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Attorneys for Plaintiff LUCIO MENJIVAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ANGEL RODRIGUEZ, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

AMERICAN TEXTILE MAINTENANCE, a
California corporation; and DOES 1 through 25,
inclusive,

Defendants.

LUCIO MENJIVAR, on behalf of himself and
all other aggrieved employees,

Plaintiff,

v.

AMERICAN TEXTILE MAINTENANCE
COMPANY, a California corporation d/b/a/
REPUBLIC MASTER CHEFS TEXTILE
RENTAL SERVICES, and DOES 1 through 10,
inclusive,

Defendants.

Case No. 22STCV17855 (Lead)
(Consolidated with Case No.
22STCV10611)

*Assigned for all purposes to the
Honorable Elaine Lu, Dept. 9*

**DECLARATION OF RANA NADER IN
SUPPORT OF NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

[Notice of Motion and Motion for Preliminary
Approval of Class Action and PAGA Settlement,
Declaration of Jonathan M. Genish, Declaration
of Angel Rodriguez, Declaration of Lucio
Menjivar, Declaration of Sean Hartranft,
[Proposed] Order Filed Concurrently]

Date: September 3, 2024
Time: 10:00 a.m.
Place: Department 9

Menjivar Complaint Filed: March 28, 2022

1 **DECLARATION OF RANA NADER**

2 I, Rana Nader, declare:

3 1. I am an attorney duly authorized and licensed to practice law before all courts in the State
4 of California. I am a partner of Proxy Law Firm, LLP, counsel of record for Plaintiff Lucio Menjivar's
5 ("Plaintiff"), on behalf of himself and all other aggrieved employees in this action. I submit this
6 Declaration in support of Plaintiffs' Notice of Motion and Motion for Preliminary Approval of Class
7 Action and PAGA Settlement. Defendant American Textile Maintenance Company doing business as
8 Republic Master Chefs ("American Textile" or "Defendant") does not oppose this Motion. I am familiar
9 with the factual background, procedural history, files, pleadings, discovery, and communications in this
10 matter. Unless stated on information and belief, I make this declaration of my own personal knowledge
11 and if called to testify, I could and would so competently on the basis of my own personal knowledge
12 or information and belief.

13 **CLASS COUNSEL'S BACKGROUND AND EXPERIENCE**

14 2. I received a B.A. in Political Science from the University of Irvine, California in 2001. I
15 received my law degree from Pepperdine School of Law in 2005, where I also received a Certificate of
16 Dispute Resolution from the Straus Institute for Dispute Resolution. I was admitted to the California
17 State Bar in December 2006. I am admitted to practice in all state courts in California. Upon admission
18 to the bar, I practiced law in state and federal courts in numerous reputable law firms in California,
19 including Jones Day, from 2009 to 2014 during which time I was a commercial business litigator. I also
20 started my own practice Nader Law Group in December 2016, at which time I represented both plaintiffs
21 and defendants in litigation matters. Since October 2020, my practice has been devoted exclusively to
22 labor and employment law, including wage-and-hour (individual, representative, and class actions),
23 employment discrimination, workplace harassment, wrongful termination, and retaliation.

24 3. Throughout my practice at Proxy Law Firm, I have successfully resolved employment
25 and labor disputes in state courts, before various administrative agencies, and through alternative dispute
26 resolutions. I have engaged in all aspects of litigation, including discovery, alternate dispute resolution,
27 and motion practice related to numerous wage-and-hour class and representative actions under PAGA.

4. Since I became a founding partner of Proxy Law Firm LLP in 2020, I have exclusively focused my practice on plaintiff-side employment and labor disputes in California, including litigation of individual, class, and representative wage and hour claims. Proxy Law Firm LLP, either on its own, or with co-counsel, is currently serving as plaintiffs' counsel in numerous wage and hour and employment class action and representative cases in Superior Courts throughout California.

5. I continue to actively develop and advance my knowledge of California wage-and-hour laws, including ongoing legal training and continuing education. I am a member of the Consumer Attorneys Association of Los Angeles (“CAALA”) and regularly consult and collaborate with other employment attorneys regarding California employment and labor laws.

6. Since opening my law firm, I have served as lead counsel or co-counsel in several wage and hour class and/or representative actions seeking wages and penalties on behalf of employees for which approval of the settlement has been granted, including, but not limited to, the following matters:

- a. *Espinoza v. Silverado Resort Services Group LLC*, 21CV001300 (Superior Court of California, County of Napa – wage-and-hour class action appointing Proxy Law Firm LLP as class co-counsel in settlement);
- b. *Giron v. Fior Di Sole, LLC*, FCS057441 (Superior Court of California, County of Solano – granting approval of PAGA representative action settlement);
- c. *Ochoa v. Estrella Radio Broadcasting of California LLC, et al.*, 21STCV14134 (Superior court of California, County of Los Angeles, granting approval of PAGA representative action settlement);
- d. *Arzate v. Stephen H. Smith Farms, Inc.*, CV-21-002057 (Superior Court of California, County of Stanislaus – granting approval of PAGA wage-and-hour representative action settlement)
- e. *Diaz v. A&W Farms LLC*, BCV-21-100836 (Superior Court of California, County of Kern – granting approval of representative action settlement);

- 1 f. *Sandoval v. David & Carolyn Santos Farm Management LLC, et. al*, 21CV-03307
2 (Superior Court of California – County of Merced – granting approval of
3 representative action settlement);
- 4 g. *Zepeda v. Sunshine Raisin Corporation, et al.*, CIVSB2133568 (Superior Court of
5 California, County of San Bernardino – granting approval of representative action
6 settlement);
- 7 h. *De La Trinidad v. Durango Foods, Inc., et al.*, C21-01819 (Superior Court of
8 California, County of Contra Costa – granting approval of wage-and-hour
9 representative action settlement).

10 7. On January 18, 2022, my office sent Plaintiff's PAGA Notice via online filing to the
11 California Labor & Workforce Development Agency ("LWDA") and to Defendant (via certified mail)
12 regarding Defendant's alleged Labor Code violations. Plaintiff's PAGA Notice was accompanied by a
13 filing fee of \$75.00. A true and correct copy of Plaintiff's PAGA Notice to the LWDA and to Defendant
14 is attached as **Exhibit "1."** The LWDA did not provide notice of its intention to investigate the
15 violations. To date, my firm is not aware of any opposition to this action by the LWDA.

16 8. Plaintiff filed a Complaint for Violation of the California Private Attorneys General Act
17 on March 28, 2022. Plaintiff represents himself and current and former non-exempt employees hired
18 by Defendant. This lawsuit is predicated on the following alleged Labor Code violations: (1) failure to
19 pay minimum wages; (2) Failure to Timely Pay Wages During Employment; (3) Failure to Pay All
20 Wages Due Upon Separation of Employment; and (4) Failure to Furnish Accurate Itemized Wage
21 Statements.

22 9. During the course of this litigation, the parties engaged in extensive discussions regarding
23 the facts and theories of the case and Defendant's defenses. The parties subsequently engaged in
24 numerous settlement discussions.

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1 THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE

2 10. My office analyzed Plaintiff's exposure analysis and legal arguments and Defendant
3 likewise presented their defenses and legal and factual arguments. After extensive settlement discussions
4 and negotiations, the parties were eventually able to resolve the case. A Gross Settlement Amount of
5 \$1,175,0000 (minus the requested Attorneys' Fees and Costs, Settlement Administration Costs, PAGA
6 Amount, and Enhancement Payments), which will be allocated to all Settlement Class Members on a
7 pro-rata basis. This relief would provide monetary relief for an estimated (1,474) Class Members as of
8 June 2024 who were employed by Defendant, from the Net Settlement Amount, which is currently
9 estimated to be Six Hundred Sixty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-
10 Four Cents (\$663,333.34). The relief is reasonable when viewed against the difficulties encountered by
11 plaintiffs pursuing wage and hour cases.

12 11. On or about April 2, 2024, the Parties fully executed the Settlement Agreement which is
13 now presented to this Court for approval. The settlement was reached after good faith, non-collusive,
14 arms-length negotiations between the parties represented by informed and experienced counsel.

15 12. Pursuant to the terms of the Settlement Agreement, Defendant will pay a total settlement
16 amount of \$1,175,000 (the Gross Settlement Amount). From this amount, one-third (1/3) is allocated to
17 Class Counsel for attorneys' fees in the amount of \$391,666.66 and up to \$30,000 is allocated to
18 litigation costs, \$50,000 shall be allocated to the resolution of the PAGA claim, of which 75% (\$37,500)
19 will be paid directly to the LWDA, and the remaining 25% (\$12,500) will be paid to the Individual
20 PAGA Payments, \$7,500 each to Plaintiffs will be allocated for Enhancement Payments, and up to
21 \$25,000 will be allocated for Settlement Administration Costs. The percentage award is commensurate
22 with the risks that our firm undertook in commencing and litigating this case on a contingency basis.

23 ATTORNEYS' FEES AND COSTS

24 13. The requested attorneys' fees of \$391,666.66, which is one-third of the common fund,
25 is a reasonable return for the relative strengths and weaknesses of the cases, the risks inherent to
26 litigation, and the defenses asserted by Defendant. Class Counsel has achieved an excellent result for
27 the Class during hard fought negotiations. My office has extensive experience in wage and hour disputes

1 and was able to use our extensive experience and skills to achieve this result. The Motion for Final
2 Approval will elaborate on the nature of the legal services provided, the time incurred in performing
3 those services, and Plaintiff's Counsel's hourly rates. The Motion for Final Approval will also elaborate
4 on the reimbursement for litigation costs not to exceed \$30,000.

5 14. Notice of the requested award of fees and costs is included the Class Notice to the Class.
6 See J. Genish Declaration ¶ 49. I am not aware of an alternative method of providing notice to the Class
7 which would result in a higher likelihood of actual notice.

8 15. I am fully familiar with the legal and factual issues in this matter and have specific
9 experience litigating complex wage and hour actions as set forth above. Besides myself, my partner at
10 Proxy Law Firm, Hengameh Safaei, whose practice is also actively devoted to the representation of
11 plaintiffs in employment class actions and representative actions. Ms. Safaei is a 2006 graduate of
12 University of California, Hastings College of the Law and has over sixteen years of litigation experience,
13 and has exclusively litigated employment cases since 2013. Since the inception of Proxy Law Firm LLP,
14 Ms. Safaei has focused her practice on the representation of employees against employers in California.

15 16. The requested fee was freely negotiated, is common in the legal marketplace is
16 commensurate with the risks that our firm undertook in commencing and litigating this case on a
17 contingency basis. The requested fees are also in line with attorneys' fee awards granted approval in
18 class and representative PAGA cases by courts in California. See *e.g.*, *Pomele v. Superior Healthcare*
19 *Equipment & Services, Inc.*, Superior Court of California, County of Sonoma, Case No. SCV-262733,
20 Order Granting Final Approval of Class Action Settlement and Judgment (the Honorable Judge Patrick
21 Broderick granted approval of class action settlement and awarded Plaintiff's counsel fees of one-third
22 of gross settlement amount); *Flores v. Santa Monica Seafood Company*, Superior Court of California,
23 County of Los Angeles, Case No. BC697666, Final Order and Judgment, November 17, 2020 (the
24 Honorable Judge Rafael A. Ongkeko granted approval of class action and PAGA settlement and
25 awarded Plaintiff's counsel attorneys' fees of 35% of gross settlement amount); *Gomez v. Fairway*
26 *Staffing Services, Inc.*, Superior Court of California, County of Los Angeles, Case No. BC689771, Order
27 Granting Plaintiff's Motion for Final Approval of Class Action Settlement, July 29, 2019 (the Honorable

1 Judge Kenneth R. Freeman granted approval of class action and PAGA settlement and awarded
2 Plaintiff's counsel attorneys' fees of 35% of gross settlement amount); *Salguero v. Deliv, Inc.*, Superior
3 Court of California, County of Los Angeles, Case No. 19STCV32534, Order Granting Final Approval
4 of Class Action Settlement, November 1, 2021 (the Honorable Judge Yolanda Orozco granted approval
5 of class action and PAGA settlement and awarded Plaintiff's counsel attorneys' fees of 35% of gross
6 settlement amount); *Banda v. Verizon California Inc.*, Superior Court of California, County of Los
7 Angeles, Case No. BC434587, Final Order Approving Settlement of Class Action, January 13, 2015
8 (the Honorable Judge Mitchell Beckloff granted approval of class action and PAGA settlement and
9 awarded Plaintiff's counsel attorneys' fees of 35% of gross settlement amount); *see also, Phillips v.*
10 *Merrill Gardens, LLC*, Superior Court of California, County of San Diego, Case No. 37-2015-00042785,
11 Final Approval Order and Judgment, March 19, 2018 (the Honorable Judge John S. Meyer granted
12 approval of class action and PAGA settlement and awarded Plaintiff's counsel attorneys' fees of 35%
13 of the gross settlement amount); *Robles v. Altamed Health Services Corporation*, Superior Court of
14 California, County of Los Angeles, Case No. BC639623, Order and Judgment Granting Approval of
15 Private Attorneys General Act Settlement Agreement, October 31, 2018 (the Honorable Judge David
16 Sotelo granted approval of PAGA settlement and awarded Plaintiff's counsel attorneys' fees of 35% of
17 gross settlement amount); *Lee v. Oberman Tivoli & Pickert, Inc.*, Superior Court of California, County
18 of Los Angeles, Case No. BC669680, Final Order and Judgment, July 16, 2020 (the Honorable Judge
19 David J. Buckley granted approval of PAGA settlement and awarded Plaintiff's counsel attorneys' fees
20 of 35% of gross settlement amount).

21 17. Proxy Law Firm has performed all the work on behalf of Plaintiff since the inception of
22 Plaintiff's case, including:

- 23 a. client intake and interviews;
- 24 b. fact investigation and evaluation;
- 25 c. research and analysis of alleged Labor Code violations;
- 26 d. preparation and filing of Plaintiff's PAGA Notice;
- 27 e. preparation and filing of Plaintiff's PAGA Complaint;

- f. review and evaluation of Defendant's document production;
- g. preparing discovery requests and responding to discovery requests;
- h. review notices, communications, and Orders from the Court;
- i. review and evaluation of Defendant's responses to informal exchange of information for settlement discussions;
- j. reviewing, revising, and/or preparing the Settlement Agreement; and
- k. reviewing, revising, and/or preparing law and motion papers, including the papers concerning this motion for approval; and coordinating approval of the settlement with opposing counsel.

18. The Settlement Agreement further allocates up to \$25,000 of the Gross Settlement Amount to payment for reputable third-party settlement administrator Apex Class Action LLC's costs associated with administration of the settlement.

REQUESTED ENHANCEMENT PAYMENT

19. For Plaintiff's efforts in assisting with the prosecution of the action, the Settlement Agreement allocates \$7,500 as a service award and general release payment to Plaintiff for his time and efforts in the prosecution of this action as the PAGA representative, the risk he undertook by attaching his name to this action, as well as for Plaintiff's general release. As set forth in Plaintiff's supporting declaration, filed concurrently, Plaintiff made very significant contributions in this instant lawsuit, including, gathering and providing valuable factual information, responding to inquiries regarding Defendant's positions and factual contentions, and engaging in repeated communications with counsel.

20. My office does not have any conflict of interest with any Class or PAGA-eligible aggrieved employee or the settlement administrator.

21. My office is not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct

3 Executed on May 15, 2024 at Los Angeles, California.

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6 _____
Rana Nader

EXHIBIT 1



PROXY LAW FIRM

10880 Wilshire Boulevard, Suite 1101
Los Angeles, CA 90024
Telephone: 310-853-8333
Facsimile: 310-861-5931

Hengameh S. Safaei, Esq.
Email: safaei@proxylawfirm.com
Rana Nader, Esq.
Email: nader@proxylawfirm.com
www.proxylawfirm.com

January 18, 2022

VIA CERTIFIED MAIL

Bradley Shames
CEO and Agent for Service of Process
American Textile Maintenance Company
1667 W. Washington Boulevard
Los Angeles, CA 90007

Human Resources
Republic Master Chefs
1664 W. Washington Blvd.
Los Angeles, CA 90007

VIA ONLINE FILING SYSTEM

PAGA Administrator
California Labor & Workforce Development Agency (LWDA)
pagafilings@dir.ca.gov

Re: Lucio Menjivar

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE § 2699.3
AND NOTICE OF INTENT TO FILE REPRESENTATIVE SUIT**

Dear PAGA Administrator at California Labor & Workforce Development Agency:

This firm represents Lucio Menjivar (“Mr. Menjivar”) in connection with claims arising from his employment with American Textile Maintenance Company, a California corporation; (“Employer”); Republic Master Chefs (entity form unknown); Republic Master Chefs Restaurant Linen Services (entity form unknown); Medico Professional Linen Service; and any other employer(s) or person(s) acting on behalf of Employer pursuant to Labor Code Sections 558, subdivision (a), and 558.1 including Employer’s Chief Executive Officer, Bradley Shames. Mr. Menjivar is an “aggrieved employee” as defined by Labor Code Section 2699 *et seq.* due to Employer’s violations of the Labor Code as set forth below. The purpose of this Notice is to comply with Labor Code Section 2699.3 which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. This Notice is being sent simultaneously to Employer via certified mail.

Employer is in the linen supply business. Mr. Menjivar is a former full-time, hourly, non-exempt employee of Employer. At all times relevant to this Notice, Mr. Menjivar has been over the age of eighteen (18) years. Mr. Menjivar was employed by Employer at Employer's factory located at 3001 E. Anaheim Street in Long Beach, California. Prior to his termination in or about February 2021, Mr. Menjivar was employed by Employer for almost sixteen years.

Pursuant to the California Private Attorneys General Act ("PAGA"), Mr. Menjivar seeks to represent and recover civil penalties on behalf of himself and other non-exempt "aggrieved employees" who have been subject to the Labor Code violations alleged herein. For purposes of this Notice, "aggrieved employees" includes all of Employer's current and former non-exempt employees in California who were subject to the following alleged policies and practices within one-year preceding the date of this Notice.

On information and belief, Employer committed the following violations of the Labor Code and the applicable Industrial Welfare Commission ("IWC") Wage Order(s), including but not limited to Wage Order No. 6-2001 regulating wages, hours, and working conditions in the laundry and linen supply industry.

The claims made on behalf of Mr. Menjivar and aggrieved employees are based on the facts and theories set forth in this Notice. Mr. Menjivar intends to pursue claims for PAGA penalties during the period of time from one year ago and ongoing (the "PAGA Period"). California Judicial Council Emergency Rule 9 tolled the statute of limitations for civil causes of action from April 6, 2020 until October 1, 2020. Therefore, the applicable PAGA Period is extended six months.

Mr. Menjivar intends to represent the State of California LWDA and the following group of aggrieved employees: Mr. Menjivar and all other individuals who are or were employed by Employer as non-exempt hourly-paid employees who worked at least one shift in California from one year ago (and as tolled by Emergency Rule 9) and ongoing. All such aggrieved employees were subject to Employer's alleged unlawful policies, as described in further detail below.

Minimum Wage Violations

California law requires employers to compensate employees for all hours worked. Employer was required to pay Mr. Menjivar and all other aggrieved employees an hourly rate at least equal to the minimum wage for each hour worked. *See* LABOR CODE §§ 1182.12, 1194, 1194.2, 1197; Wage Order No. 6-2001 § 4. Employer required Mr. Menjivar and all aggrieved employees to regularly perform work-off-the-clock for which they did not receive any compensation. Employer required Mr. Menjivar and all other aggrieved employees to undergo COVID-19 temperature checks before the start of their shift, and before they "clocked in." On information and belief, beginning in or around February or March 2020 and continuing to approximately July 2021, Mr. Menjivar and the aggrieved employees had to form a line to have temperature checks, underwent the same temperature checks on Employer's premises, and only afterward were they permitted to clock in for their shifts. At times, there were approximately 15 or more employees waiting in line for pre-shift temperature checks.

On information and belief, during the PAGA Period and in violation of Labor Code Sections 1194 and 1197 and the applicable IWC Wage Order(s), Employer failed to pay Mr.

Menjivar and other aggrieved employees the applicable minimum wages for all hours worked in a payroll period by, among other things: requiring, suffering, or permitting Mr. Menjivar and other aggrieved employees to work off the clock for COVID-19 temperature checks before the start of their shifts, and before they “clocked in.”

Although Employer maintained a common policy and practice of requiring Mr. Menjivar and the aggrieved employees to undergo pre-shift for COVID-19 temperature checks during the PAGA Period, Employer failed to compensate Mr. Menjivar and the other aggrieved employees for such time. Employer’s aggrieved employees could not avoid Employer’s COVID-19 temperature checks. As such, Employer exercised compensable control over the aggrieved employees who underwent temperature checks.

The California Department of Industrial Relations (“DIR”) has issued direct guidance confirming that time associated with worksite temperature checks should be paid by employers.¹ The guidance is directly on point. “[W]hile not controlling upon the courts by reason of their authority,” these opinions by the DIR “do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance.” *Seymore v. Metson Marine, Inc.*, 194 Cal.App.4th 361, 369, fn. 5 (2011); *see also Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 584 (2000). The DIR opines as follows:

Medical Checks, Testing, and Vaccinations

10. Q: Must my employer pay me for time spent at my employer’s worksite completing certain medical checks (including temperature checks) before beginning a shift?

A: Yes. Employers must pay workers for all hours worked, including time that a worker is under the control of the employer. **Employers that require their workers to complete a medical check in order to begin a shift, even if it is recommended under public health orders, must compensate workers for that time worked.**

The term “hours worked” means the time during which a worker is subject to the control of an employer, and includes all the time the worker is suffered or permitted to work, whether or not required to do so. Under this definition, one way to determine whether time a worker spends performing a task is compensable—that is, whether it is time “worked”—is whether the employer exercised control over the worker by requiring the worker to perform that task.

If an employer requires that all workers perform a medical check (such as a temperature check) onsite before beginning a shift, the time completing the medical check, including any time waiting in line, would constitute time worked. This requirement applies even if such tasks were performed pursuant to a state or local public health guideline, because the check is done at the request and thus under the control of the employer.

¹ See, Cal. Dept. of Industrial Relations, Safe Reopening FAQs for Workers and Employers (July 8, 2021), available at https://www.dir.ca.gov/covid19/FAQs_COVID-19_Safe_Reopening.htm

Similarly, the United States Department of Labor (“DOL”), Wage and Hour Division also determined that time associated with COVID-19 health screenings during the workday is compensable under the Fair Labor and Standards Act (“FLSA”).² The DOL states:

Temperature Checks/Health Screenings

6. If I am required to complete a COVID-19 health screening for myself during the workday, is such time compensable?

Yes, if you are required to complete a health screening during your workday, your employer must pay you for that time. All time between the start and finish of an employee’s workday must be paid unless it falls within one of the exceptions stated in 29 C.F.R. Part 785, such as bona fide meal breaks and off-duty time. Specifically, WHD’s regulations require that employees be paid for time spent in waiting for and receiving medical attention required by their employer during the workday. The same logic applies to a COVID-19 health screening required by your employer during your workday.

Through its systematic policy and practice of requiring Mr. Menjivar and other aggrieved employees to undergo pre-shift COVID-19 temperature checks, Employer clearly violated Labor Code Section 1194. As a result of Employer’s unlawful practices, which failed to compensate for all hours worked, Mr. Menjivar and all other aggrieved employees were deprived of all required minimum wages. As a further result of Employer’s failure to pay all minimum wages, Employer failed to timely pay Mr. Menjivar and all other aggrieved employees all wages owed at the time of their separation from employment. As a further result of Employer’s failure to pay minimum wages, Employers failed to timely pay Mr. Menjivar and other aggrieved employees all wages earned at least twice during each calendar month. LABOR CODE § 204.

Wage Statement Violations

Employer was required to furnish Mr. Menjivar and other aggrieved employees with timely, complete, and accurate itemized wage statements that showed, among other things: (1) gross wages earned, (2) total hours worked by the employee (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. LABOR CODE § 226(a); *see also*, LABOR CODE § 1174, subd. (d).

² *See*, DOL, Wage and Hour Division, COVID-19 and the Fair Labor Standards Act Questions and Answers available online at <https://www.dol.gov/agencies/whd/flsa/pandemic#6>

Employer knowingly and intentionally failed to pay Mr. Menjivar and all aggrieved employees all minimum wages associated with COVID-19 temperature checks. Accordingly, all wage statements contained inaccurate information as to hours worked and wages earned since the time spent on pre-shift COVID-19 temperature checks were never included.

As a result of Employer's unlawful policies and practices and its failure to pay all minimum wages, Employer maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Menjivar and other aggrieved employees in violation Labor Code Section 226. Employer's failure to comply with its wage statement obligations was knowing and intentional, and aggrieved employees have suffered injury as a result.

Waiting Time Penalties

Labor Code Sections 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Employer failed to timely pay Mr. Menjivar and other aggrieved employees all of their final wages at the time of their separation, which final pay was to include, but did not include all minimum wages associated with COVID-19 temperature checks. Employer's failure to pay all final wages due to Mr. Menjivar and other aggrieved employees was willful and thus entitles Mr. Menjivar and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Employer failed to pay their final wages after separation, up to a maximum of thirty (30) days. LABOR CODE § 203.

Failure to Maintain Accurate Records

Despite its record-keeping obligations, Employer failed to maintain accurate records on behalf of Mr. Menjivar and all other aggrieved employees. LABOR CODE § 1174.

As an "aggrieved employee" Mr. Menjivar intends to initiate a civil action on behalf of himself and all other aggrieved employees to recover civil penalties resulting from the wage and hour violations described above. Based on information and belief and investigation to date, Employer has committed the following alleged Labor Code violations:

1. Labor Code §§ 1194, 1197 by failing to pay Mr. Menjivar and all other aggrieved employees all minimum compensation;
2. Labor Code §§ 226, *et seq.*, by failing to furnish timely, accurate and compliant itemized wage statements;
3. Labor Code §§ 201-203 by failing to timely pay all final wages due to Mr. Menjivar and all other aggrieved employees upon their separation of employment;
4. Labor Code § 204 by failing to pay Mr. Menjivar and all other aggrieved employees all wages earned at least twice during each calendar month; and
5. Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Mr. Menjivar and all aggrieved employees.

Pursuant to Labor Code Section 2699.3, subdivision (a)(2)(A), please notify us within 65 calendar days of the postmark date of this Notice whether the LWDA intends to investigate these alleged violations.

January 18, 2022

Page 6

This Notice sets forth the basis of Mr. Menjivar's grievances, rights, and remedies under the Labor Code and the PAGA. We appreciate your attention to this matter.

Please do not hesitate to contact us if you require any additional information.

Very truly yours,
PROXY LAW FIRM LLP



Hengameh S. Safaei

cc: (via certified mail)

Bradley Shames
CEO and Agent for Service of Process
American Textile Maintenance Company
1667 W. Washington Boulevard
Los Angeles, CA 90007

Human Resources
Republic Master Chefs
1664 W. Washington Blvd.
Los Angeles, CA 90007