, Plaintiff has reported to work based on the schedule that Defendants provided to him only to be sent home immediately or sent home before having worked less than half of his scheduled shift. When this occurred, Plaintiff did not receive proper reporting time pay.

120. Defendants' failure to provide reporting time pay to Plaintiff and Aggrieved Employees violated IWC Order No. 4-2001 section 5(A) in violation of Labor Code section 1198. Plaintiff and Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

**FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES IN VIOLATION OF
CALIFORNIA LABOR CODE SECTIONS 2800 AND 2802**

121. At all times relevant, Labor Code sections 2800 and 2802 require employers to pay for all necessary expenditures and losses incurred by the employee in the performance of their job. The purpose of Labor Code sections 2800 and 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 4-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

122. During the relevant time period, Defendants, on an organization-wide basis, required Plaintiff and other Aggrieved Employees use their own cellular phones, hand tools, or equipment, and these items have been necessary to the performance of Plaintiff's and other Aggrieved Employees' job duties. Despite this, Defendants provided insufficient reimbursement for the use of personal phones, hand tools, and other work-related equipment.

123. Defendants could have provided Plaintiff and other Aggrieved Employees with work phones, hand tools, and other equipment, but instead, Defendants passed these operating costs off onto Plaintiff and other Aggrieved Employees. Defendants' policy and/or practice of passing their operating costs onto Plaintiff and other Aggrieved Employees by requiring that they use their own personal cell phones, hand tools, and other work-related equipment for work is in violation of California Labor Code sections 2800 and 2802. Defendants have intentionally and willfully failed to fully reimburse Plaintiff and other Aggrieved Employees for necessary business-related expenses and costs.

124. Plaintiff and other Aggrieved Employees are therefore entitled to recover penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

FAILURE TO PROVIDE REASONABLE WORKING CONDITIONS (EXCESSIVE HEAT) IN VIOLATION OF CALIFORNIA LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11040 SUBD. 15

125. At all relevant times, Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. Labor Code section 1198 further requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

126. Wage Order No. 4 provides that:

The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the work performed.

If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort...

Cal. Code Regs. Tit. 8 § 11040, subd. 15.

127. During the relevant time period, Plaintiff and other Aggrieved Employees worked in Defendants' hangars maintaining aircraft. Oftentimes, the hanger areas would reach exceedingly hot temperatures. Defendants failed to provide employees and opportunity to cool down during excessive temperatures during the workday.

1 128. Defendants' policies, practices, and/or procedures of failing to provide Plaintiff
2 and other Aggrieved Employees with working conditions that provide reasonable comfort
3 consistent with industry-wide standards for the nature of the process and the work performed are
4 in violation of California Labor Code section 1198 and the applicable IWC Wage Order.

5 129. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil
6 penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and
7 (g).

8 **FAILURE TO PROVIDE SICK LEAVE OR PAID TIME OFF IN VIOLATION OF**
9 **LABOR CODE SECTION 246**

10 130. At all relevant times, Labor Code section 246 requires employers to provide
11 employees with paid sick leave to be paid at a specified rate of pay which includes additional
12 earnings during the pay period in which such leave is used. Labor Code section 246(b)(1)
13 further provides that employees shall accrue paid sick days at the rate of not less than one
14 hour per every 30 hours worked, beginning at the commencement of employment. Labor Code
15 section 246(b)(4) requires an employer to provide no less than 24 hours or three days of paid
16 sick leave that is available to the employee to use by the completion of the employee's 120th
17 calendar day of employment.

18 131. During the relevant time period, Defendants did not pay Plaintiff and other
19 Aggrieved Employees with written notice that sets forth the amount of paid sick leave
20 available, or paid time off Defendants provides in lieu of sick leave, for use on either
21 Plaintiff's or other Aggrieved Employees' itemized wage statements or in separate writings
22 provided on the designated pay dates with the employees' payment of wages.

23 132. As a result of Defendants' violations of Labor Code sections 246 and 248.5,
24 Defendants and other Aggrieved Employees are entitled to recover civil penalties, attorneys'
25 fees, costs, and interest, pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

26 **REQUEST FOR JURY TRIAL**

27 Plaintiff requests a trial by jury.
28

1 **PRAYER FOR RELIEF**

2 Plaintiff, on behalf of the State of California and all Aggrieved Employees, prays for
3 relief and judgment against Defendants, jointly and severally, as follows:

4 1. For civil penalties and attorneys' fees and costs in excess of twenty-five thousand
5 dollars (\$25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different
6 amount.

7 **As to the First Cause of Action**

8 2. That the Court declare, adjudge and decree that Defendants violated the
9 following California Labor Code provisions as to Plaintiff and/or Aggrieved Employees: 510
10 and 1198 (by failing to pay all overtime compensation); 223, 1182.12, 1194, 1197, 1197.1 and
11 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), and 1198
12 (by failing to provide all meal periods and/or meal premiums); 226.7 and 1198 (by failing to
13 provide all rest periods and/or rest premiums); 226(a) and 1198 (by failing to provide accurate
14 wage statements); 1174(d), 1198 and California Code of Regulations, Title 8, section 11040(7)
15 (by failing to maintain accurate and complete payroll records); 1198 and California Code of
16 Regulations, Title 8, section 11040(7) (by failing to maintain accurate and complete time
17 records); 204 (by failing timely to pay all earned wages during employment); 201, 202, and 203
18 (by failing timely to pay all earned wages upon termination); 1198 and 2810.5(a)(1) (by failing
19 to provide written notice of the material terms of employment); 226(c) and 1198.5 (by failing to
20 timely produce employment records upon request); 227.3 (by failing to pay vacation wages at
21 termination); 1198 (by failing to pay reporting time wages); 2802 (by failing to reimburse
22 business expenses); 1198 (by failing to provide suitable working conditions); and 246 and 248.5
23 (by failing to provide compliant sick leave);

24 3. For civil penalties pursuant to California Labor Code sections 226.3, 558,
25 1174.5, 1197.1, 2699(a) and/or 2699(f) and (g), for violations of California Labor Code
26 sections 201, 202, 203, 204, 223, 225.5, 226(a), 226(c), 226.7, 227.3, 246, 510, 512(a),
27 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, and 2810.5, as well
28 as all applicable IWC Wage Orders;

4. For attorneys' fees and costs pursuant to California Labor Code sections 1194(a), 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226(a), 226(c), 226.7, 227.3, 246, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, and 2810.5, as well as all applicable IWC Wage Orders;

5. For pre-judgment and post-judgment interest as provided by law; and

6. For such other and further relief as the Court may deem equitable and appropriate.

Dated: June 9, 2022

Respectfully submitted,

Law Offices of Mark Yablonoich

By:

Mark Yablonsky
Tony Roberts
Attorneys for Plaintiff David Guzman, a proxy
for the State of California as an aggrieved
employee pursuant to the Private Attorneys
General Act

Exhibit 1

David Guzman v. Gama Aviation Engineering, Inc.

LAW OFFICES OF
MARK YABLONOVICH
9595 WILSHIRE BOULEVARD, SUITE 900
BEVERLY HILLS, CALIFORNIA 90212-2511
TELEPHONE: (310) 286-0246
FACSIMILE: (310) 407-5391

April 5, 2022

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *David Guzman v. Gama Aviation Engineering, Inc.*

Dear PAGA Administrator:

This law firm represents David Guzman ("Mr. Guzman") in connection with his claims under the California Labor Code against Mr. Guzman's former employer Gama Aviation Engineering, Inc. ("Gama Aviation").

The employer may be contacted directly:

Gama Aviation Engineering, Inc.
18 West Piper Avenue
Trenton, New Jersey 08628

Gama Aviation Engineering, Inc.
1451 W Cypress Creek Road, Suite 362
Ft. Lauderdale, Florida 33309

Mr. Guzman intends to seek civil penalties, attorneys' fees, costs, and all other available relief for Gama Aviation's violations of the California Labor Code, which are recoverable under Sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Guzman seeks relief on behalf of himself, the State of California, and all other persons who are or were employed by Gama Aviation in California as non-exempt, hourly-paid employees and who received or should have received at least one wage statement during the relevant time period which begins one year prior to the date of this notice ("Aggrieved Employees"). Mr. Guzman sends this letter in compliance with the notice and reporting requirements of Labor Code section 2699.3.

Gama Aviation employed Mr. Guzman from approximately April 2018 to approximately October 2021, as a non-exempt, hourly-paid employee out of Gama Aviation's Van Nuys, California location. Mr. Guzman typically worked approximately ten hours or more per workday, four or more days per week, and forty hours or more per week. His job duties included, but were not limited to, performing aviation maintenance and repair as a mechanical technician.

Gama Aviation committed one or more of the following Labor Code violations against Mr. Guzman and/or the Aggrieved Employees, the facts and theories of which follow, making Mr.

Re: *David Guzman v. Gama Aviation, Inc.*
April 5, 2022
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Guzman an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

Gama Aviation’s Company-Wide and Uniform Payroll and Human Resources Practices

Gama Aviation is an aviation services company specializing in providing aviation support for individuals, corporations, and government agencies. Upon information and belief, Gama Aviation maintains a centralized Human Resources department for all non-exempt, hourly-paid employees working for Gama Aviation in California, including Mr. Guzman and other Aggrieved Employees. At all relevant times, Gama Aviation issued and maintained uniform, standardized policies, practices and/or procedures for all non-exempt, hourly-paid employees in California, including Mr. Guzman and other Aggrieved Employees, regardless of their location, position, or job duties.

Upon information and belief, Gama Aviation maintains a centralized payroll department which processes payroll for all non-exempt, hourly-paid employees working for Gama Aviation in California, including Mr. Guzman and other Aggrieved Employees. Further, Gama Aviation issues the same uniform and formatted wage statements to all non-exempt, hourly-paid employees in California, irrespective of their location, position, or manner in which each employee’s employment ended. Gama Aviation’s centralized payroll department processes payroll for all non-exempt, hourly-paid employees in the same manner throughout California. In other words, Gama Aviation has utilized the same methods and formulas when calculating wages and any other remunerations owed to Mr. Guzman and other Aggrieved Employees in California.

Violations of California Labor Code Sections 510 and 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 3

California Labor Code sections 510 and 1198 and California Code of Regulations Title 8, section 11040 (“Wage Order No. 4”),² require employers to pay employees working more than eight hours in a day, more than forty hours in a workweek, or for the first eight hours on the seventh consecutive day of work at the rate of time-and-one-half times the regular rate of pay for all hours worked in excess of eight hours in a day, in excess of forty hours in a workweek, and during the first eight hours on the seventh consecutive day of work. The applicable Wage Order further provides that employers are required to pay employees working more than twelve hours in a day or in excess of eight hours on the seventh consecutive day overtime compensation at a

¹ These facts, theories, and claims are based on Mr. Guzman’s experience and counsel’s review of those records currently available relating to Mr. Guzman’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of, typically because the aggrieved employee was not aware of the law’s requirements and/or the employer’s obligations, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations. Thus, Mr. Guzman reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

² To the extent any other Wage Order applies to any of the claims in this letter, Gama Aviation also violated those wage orders.

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rate of two times their regular rate of pay.

Gama Aviation failed to pay all overtime wages owed to Mr. Guzman and other Aggrieved Employees. During the relevant time period, Mr. Guzman and other Aggrieved Employees were not paid overtime premiums for all of the hours they worked in excess of eight (or twelve) hours in a day, in excess of forty hours in a week, and/or for the seventh consecutive day of work (or in excess of eight hours on the seventh consecutive day of work), sometimes because all hours that they worked were not recorded, and other times because they were simply not paid for all hours that were recorded and/or worked. Aggrieved Employees have been subject to Gama Aviation's control during pre-shift and post-shift times, as well as during unpaid meal periods resulting in unpaid overtime where they are not getting paid, which, when working overtime-eligible shifts, results in underpaid overtime compensation. Based on information and belief, not all recorded work hours were paid because of inaccurate timekeeping policies and practices. Based on information and belief, not all recorded work hours were paid because of rounding practices and/or inaccurate timekeeping policies and practices. As a result, Mr. Guzman believes the hours he and other Aggrieved Employees worked may not have been properly recorded and/or paid, and therefore, Mr. Guzman and other Aggrieved Employees may not have been properly compensated for all hours that were recorded and/or worked.

Gama Aviation knew or should have known that, as a result of its policies, practices and/or procedures, Mr. Guzman and other Aggrieved Employees were at times performing their assigned duties off-the-clock (and/or unrecorded), were subject to control of Gama Aviation, and/or were suffered or permitted to perform work for which they were not paid, and/or were subject to Gama Aviation's rounding policy, practice, and procedure. Gama Aviation also knew, or should have known, that it did not compensate Mr. Guzman and other Aggrieved Employees for off-the-clock work, or all hours worked. Because Mr. Guzman and other Aggrieved Employees sometimes worked shifts longer than eight or twelve hours a day, more than forty hours a week, and/or seven consecutive days (or in excess of eight hours on the seventh consecutive day), some of the unrecorded work qualified for overtime premium pay. At other times, Mr. Guzman simply did not pay for all the hours that were recorded. Therefore, Mr. Guzman and other Aggrieved Employees were not paid overtime wages for all of the overtime hours they actually worked.³ Gama Aviation's failure to pay Mr. Guzman and other Aggrieved Employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198 and the applicable Wage Order.

Based on the foregoing, Mr. Guzman and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest for violations of Labor Code sections 510 and 1198 and the applicable Wage Order, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f), and (g).

³ Furthermore, based upon information and belief, to the extent employees were not paid overtime because of a purported alternative workweek schedule, Gama Aviation has failed to comply with the procedures and implementation of any alternative workweek schedule as set forth in the applicable Wage Order.

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Violations of California Labor Code Sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and California Code of Regulations Title 8, Section 11040, Subdivision 4

Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable Wage Order require employers to pay employees the minimum wage fixed by the Industrial Welfare Commission (“IWC”). The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined by the applicable Wage Order as “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.” Cal. Code Regs. tit. 8, § 11040, subd. 2(K) (defining “Hours Worked”).

Gama Aviation has not paid for all the time Mr. Guzman and Aggrieved Employees have worked throughout the day including all time in the workday when the employees were performing work tasks subject to the control of Gama Aviation. Mr. Guzman and other Aggrieved Employees are subjected to Gama Aviation’s control pre-shift, post-shift, and throughout the workday. Furthermore, based on information and belief, not all recorded work hours were paid because of rounding and/or inaccurate timekeeping policies and practices.

To the extent that the off-the-clock work and/or recorded hours did not qualify for overtime premium payment, Gama Aviation did not pay at least minimum wages for those hours worked off-the-clock or that were recorded but not paid in violation of Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable Wage Order.

Mr. Guzman and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys’ fees, costs, and interest, pursuant to Labor Code sections 225.5,⁴ 1194, 1197.1 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 226.7, 512(a), and 1198 and California Code of Regulations Title 8, Section 11040 Subdivisions 11 and 12

Labor Code sections 226.7, 512(a) and 1198 and the applicable Wage Order require employers to provide meal periods and rest periods and to pay employees one additional hour of pay at the employee’s regular rate of compensation for each workday that a meal period or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five hours per day without providing the employee with an uninterrupted duty-free and control-free meal period of not less than thirty minutes, except that if the total work period per day of the employee is not more than six hours, the meal period may be waived by mutual consent of both the employer and the employee.

Under California law, first meal periods must start no later than the end of an employee’s fifth

⁴ Labor Code section 2699.3(c) permits aggrieved employees, including Mr. Guzman, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including section 225.5.

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hour of work. See *Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1041-1042 (2012); see also Cal. Code Regs. tit. 8, § 11040, subd. 11. Labor Code sections 226.7 and 512(a) also require employers to provide a second meal period of not less than thirty minutes if an employee works over ten hours in a day, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was taken.

Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable IWC Wage Order. The applicable Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours. Cal. Code Regs. tit. 8, § 11040, subd. 12. To comply with its obligation to provide rest periods under Labor Code section 226.7 and the applicable Wage Order, an employer must “relinquish any control over how employees spend their break time and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

Gama Aviation has failed to provide meal periods and authorize and permit rest periods to Mr. Guzman and other Aggrieved Employees. As a matter of policy and practice, Gama Aviation has not provided Mr. Guzman and other Aggrieved Employees with full thirty-minute meal periods and net 10-minute rest periods for each day worked where they are free from Gama Aviation’s required duties and control. Gama Aviation has subjected Mr. Guzman and other Aggrieved Employees to control and demanding duties throughout their workday, even during times which should constitute uninterrupted duty-free rest periods and meal periods.

Gama Aviation knew or should have known that as a result of its policies and/or practices, Mr. Guzman and other Aggrieved Employees were prevented from being relieved of all duties and employer control and required to perform some of their assigned duties during meal periods and rest periods and that they did not receive timely meal periods and rest periods. As a result, Mr. Guzman and other Aggrieved Employees have had to work through all or part of their meal periods and rest periods, have their meal periods and rest periods interrupted, and/or have waited extended periods of time before taking meal periods and rest periods.

Gama Aviation has also engaged in a systematic, company-wide policy and/or practice of not properly training Mr. Guzman and other Aggrieved Employees on their entitlement to meal period and rest period premium payments resulting from meal period and rest period violations. Mr. Guzman and other Aggrieved Employees have been unaware of when meal period and/or rest period premiums were owed to them. Based upon information and belief, Mr. Guzman and other Aggrieved Employees have not received all meal period and/or rest period premium wages owed when compliant meal periods and rest periods have not been provided. To the extent that Gama Aviation did pay meal period and/or rest period premium wages to Mr. Guzman and other Aggrieved Employees, such payments were admissions of its failure to provide compliant meal

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periods and rest periods.⁵

Gama Aviation also maintains a policy and/or practice of altering the records related to meal periods such that meal and rest period violations are frequently not recorded, nor is compensation provided to Mr. Guzman and other Aggrieved Employees for these meal periods and rest periods.

Accordingly, Gama Aviation has failed to provide all meal periods and rest periods and/or pay all meal period and rest period premiums, in violation of Labor Code sections 226.7, 512, and 1198 and the applicable Wage Order. Mr. Guzman and other Aggrieved Employees are therefore entitled to civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 226.7, 558 and/or 2699(a), (f), and (g).

Violations of California Labor Code Section 226

Labor Code section 226(a) requires employers to keep and furnish accurate and complete wage statements. Gama Aviation has not provided Mr. Guzman and other Aggrieved Employees with properly itemized wage statements. Moreover, an Aggrieved Employee may seek civil penalties under Labor Code section 2699 for violations of wage statement requirements without the need to establish injury. *Lopez v. Friant & Associates, LLC*, 15 Cal.App.5th 773, 788 (2017) (“a plaintiff seeking civil penalties under PAGA for a violation of section 226(a) does not have to satisfy the ‘injury’ and ‘knowing and intentional’ requirements of section 226(e)(1).”). Rather, Labor Code section 226.3 provides that any employer who violates Section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

Labor Code section 226(c) provides as follows: “An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.”

Gama Aviation has provided Mr. Guzman and other Aggrieved Employees with incomplete and inaccurate wage statements. Specifically, Gama Aviation has violated, among others, Sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9). Because Gama Aviation has not recorded all the hours Mr. Guzman and other Aggrieved Employees worked and/or paid all hours recorded, Gama Aviation has not listed the correct amount of gross wages and net wages earned by Mr. Guzman and other Aggrieved Employees in compliance with Sections 226(a)(1) and (5), respectively. Gama Aviation also has not accurately listed the total hours worked by Mr.

⁵ Furthermore, based upon information and belief, to the extent employees were paid bonuses or incentives, those payments have not been included in Gama Aviation's regular rate of compensation for calculating meal period and/or rest period premiums and has resulted in an underpayment of meal period and/or rest period premium wages.

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Guzman and other Aggrieved Employees for work performed while off-the-clock in violation of Section 226(a)(2) and the applicable hourly rates in effect during the pay period and the corresponding number of hours worked in violation of Section 226(a)(9).

In addition, the total regular, overtime, double-time, and any other applicable hours listed in Gama Aviation's wage statements, when added together, do not add up to the total hours worked by the employee during the pertinent time period. Likewise, Gama Aviation provides wage statements which do not properly itemize the total hours worked because Gama Aviation itemizes the incorrect number of hours work or an undecipherable number of hours worked or both. Without additional information regarding the wage statement and undecipherable codes, an employee cannot simply 'arrive at the sum of hours worked.' Thus, Gama Aviation's wage statements do not comply with Labor Code section 226(a)(2). Furthermore, in violation of Section 226(a)(2), Gama Aviation has also failed to accurately list the total hours worked by Mr. Guzman and other Aggrieved Employees for work performed while off-the-clock, while subject to an unlawful rounding policy, practice, and/or procedure.

Gama Aviation has knowingly and intentionally failed to properly itemize the regular, overtime, double-time, and any other applicable rates in effect during each pay period and the corresponding number of hours worked, making it impossible to determine the correct pay rate promptly and easily with the corresponding hours and pay. Mr. Guzman's and the Aggrieved Employees' wage statements incorrectly show the regular rate, overtime rate, and/or the doubletime rate and incorrectly show regular rate, overtime rate, and/or the doubletime rate at a different number of hours than worked by the employee during the pay period. Thus, if the employee were to add together the hours listed in the line items for regular, overtime, double-time, and any other applicable hours, the total is incorrect because it exceeds the total number of hours actually worked by the employee during the pay period. As such, Gama Aviation's wage statements do not comply with Labor Code section 226(a)(9) which requires an itemized statement to show "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee." Gama Aviation's wage statements are confusing and misleading for the Aggrieved Employees as to what the rates of pay and total hours worked are.

Furthermore, because Gama Aviation has failed to pay all meal period and rest period premiums to Mr. Guzman and other Aggrieved Employees, Gama Aviation has not listed the correct amount of gross wages and net wages earned by Mr. Guzman and other Aggrieved Employees in violation of Sections 226(a)(1) and (5).

In addition, Gama Aviation has failed to itemize the amount of paid sick leave/paid time off Mr. Guzman and other Aggrieved Employees have had available every pay period.

Because Gama Aviation has failed to provide, among other things, the accurate number of total hours worked, gross wages earned, net wages earned, and the applicable hourly rates in effect during the pay period and the corresponding number of hours worked on wage statements, Mr. Guzman and other Aggrieved Employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full, and

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were given confusing and/or incomplete information about their employer. Instead, Mr. Guzman and other Aggrieved Employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Guzman requested Gama Aviation to produce his employment records pursuant to Section 226(c), which requires an employer to produce records within 21 days. Gama Aviation did not timely comply with this request. Similarly, Gama Aviation's 30-day deadline imposed by Labor Code section 1198.5, has expired without compliance.

Mr. Guzman and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest for violations of Labor Code sections 226(a), 226(c) and 1198.5, pursuant to Labor Code sections 226.3 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 1174(d) and 1198, and California Code of Regulations Title 8, Section 11040 Subdivision 7

Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments..." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by Section 1174(d). During the relevant time period, Gama Aviation has willfully failed to maintain accurate payroll records for Mr. Guzman and other Aggrieved Employees showing the daily hours they have worked and the wages paid as a result of failing to record all hours worked and/or failing to correctly list the gross wages and/or net wages earned by them in violation of Labor Code section 1174(d).

Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period, as well as total daily hours. Cal. Code Regs. tit. 8, § 11040, subd. 7. During the relevant time period, Gama Aviation failed, on a company-wide basis, to keep accurate records of shifts and meal period start and stop times and total daily hours for Mr. Guzman and other Aggrieved Employees, in violation of Labor Code section 1174(d) and the applicable Wage Order.

Due to Gama Aviation's failure to maintain accurate payroll and time records, Mr. Guzman and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 1174.5 and/or 2699(a), (f), and (g).

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Violations of California Labor Code Section 227.3

Pursuant to Labor Code section 227.3, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having used the employee's vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.

On information and belief, Gama Aviation has implemented a policy and practice that has denied Mr. Guzman and other Aggrieved Employees of their vacation pay at their final rates of pay at termination. Gama Aviation has failed to pay Mr. Guzman as well as the Aggrieved Employees their vacation pay at their final rates of pay at termination.

As a result of Gama Aviation's violations of Labor Code section 227.3, Mr. Guzman and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

Violations of California Labor Code Section 204

Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, Labor Code section 204 provides that the requirements of this Section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

During the relevant time period, Gama Aviation did not pay Mr. Guzman and other Aggrieved Employees all wages due to them, including, but not limited to, overtime wages, minimum wages, sick pay, and/or meal period and rest period premium wages, within the time periods specified by Labor Code section 204.

Mr. Guzman and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

Violations of California Labor Code Section 246

Under Labor Code section 246, employers in California must provide employees with paid sick leave at a specified rate of pay which must factor in additional earnings during a given pay period where such leave is used. Additionally, employers must provide employees with written

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notice that sets forth the amount of paid sick leave available, or paid time off an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's payment of wages.⁶

Furthermore, Gama Aviation has also failed to provide Mr. Guzman and other Aggrieved Employees with written notice that sets forth the amount of paid sick leave available, or paid time off Gama Aviation provides in lieu of sick leave, for use on either Mr. Guzman's or other Aggrieved Employees' itemized wage statements or in separate writings provided on the designated pay dates with the employees' payments of wages.

As a result of Gama Aviation's violations of Labor Code sections 246 and 248.5, Mr. Guzman and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 201, 202, and 203

Labor Code sections 201-203⁷ provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves their employment, their wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

Gama Aviation has failed to pay Mr. Guzman and other Aggrieved Employees who are no longer employed by Mr. Guzman all their earned wages at the time of discharge, or within seventy-two hours of their leaving Gama Aviation's employment, in violation of Labor Code sections 201-202.

Furthermore, Gama Aviation has not paid Mr. Guzman and other Aggrieved Employees who are no longer employed by Gama Aviation all their earned wages, at the time of discharge, or within seventy-two hours of their leaving Gama Aviation's employment, including, but not limited to, overtime wages, minimum wages, vacation pay, and/or meal period and rest period premium wages.

As a result of Gama Aviation's violations of Labor Code sections 201-202, Mr. Guzman and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and

⁶ To the extent Gama Aviation provides nondiscretionary pay, upon information and belief, Gama Aviation has failed to provide Mr. Guzman and other Aggrieved Employees with the appropriate rate of pay when paying sick pay as required under Labor Code section 246. In other words, upon information and belief, Gama Aviation has failed to factor in nondiscretionary compensation for Plaintiff and other Aggrieved Employees and has failed to provide the appropriate rate of pay when paying sick pay as required by Labor Code section 246.

⁷ Mr. Guzman also asserts Section 203, which is enumerated in Section 2699.5, to the extent applicable.

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April 5, 2022
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interest, pursuant to Labor Code sections 203 and/or 2699(a), (f), and (g).

Violations of California Labor Code Section 1198

Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11040(5)(A) provides that:

Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.

Upon information and belief, Gama Aviation violated Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(5), because it failed to pay Mr. Guzman and Aggrieved Employees reporting time pay when they reported to work for the scheduled shift but were put to work for less than half of the scheduled hours. For instance, Mr. Guzman has reported to work based on the schedule that Gama Aviation provided to him only to be sent home immediately or be sent home before having worked less than half of his scheduled shift. When this occurred, Gama Aviation did not pay the proper reporting time pay of at least four hours.

Violations of California Labor Code Sections 1198 and 2810.5(a)(1)

California’s Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime; any allowances claimed as part of the minimum wage, including meal or lodging allowances the regular payday designated by the employer; and the name of the employer, including any “doing business as” names used by the employer as well as the employer’s physical and mailing address(es) and telephone number. Effective January 1, 2015, an employer’s written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

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On information and belief, Gama Aviation failed to provide Mr. Guzman and other Aggrieved Employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1). Gama Aviation's failure to provide Mr. Guzman and other Aggrieved Employees with written notice of basic information regarding their employment with Gama Aviation, such as a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

Mr. Guzman and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

Violations of California Labor Code Section 2802 and California Code of Regulations Title 8, Section 11040 Subdivision 9

Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of their job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). Wage Order No. 4 provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." Cal. Code Regs. tit. 8 § 11040, subd. 9(B).

Gama Aviation required Mr. Guzman and other Aggrieved Employees to use their own cellular phones, hand tools, or equipment and these items have been necessary to the performance of Mr. Guzman's and other Aggrieved Employees' jobs. Despite this, Gama Aviation provided insufficient reimbursement for the use of these phones, hand tools, and work-related equipment.

Mr. Guzman and other Aggrieved Employees have incurred necessary business-related expenses and costs that Gama Aviation has not fully reimbursed, including but not limited to payments for hand tools and equipment customarily required by Mr. Guzman's and other Aggrieved Employees' trade or craft.

Gama Aviation's policy, practice, and/or procedure of passing its operating costs on to Mr. Guzman and other Aggrieved Employees violates Labor Code sections 2800 and 2802 and the applicable wage order. Mr. Guzman and other Aggrieved Employees are entitled to recover penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

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Violations of California Labor Code Section 1198 and California Code of Regulations Title 8, Section 11040 Subdivision 15

Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. Labor Code section 1198 further requires that "...the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

Wage Order No. 4 provides that:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.

Cal. Code Regs. tit. 8 § 11040, subd. 15.

During the relevant time period, Mr. Guzman and other Aggrieved Employees worked in Gama Aviation's hangars maintaining aircraft. Oftentimes, these hangar areas would reach exceedingly hot temperatures without Gama Aviation providing employees an opportunity to cool down during the workday.

Gama Aviation's policies, practices, and/or procedures of failing to provide Mr. Guzman and other Aggrieved employees with working conditions that provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed are in violation of California Labor Code section 1198 and the applicable California Code of Regulations. Mr. Guzman and other Aggrieved Employees are entitled to recover penalties, attorneys' fees, costs and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

Violations of California Labor Code Section 558(a)

Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred

Re: *David Guzman v. Gama Aviation, Inc.*

April 5, 2022

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dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”⁸ Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Gama Aviation, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Guzman’s and other Aggrieved Employees’ rights by violating various sections of the California Labor Code as set forth in this notice.

Pursuant to Labor Code section 2699(f) and the other Labor Code sections as set forth above, Mr. Guzman seeks recovery of applicable civil penalties. In the alternative to the penalties above, Mr. Guzman seeks penalties pursuant to Labor Code section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Labor Code sections 558(a)(1) and 558(a)(2) should such provision be applicable.

* * *

Accordingly, Mr. Guzman seeks the remedies set forth above for himself, the State of California, and all other Aggrieved Employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), and 2699.5, Mr. Guzman, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other Aggrieved Employees, and the State of California against Gama Aviation for violations of California Labor Code sections 201, 202, 203, 204, 223, 227.3, 226(a), 226.7, 246, 246.8, 510, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802, and the applicable Wage Orders, as well as sections 225.5, 226(c), 1198.5, 2810.5, which are ‘curable’ violations pursuant to section 2699.3(c)(2)(A).

Therefore, on behalf of all Aggrieved Employees, Mr. Guzman seeks all applicable civil penalties and other available relief related to these violations of the California Labor Code pursuant to PAGA.

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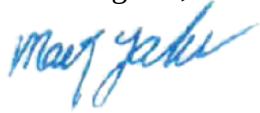
⁸ Mr. Guzman does not seek to recover any unpaid wages that are provided for in Section 558(a). He only seeks civil penalties allowed by PAGA. *See ZB, NA v. Super. Ct. (Lawson)*, 8 Cal. 5th 175 (2019).

Re: *David Guzman v. Gama Aviation, Inc.*
April 5, 2022
Page 15 of 15

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number, address, or email below:

Mark Yablonovich
LAW OFFICES OF MARK YABLONOVICH
9595 Wilshire Boulevard, Suite 900
Beverly Hills, California 90212
(310) 286-0246
Mark@Yablonovichlaw.com

Best Regards,



Mark Yablonovich

Copy to: Gama Aviation Engineering, Inc.
18 West Piper Avenue
Trenton, New Jersey 08628
(Via Certified Mail)

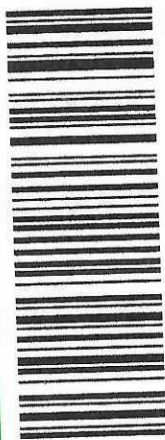
Gama Aviation Engineering, Inc.
1451 W Cypress Creek Road, Suite 362
Ft. Lauderdale, Florida 33309
(Via Certified Mail)

Gama Aviation Inc.
480 Lordship Blvd.
Stratford, Connecticut 06615
(Via Certified Mail)

CSC – Lawyers Incorporating Service (C1592199)
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833
Agent for service of process for Gama Aviation (Engineering) Inc.
(Via Certified Mail)

LAW OFFICES OF
MARK YABLONOVICH

9595 WILSHIRE BOULEVARD, SUITE 900
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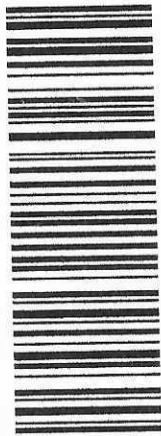
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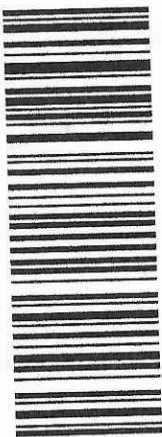
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Gama Aviation Inc.
480 Lordship Blvd.
Stratford, Connecticut 06615



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