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VENTURA
SUPERIOR COURT
FILED

APR 08 2016

MICHAEL D. PLANET
Executive Officer and Clerk

BY: S. Logere, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF VENTURA

56-2016-00480241-CU-OE-VTA

ENRIQUE MATA as an individual and on behalf
of all employees similarly situated;

Case No.
Assigned to:

Plaintiff,

CLASS ACTION COMPLAINT

v.

SIMI VALLEY RECYCLING CENTER, INC., a
California Corporation; WADE SCHLOSSER, an
individual; and DOES 1 through 10, inclusive

Defendants.

- (1) **FAILURE TO PAY ALL OVERTIME WAGES (LABOR CODE §§ 204, 510, 558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS (LABOR CODE §§ 1182.12, 1194, 1194.2, 1197);**
- (3) **REST PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 516, 558);**
- (4) **MEAL PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 512, 558);**
- (5) **WAGE STATEMENT VIOLATIONS (LABOR CODE §§ 226, 1174, 1174.5);**
- (6) **WAITING TIME PENALTIES (LABOR CODE §§ 201 – 203);**
- (7) **UNFAIR COMPETITION (BUS & PROF CODE §§ 17200 *et seq.*);**
- (8) **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698 *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff ENRIQUE MATA ("Plaintiff") on behalf of himself and all others similarly situated,
2 hereby brings this Class and Representative Action Complaint against Defendants SIMI VALLEY
3 RECYCLING CENTER, INC., ("Defendant") and DOES 1 through 10, inclusive, and on information
4 and belief alleges as follows:

5 JURISDICTION AND VENUE

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this class
7 and representative action for recovery of unpaid wages and penalties under California Business and
8 Professions Code section 17200 *et. seq.*, California Labor Code sections 201, 202, 203, 204, 210, 216,
9 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and
10 Industrial Welfare Commission Wage Order No. 4 ("IWC Wage Order"), in addition to seeking
11 injunctive relief, declaratory relief, and restitution. This Court has jurisdiction over Defendants'
12 violations of these California Labor Code and Business and Professions Code sections because the
13 amounts in controversy exceed this Court's jurisdictional minimum.

14 2. Venue is proper under Code of Civil Procedure sections 395(a) and 395.5 because
15 Defendant's principal place of business is in Ventura County and the acts alleged herein took place
16 within Ventura County. Further, Plaintiff does, and at all times relevant herein did, reside in Ventura
17 County and was employed by Defendants and DOES 1 through 10 within Ventura County.

18 ADMINISTRATIVE REMEDIES

19 3. Prior to filing this Complaint, on March 2, 2016, Plaintiff gave written notice by
20 certified mail to the LWDA and to Defendants of the specific provisions he alleges Defendant violated,
21 including the facts and theories to support these alleged violations as required by Labor Code section
22 2699.3. Please see a true and correct copy of Plaintiff's letter to the LWDA attached hereto as Exhibit
23 "A."

24 PARTIES

25 Plaintiff:

26 4. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
27 Plaintiff was, and is a resident of the County of Ventura, State of California. During the four years
28 immediately preceding the filing of the Complaint in this action and within the statute of limitations

1 periods applicable to each cause of action pled therein, Defendant employed Plaintiff as an hourly non-
2 exempt employee. Plaintiff was, and is, a victim of Defendant's policies and/or practices complained
3 of, lost money and/or property, and has been deprived of the rights guaranteed to him by the California
4 Labor Code.

5 **Defendant:**

6 5. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned
7 herein, Defendant SIMI VALLEY RECYCLING CENTER, INC., is a California corporation licensed
8 to do business in California and the County of Ventura, and is or was the employer of Plaintiff and the
9 Plaintiff Class.

10 6. Plaintiff is informed and believes, and based thereon alleges, that during the four years
11 preceding the filing of the Complaint and continuing to the present, Defendants did (and do) business
12 by owning and operating a recycling facility in Ventura County, and employed Plaintiff and other,
13 similarly-situated hourly non-exempt employees within Ventura County and, therefore, were (and are)
14 doing business in Ventura County and the State of California.

15 7. Plaintiff is informed and believes, and thereon alleges, that Defendant WADE
16 SCHLOSSER is the sole owner of Defendant SIMI VALLEY RECYCLING CENTER, INC., and
17 caused and is individually liable for the unpaid wages, statutory, and civil penalties under the relevant
18 IWC Wage Orders and California Labor Code, including section 558 of the California Labor Code,
19 which authorizes the recovery of civil penalties and unpaid wages from "any employer or other person
20 acting on behalf of an employer." Defendant WADE SCHLOSSER is an individual residing in
21 Westlake Village, California.

22 8. Each defendant acted as an agent, servant, employee, or alter ego for each of the other
23 defendants and in doing so, each defendant acted within the course, scope and under its or his authority
24 as an agent, servant, employee, or alter ego of every other defendant. Each defendant ratified,
25 permitted, consented to, or otherwise authorized and adopted the alleged acts and/or omissions of, and
26 any statements made by, the other defendants.

27 9. Each defendant is in some manner legally responsible for the acts and liabilities alleged
28 herein, and any harm or damages sustained by Plaintiff was and continues to be the direct, proximate,

1 and foreseeable result of the acts and/or omissions of defendants, and each of them.

2 10. Plaintiff does not know the true names, capacities, relationships and/or the extent of
3 participation of Defendants DOES 1 through 10, inclusive, in the conduct alleged in this Complaint.
4 For that reason, Defendants DOES 1 through 10, inclusive, are sued under such fictitious names.
5 Plaintiff prays for leave to amend this Complaint when the true names and capacities are known.
6 Plaintiff is informed and believes, and based thereon alleges, that each fictitiously named defendant is
7 and was responsible in some way for the alleged wage and hour violations and other wrongful conduct
8 which subjected Plaintiff and the classes, as defined below, to the illegal employment practices, wrongs
9 and injuries complained of herein. All references in this Complaint to "Defendants" shall be deemed to
10 include all DOE Defendants.

11 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

12 11. California Labor Code section 1194 states "[n]otwithstanding any agreement to work for
13 a lesser wage, any employee receiving less than the legal minimum wage... it entitled to recover in a
14 civil action the unpaid balance of the full amount of this minimum wage... including interest thereon,
15 reasonable attorney's fees, and costs of suit."

16 12. Further, Business and Professions Code section 17203 provides that any person who
17 engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and
18 Professions section 17204 provides that any person who has suffered actual injury and has lost money
19 or property as a result of the unfair competition may bring an action in a court of competent
20 jurisdiction.

21 13. During all, or a portion of the Class Period, Plaintiff and each member of the Plaintiff
22 Class was employed by Defendant in the State of California. Plaintiff was employed by Defendants as a
23 non-exempt employee at its recycling facility located in Simi Valley, California, located in the County
24 of Ventura, for more than four years prior to filing this complaint.

25 14. During his employment with Defendants, Plaintiff's job duties mainly consisted of
26 separating the different materials at the facility to be recycled.

27 15. Plaintiff and Class Members were non-exempt employees covered under one or more
28 IWC Wage Order(s), Labor Code section 510, and/or other applicable wage orders, regulations and

1 statutes, and each Class Member was not subject to an exemption for executive, administrative, or
2 professional employees, which imposed obligations on the part of Defendants to pay Plaintiff and Class
3 Members lawful overtime compensation.

4 16. Plaintiff's regular work week schedule for Defendants was Monday through Friday.
5 Plaintiff's regular scheduled work hours were 8 a.m. until 3 p.m., Plaintiff and Class Members
6 routinely worked past 3 p.m., however Plaintiff was never provided any pay for hours worked past 3
7 p.m.

8 17. Additionally, Plaintiff and Class Members also worked twice a month on Saturdays for
9 Defendants from approximately 8 a.m. until 3 p.m. It was the uniform policy and practice of
10 Defendants not to include these hours worked by Class Members on their wage statements, and also
11 paid Class Members in cash, in an amount less than the legal minimum wage.

12 18. In addition to the extended hours Class Members worked on Saturdays, Defendants
13 placed extreme pressure on Class Members to complete their work before incurring any overtime,
14 through hostility, threats, and commands, causing Class Members to be denied a legally-compliant,
15 uninterrupted 30-min meal break before the fifth hour. In order to meet the expectations and demands
16 of Defendants on Saturdays, Class Members endured long hours without any rest breaks.

17 19. Plaintiff and Plaintiff Class were covered by one or more IWC Wage Order(s), and
18 Labor Code section 226.7 and other applicable wage orders, regulations, and statutes which imposed an
19 obligation on the part of Defendants to pay Plaintiff and Plaintiff Class rest and meal period
20 compensation.

21 20. Despite Defendants' failure to provide Plaintiff and other hourly non-exempt employees
22 with all rest and meal periods to which they were legally entitled due to their uniform and unlawful
23 policies, Defendants never provided Plaintiff and other hourly non-exempt employees with an hour of
24 pay at their regular rate for each meal and rest period violation as required by Labor Code section
25 226.7.

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21. As a result of the foregoing violations, Defendants maintained inaccurate payroll records, issued inaccurate wage statements to Plaintiff, and failed to timely pay Plaintiff and other hourly non-exempt employees all final wages due at the time of separation from Defendants' employment.

CLASS ACTION ALLEGATIONS

22. Plaintiff brings this action on behalf of himself and all other similarly situated persons as a class action pursuant to Code of Civil Procedure section 382. The class is composed of and defined as follows:

- a. All persons who are employed or have been employed by Defendants in the State of California, and who, within the four years of the filing of this Complaint to the present, have worked as non-exempt employees and were not paid all wages owed including, but not limited to, the legally requisite regular time rate, overtime rate, and/or double-time rate;
- b. All persons who are employed or have been employed by Defendant in the State of California, and who, within the four years of the filing of this Complaint to the present, have worked as non-exempt employees and have not been provided a meal period for shifts in excess of six (6) hours within the first five (5) hours of such shifts, and were not provided one (1) hour's pay for each day on which lawful meal periods were not provided;
- c. All persons who were employed or have been employed by Defendants in the State of California, and who, within the four years of the filing of this Complaint to the present, have worked as non-exempt employees and have not been provided a rest period for every four hours, or major fraction thereof, worked per day, and were not provided compensation of one (1) hour's pay for each day on which such rest period was not provided;
- d. All persons who are employed or have been employed by Defendants in the State of California, and who, within the three years of the filing of this Complaint to the present, have worked as non-exempt employees and have been terminated;

- 1 e. All persons who are employed or have been employed by Defendants in the State of
2 California, and who, within the four years of the filing of this Complaint to the present,
3 have worked as non-exempt employees and were not provided an accurate payroll
4 record or wage statement as required under Labor Code sections 226 and 1174;
- 5 f. All persons who are employed or have been employed by Defendants in the State of
6 California, and who, within four years of the filing of this Complaint to the present, have
7 worked as non-exempt employees and were subjected to unlawful and unfair business
8 practices within the meaning of California's Unfair Competition Law and who suffered
9 injury, including lost money, as a result of Defendant's unlawful and unfair business
10 practices; and
- 11 g. All persons who are employed or have been employed by Defendant in the State of
12 California, and who, within the four years of the filing of this Complaint to the present,
13 have worked as non-exempt employees and are entitled to recover unpaid wages,
14 overtime compensation, rest and meal period compensation and penalties, waiting time
15 penalties, and attorneys' fees and costs from Defendant under Labor Code section 2698
16 et seq.

17 23. Plaintiff reserves the right under Rule 1855, subdivision (b) of the California Rules of
18 Court to amend or modify the Class description with greater specificity or further division into
19 subclasses or limitation to particular issues.

20 24. This action has been brought and may be maintained as a class action pursuant to Code
21 of Civil Procedure section 382 because there is a well-defined common interest of many persons and it
22 is impractical to bring them all before the court.

23 25. This Court should permit this action to be maintained as a class action pursuant to Code
24 of Civil Procedure section 382 because:

- 25 (a) The questions of law and fact common to the Plaintiff Class predominate over
26 any question affecting only individual class members;
- 27 (b) A class action is superior to any other available method for the fair and efficient
28 adjudication of the claims of the Class Members;

- 1 (c) The Plaintiff Class is so numerous that it is impractical to bring all Class
2 Members before the Court;
- 3 (d) Plaintiff and Class Members will not be able to obtain effective and economic
4 legal redress unless the action is maintained as a class action;
- 5 (e) There is a community of interest in obtaining appropriate legal and equitable
6 relief for the common law and statutory violations and other improprieties and
7 in obtaining adequate compensation for the damages and injuries which
8 Defendant's actions have inflicted upon the Plaintiff Class;
- 9 (f) There is a community of interest in ensuring that the combined assets and
10 available insurance of Defendant is sufficient to adequately compensate Class
11 Members for the injuries sustained;
- 12 (g) Without class certification, the prosecution of separate actions by individual
13 members of the Plaintiff Class would create a risk of:
- 14 (1) Inconsistent or varying adjudications with respect to individual Class
15 Members which would establish an incompatible standard of conduct for
16 Defendant; and/or
- 17 (2) Adjudications with respect to individual Class Members which would,
18 as a practical matter, be dispositive of the interests of other Class
19 Members not parties to the adjudications, or would substantially impair
20 or impede their ability to protect their interests, including but not limited
21 to the potential for exhausting the funds available from those parties who
22 are, or may be, a responsible Defendant; and
- 23 (h) Defendant has acted or refused to act on grounds generally applicable to the
24 Plaintiff Class, thereby making final injunctive relief appropriate with respect to
25 the Plaintiff Class as a whole.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME WAGES**

3 **(Against all Defendants)**

4 21. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 20 as though
5 fully set forth herein.

6 22. This cause of action is brought on behalf of the Overtime Class pursuant to Labor Code
7 sections 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to all
8 overtime wages and compensation for hours worked, and provide a private right of action for the failure
9 to pay all overtime compensation for overtime work performed.

10 23. Plaintiffs and members of the Overtime Class worked overtime hours. At all times
11 relevant herein, Defendants were required to properly compensate hourly non-exempt employees,
12 including Plaintiff and members of the Overtime Class, for all overtime hours worked pursuant to
13 California Labor Code section 1194 and IWC Wage Order No. 4-2001. Wage Order 4-2001, section 3
14 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of
15 pay" for work in excess of 8 hours per work day and/or in excess of forty (40) hours of work in the
16 workweek. Wage Order 4, section 3 also requires an employer to pay an employee double the
17 employee's regular rate of pay for work in excess of twelve (12) hours each work day and/or for work
18 in excess of eight (8) hours on the seventh consecutive day of work in the workweek.

19 24. Plaintiff is informed and believes, and based thereon alleges that, Defendants regularly
20 and systematically, as a policy and practice, and impermissibly rounded their hours worked which
21 resulted, over a period of time, in the failure to properly compensate them with all required overtime
22 wages. Accordingly, Plaintiffs and members of the Overtime Class were not compensated at the
23 appropriate rates of overtime pay for all hours worked.

24 25. Defendants' policy and practice of requiring overtime work and not paying at the proper
25 overtime rates for said work violates California Labor Code sections 204, 210, 216, 510, 558, 1194, and
26 1198, and IWC Wage Order 4.

27 26. Plaintiff is informed and believes and thereon alleges that the job duties and
28 responsibilities of the Overtime Class are irrelevant because Plaintiff and all others similarly situated

1 merely allege wrongdoing with Defendants' pay policies and practices as to calculating the amount of
2 overtime pay for overtime worked by members of the Overtime Class.

3 27. The foregoing policies and practices are unlawful and create an entitlement to recovery
4 by Plaintiff and members of the Overtime Class in a civil action for the unpaid amount of overtime
5 premiums owing, including interest thereon, statutory penalties, civil penalties, attorney's fees, and
6 costs of suit according to California Labor Code sections 204, 210, 216, 510, 558, 1194, 1198, 2698 *et*
7 *seq.* and Code of Civil Procedure section 1021.5.

8
9 **SECOND CAUSE OF ACTION**
10 **MINIMUM WAGE VIOLATIONS**
11 **(Against All Defendants)**

12 28. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 as though
13 fully set forth herein.

14 29. Wage Order 4-2001, section 4 and California Labor Code sections 1197 and 1182.12
15 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by
16 state law. Labor Code section 1194(a) and 1194.2(a) provide that an employee who has not been paid
17 the legal minimum wage as required by Labor Code section 1197 may recover the unpaid balance
18 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the
19 unpaid wages and interest accrued thereon.

20 30. At all relevant times herein, Defendants failed to conform their pay practices to the
21 requirements of the law. This unlawful conduct includes, but is not limited to, regularly and
22 systematically, as a policy and practice, impermissibly rounding the hours worked by Plaintiff and
23 members of the Minimum Wage Class such that, over a period of time, resulted in the failure to
24 compensate them for all hours actually worked. Accordingly, Plaintiff and members of the Minimum
25 Wage Class were not compensated for all hours worked including, but not limited to, all hours they
26 were subject to the control of Defendants and/or suffered or permitted to work under the California
27 Labor Code and applicable Industrial Welfare Commission wage order(s).

28 31. Defendants' policy and practice of not paying all minimum wages violates California

1 Labor Code sections 204, 210, 216, 558, 1182.12, 1197.1, 1198, 2698 *et seq.*, and the applicable
2 Industrial Welfare Commission wage order(s).

3 32. Such a practice and uniform administration of corporate policy regarding illegal
4 employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of
5 the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated
6 damages, including interest thereon, statutory penalties, civil penalties, attorney's fees, and costs of suit
7 according to California Labor Code sections 204, 210, 216, 558, 1194, 1198, and 2698 *et seq.*, and
8 Code of Civil Procedure section 1021.5.

9 33. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
10 members of the Minimum Wage Class seek penalties pursuant to the IWC Wage Order No. 4, section
11 20(A) and California Labor Code section 1199; interest pursuant to California Labor Code sections
12 218.6 and 1194 and Civil Code sections 3287 and 3289; liquidated damages pursuant to California
13 Labor Code section 1194.2; attorneys' fees and costs of suit pursuant to California Labor Code section
14 1194 *et seq.*; and damages and/or penalties pursuant to California Labor Code section 558(a).

15
16 **THIRD CAUSE OF ACTION**

17 **REST PERIOD VIOLATIONS**

18 **(Against Simi Valley Recycling Center Inc.)**

19 34. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 33 as though
20 fully set forth herein.

21 35. Wage Order 4-2001, section 12 and California Labor Code sections 226.7, 516 and 558
22 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each
23 four (4) hour period worked, or major fraction thereof.

24 36. Plaintiff is informed and believes that Defendants failed to make rest periods available
25 to non-exempt employees and maintained an unlawful, class-wide rest period policy, which only
26 provided Plaintiff and members of the Rest Period Class with two ten-minute breaks for each work day,
27 as opposed as opposed to providing "ten (10) minutes net rest time per four (4) hours, or major fraction
28 thereof," as required by IWC Wage Order No. 4, section 12.

37. As a result of Defendants' failure to make rest periods available to non-exempt employees and an unlawful, class-wide rest period policy that fails to provide all required rest periods as it fails to give effect to the "major fraction" language of the Wage Order, Plaintiff and members of the Rest Period Class were not provided with all rest periods to which they were entitled under California law. Even though Plaintiff and members of the Rest Period Class worked more than ten (10) hours per workday, Plaintiff and members of the Rest Period Class were deprived of all of the rest periods that they were entitled to as a result of Defendants' class-wide rest period policy. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Rest Period Class at their regular rate of pay as required by Labor Code section 226.7.

38. The foregoing policies and practices are unlawful and create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interest thereon, statutory penalties, civil penalties, attorney's fees, and costs of suit according to California Labor Code sections 226.7, 516, 558, and Civil Code sections 3287(b) and 3289.

FOURTH CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(Against Simi Valley Recycling Center Inc.)

39. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 38 as though fully set forth herein.

40. Defendants failed in their affirmative obligation to provide all of their hourly non-exempt employees, including Plaintiff and members of the Meal Period Class, with proper meal periods in accordance with the mandates of the California Labor Code and IWC Wage Order 1-2001. As such, Defendants are responsible for paying premium pay at the employees' respective regular rate of pay for meal period violations pursuant to Labor Code sections 226.7, 512, and 558, and IWC Wage Order No. 4-2001.

41. Plaintiff is informed and believes that Defendants maintained an unlawful, class-wide meal period policy, which only provided Plaintiff and members of the Meal Period Class with one 30-minute meal period for each work day, as opposed to also providing a second, 30-minute duty-free

1 meal period before the end of the tenth (10th) hour of work for working more than ten (10) hours per
2 day. Even though Plaintiff and members of the Meal Period Class worked more than ten (10) hours
3 per day, Plaintiff and members of the Meal Period Class were deprived of all of the meal periods that
4 they were entitled to as a result of Defendants' unlawful class-wide meal period policy. Despite
5 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and the Meal
6 Period Class at their respective regular rates of pay per California Labor Code sections 204, 210,
7 226.7, and 512.

8 42. The foregoing policies and practices are unlawful and create an entitlement to recovery
9 by Plaintiff and members of the Meal Period Class in a civil action for the unpaid amount of meal
10 period premiums owing, including interest thereon, statutory penalties, civil penalties, attorney's fees,
11 and costs of suit according to California Labor Code sections 226.7, 512, 516, 558, and Civil Code
12 sections 3287(b) and 3289.

13 **FIFTH CAUSE OF ACTION**

14 **WAGE STATEMENT VIOLATIONS**

15 **(Against all Defendants)**

16 43. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 42 as though
17 fully set forth herein.

18 44. Plaintiff is informed and believes, and based thereon alleges that, Defendants
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish her and
20 members of the Wage Statement Class with accurate and complete wage statements regarding their
21 amount of overtime pay, total gross wages earned, rest period premiums, meal period premiums, total
22 net wages earned, in violation of Labor Code section 226. Labor Code section 226(e) provides that if
23 an employer knowingly and intentionally fails to provide a statement itemizing, inter alia, the gross
24 and net wages earned, the total hours worked by the employee and the applicable hourly overtime
25 rates, causing the employee injury, then the employee is entitled to recover the greater of all actual
26 damages or fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for each
27 subsequent violation, up to four thousand dollars (\$4000). Plaintiff is informed and believes that
28 Defendant wilfully failed to make or keep accurate records for Plaintiffs and members of the class.

1 45. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with
2 complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among
3 other things, the non-payment of all their overtime and minimum wages, rest period premiums, meal
4 period premiums, and deprived them of the information necessary to identify the discrepancies in
5 Defendants' reported data.

6 46. Defendants' failures create an entitlement to recovery by Plaintiff and members of the
7 Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code section
8 226, including statutory penalties, civil penalties, reasonable attorney's fees, and costs of suit according
9 to California Labor Code sections 226 and 226.3.

10 47. California Labor Code section 1174 requires California employers to keep records
11 showing the names and addresses of all employees employed, and to keep at a central location in the
12 State of California or at the plants or establishments which employees are employed, payroll records
13 showing the hours worked daily by, and the wages paid to, all employees employed at the respective
14 plants or establishments. IWC Wage Order No. 4, section 7(A)(3) further requires employers to keep
15 accurate time records showing when the employee begins and ends each work period. Under section
16 7(A)(5), employers must also record each employee's total hours worked and applicable rates of pay,
17 and must make such information "readily available" to the employee upon request.

18 48. Defendants' policies and/or practices of failing to pay overtime and minimum wages,
19 failing to correctly calculate the regular rate of pay for the Overtime Class, failing to pay rest period
20 premiums for the Rest Period Class, failing to pay meal period premiums for the Meal Period Class,
21 and failing to include all required information on the wage statements of the Wage Statement Class,
22 have caused these individuals to suffer and they will continue to suffer actual economic harm from the
23 violations set forth above, as they have been, and will continue to be, precluded from accurately
24 monitoring the wages to which they are entitled, have been required to retain counsel and other experts
25 or consultants to evaluate and calculate unpaid wages, and have suffered delays in receiving the wages and
26 interest that are due and owing to them. Defendants' ongoing violations of the aforementioned
27 recordkeeping laws have caused and will continue to cause, irreparable harm to Plaintiff and members
28 of the above classes because as long as Defendants fail to maintain required records, these individuals

1 will be unable to determine or demonstrate the precise number of hours actually worked, unpaid wages
2 and penalties owed to them.

3 49. By willfully failing to maintain the records required by California Labor Code section
4 1174(c), or accurate and complete records required by section 1174(d), Defendants are also liable for a
5 civil penalty of \$500 for each violation under section 1174.5.

6
7 **SIXTH CAUSE OF ACTION**
8 **WAITING TIME PENALTIES**
9 **(Against all Defendants)**

10 50. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 49 as though
11 fully set forth herein.

12 51. This cause of action is brought pursuant to Labor Code sections 201-203 which requires
13 an employer to pay all wages immediately at the time of termination of employment in the event the
14 employer discharges the employee or the employee provides at least seventy-two (72) hours of notice
15 of his/her intent to quit. In the event the employee provides less than seventy-two (72) hours of notice
16 of his/her intent to quit, said employee's wages become due and payable not later than seventy-two
17 (72) hours upon said employee's last date of employment.

18 52. Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all of
19 their final wages at the time of termination, which includes, among other things, overtime and
20 minimum wages, rest period premiums, and meal period premiums. Further, Plaintiff is informed and
21 believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants
22 continue to fail to pay members of the Waiting Time Class all earned wages at the end of employment
23 in a timely manner pursuant to the requirements of Labor Code sections 201-203. Defendants' failure
24 to pay all final wages was and is willful within the meaning of Labor Code section 203.

25 53. Defendants' wilful failure to timely pay Plaintiff and members of the Waiting Time
26 Class their earned wages upon separation from employment results in a continued payment of wages
27 up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and members of the
28 Waiting Time Class are entitled to compensation pursuant to Labor Code section 203, plus reasonable

1 attorneys' fees and costs of suit.

2 **SEVENTH CAUSE OF ACTION**

3 **UNFAIR COMPETITION**

4 **(Against all Defendants)**

5 54. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 53 as though
6 fully set forth herein.

7 55. Defendants have engaged and continue to engage in unfair and/or unlawful business
8 practices in California in violation of California Business and Professions Code section 17200 et seq.,
9 by: (a) failing to pay Plaintiff and members of the Overtime Class all overtime wages owed due to
10 unlawfully rounding hours worked; (b) failing to pay Plaintiff and members of the Minimum Wage
11 Class all minimum wages owed due to unlawfully rounding hours worked; (c) knowingly failing to
12 furnish Plaintiff and members of the Wage Statement Class with accurate and complete wage
13 statements in violation of Labor Code section 226; (d) wilfully failing to timely pay Plaintiff and
14 members of the Waiting Time Class all final wages upon termination of employment; (e) failing to
15 keep accurate records of the time worked for Plaintiff and members of the Record Keeping Class; (f)
16 failing to provide Plaintiff and members of the Rest Period Class with all rest periods to which they are
17 entitled, or failing to pay them rest period premiums at the employee's regular rate of pay in lieu
18 thereof when a rest period was not made available; and (g) failing to provide Plaintiff and members of
19 the Meal Period Class with all meal periods to which they are entitled, or failing to pay them meal
20 period premiums at the employee's regular rate of pay in lieu thereof when a meal period was not
21 provided.

22 56. Defendants' utilization of these unfair and/or unlawful business practices deprived
23 Plaintiff, and continues to deprive members of the classes, of compensation to which they are legally
24 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
25 Defendants' competitors who have been and/or are currently employing workers and attempting to do
26 so in honest compliance with applicable wage and hour laws.

27 57. Because Plaintiff was a victim of Defendants' unfair and/or unlawful conduct alleged
28 herein, Plaintiff for herself and on behalf of the members of the Classes, seek full restitution of monies,

1 as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted
2 by the Defendants pursuant to Business and Professions Code sections 17203 and 17208.

3 58. The acts complained of herein occurred within the last four years immediately preceding
4 the filing of the Complaint in this action.

5 59. Plaintiff was compelled to retain the services of counsel to file this court action to
6 protect their interests and those of the Classes, to obtain restitution, to secure injunctive relief on
7 behalf of Plaintiff and Defendants' other current hourly non-exempt employees, and to enforce
8 important rights affecting the public interest. Plaintiff thereby incurred the financial burden of
9 attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure section 1021.5.

10 **EIGHTH CAUSE OF ACTION**

11 **PRIVATE ATTORNEYS GENERAL ACT**

12 **(Against all Defendants)**

13 60. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 59 as though
14 fully set forth herein.

15 61. Defendants have committed several Labor Code violations against Plaintiff, members of
16 the Classes, and other similarly aggrieved employees.

17 62. Plaintiff, as an "aggrieved employee" within the meaning of Labor Code section 2698 *et*
18 *seq.*, acting on behalf of herself and other similarly aggrieved employees, brings this representative
19 action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes,
20 other similarly aggrieved employees, and the State of California according to proof pursuant to Labor
21 Code sections 2699(a) and (f) including, but not limited to \$100.00 for each initial violation and \$200
22 for each subsequent violation per employee per pay period for the following Labor Code violations:

23 (a) Failing to pay Plaintiff, the Overtime Class, and other similarly aggrieved employees all
24 earned overtime compensation in violation of Labor Code sections 204, 510, 1194, and 1198 *et seq.*;

25 (b) Failing to pay Plaintiff, the Minimum Wage Class, and other similarly aggrieved
26 employees all earned minimum wages in violation of Labor Code sections 1182.12, 1194, 1194.2, and
27 1197 *et seq.*;

28 (c) Failing to furnish Plaintiff, the Wage Statement Class, and other similarly aggrieved

1 employees with complete, accurate, itemized wage statements in violation of Labor Code section 226;

2 (d) Failing to timely pay all final wages and compensation earned by Plaintiff and the
3 Waiting Time Class, and other similarly aggrieved employees at the time of termination in violation of
4 Labor Code sections 201, 202, and 203.

5 (e) Failing to maintain accurate records on behalf of Plaintiff and members of the Record
6 Keeping Class in violation of Labor Code section 1174.

7 (f) Failing to pay rest period premiums to Plaintiff and members of the Rest Period Class
8 at the regular rate of pay in violation of Labor Code sections 226.7, 516, and 558.

9 (g) Failing to pay meal period premiums to Plaintiff and members of the Meal Period Class
10 at the regular rate of pay in violation of Labor Code sections 226.7, 512, 516, and 558.

11 63. On or about March 2, 2016, Plaintiff notified Defendants and the California Labor and
12 Workforce Development Agency ("LWDA") via certified mail of Defendants' violations of the
13 California Labor Code identified in Paragraph 70 (a)-(g) and Plaintiff's intent to bring a claim for civil
14 penalties under California Labor Code section 2698 et seq. Once thirty-three days have passed from
15 Plaintiff having provided the aforementioned notice to the LWDA and Defendants, Plaintiff will have
16 exhausted her pre-filing requirements under Labor Code section 2699.3.

17 64. Plaintiff was compelled to retain the services of counsel to file this court action to
18 protect her interests, those of the members of the classes, and other similarly aggrieved employees, and
19 to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys'
20 fees and costs, which he is entitled to recover under California Labor Code section 2699.

21 **PRAYER**

22 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this
23 suit is brought against Defendants, jointly and severally, as follows:

- 24 1. For an order certifying the proposed Classes;
- 25 2. For an order appointing Plaintiff as representative of the Classes;
- 26 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 27 4. For restitution of all monies due to Plaintiffs and Plaintiff Class, and disgorged profits from the
28 unlawful business practices of Defendant;

- 1 5. For waiting time penalties pursuant to Labor Code section 203, on behalf of the terminated or
2 resigned employees;
- 3 6. For penalties pursuant to Labor Code sections 226, 226 subdivision (e), 226.7, 512, and 1194,
4 and as provided for by Labor Code section 2699;
- 5 7. For penalties pursuant to Labor Code section 558;
- 6 8. For interest accrued to date;
- 7 9. Injunctive relief, enjoining Defendant from engaging in the unlawful and unfair business
8 practices complained herein;
- 9 10. Declaratory relief, enjoining Defendant's practices as being unlawful and unfair business
10 practices within the meaning of Bus. & Prof. Code sections 17200, et seq., and declaring
11 Defendant has unlawfully treated Plaintiffs and Plaintiff Class, and declaring the amounts of
12 damages, penalties, equitable relief, costs, and attorney's fees Plaintiffs and Plaintiff Class are
13 entitled to.
- 14 11. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226 and 1194;
15 and
- 16 12. For reasonable attorneys' fees pursuant to Labor Code sections 226 and 1194 and;
17 For all such other and further relief as the Court may deem just and proper.

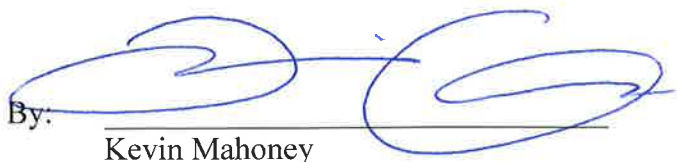
18 **DEMAND FOR JURY TRIAL**

19 Plaintiff ENRIQUE MATA as an individual and on behalf of all employees similarly situated;
20 hereby demands a jury trial on all issues so triable.

21 Respectfully submitted,

22
23 Dated: April 6, 2016

MAHONEY LAW GROUP, APC

24
25 By: 

26 Kevin Mahoney
27 Treana Allen
28 Attorneys for Plaintiff ENRIQUE MATA

EXHIBIT A



Treana Allen
562.590.5550 phone
562.590.8400 facsimile
tallen@mahoney-law.net

March 2, 2016

Via Certified Mail – 7015 3010 0001 8770 3984

Return Receipt Requested

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

Via Certified Mail – 7015 3010 0001 8770 3991

Return Receipt Requested

Simi Valley Recycling Center, Inc.

400 West Los Angeles Ave

Simi Valley, CA 93065

Re: **Enrique Mata v. Simi Valley Recycling Center, Inc.**

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2699 et seq.**

To: California Labor and Workforce Development Agency and Simi Valley Recycling Center, Inc.

From: Enrique Mata, on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Mata and all other aggrieved employees who intend to file a complaint alleging various Labor Code violations. Mr. Mata is a former employee of Simi Valley Recycling Center, Inc., located in Simi Valley, California.

Theories of Labor Code Violations and Remedies

Mr. Mata alleges that Simi Valley Recycling Center, Inc. ("Defendant") violated various sections of the Labor Code, including §§ 203, 204, 207, 222, 223, 226, 510, 1194, and 1197, by failing to provide Mr. Mata and all other aggrieved employees all wages for all hours worked.

First, Mr. Mata will allege that Defendant regularly denied Mr. Mata and his co-workers minimum wages and overtime for all hours worked, in violation of Labor Code §§ 204, 510, 1194, and 1197, which is actionable under Labor Code § 2699.5. Defendant did not pay Plaintiff and his co-workers overtime and double overtime wages when they worked in excess of forty (40) hours per week.

Furthermore, Defendant required Mr. Mata and his co-workers to work before and beyond their recorded time ("off the clock") to complete their job duties and tasks. Consequently, Defendant regularly and knowingly failed to compensate Mr. Mata and his co-workers for all hours worked.

In addition, Mr. Mata's complaint will allege that Defendant failed to keep accurate payroll records in violation of Labor Code §§ 226 and 1174. First, Defendant's pay stubs are not compliant with Labor Code § 226 because, at a minimum, they did not include pay or wages for all regular and overtime hours worked.

Moreover, Defendant did not keep adequate records pursuant to Labor Code § 1174 because Defendant did not keep track of all hours worked by, or pay proper wages to, Mr. Mata and his co-workers. Defendant's failure to comply with Labor Code §§ 226 and 1174 is therefore actionable under Labor Code § 2699.5.

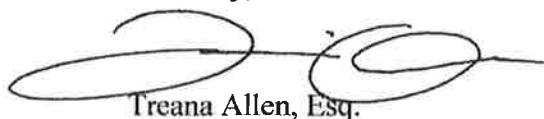
In light of the foregoing, Mr. Mata will allege in his complaint that Defendant failed to pay wages to terminated employees within 72 hours of termination in accordance with Labor Code §§ 201 – 203 due to Defendant's uniform policies, practices and procedures, and willful failure to pay the earned and unpaid wages described herein.

Mr. Mata will similarly allege in his complaint that Defendant failed to pay wages in a timely fashion in accordance with Labor Code § 204 as a result of Defendant's uniform policies, practices and procedures, and willful failure to pay the earned and unpaid wages described herein.

Mr. Mata is bringing this lawsuit on behalf of himself and a putative class of employees, as well as all other aggrieved employees employed by Defendant.

Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response. Please feel free to contact our office if you have any comments or questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Treana Allen", with a stylized flourish extending to the right.

Treana Allen, Esq.

MAHONEY LAW GROUP, APC

TA/jn