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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DAVID POLVOS,

Plaintiff,

vs.

PROPORTER STAFFING, INC., PRONTO
 JANITORIAL SVCS., INC, EDGAR RODAS,
 VALARIE DENISE PEREZ, and DOES 1
 through 20, inclusive,

Defendants.

Case Nos.: **22STCV27196**

Hon.

Dept.:

COMPLAINT FOR:

- 1. FAILURE TO PROVIDE MEAL AND REST PERIODS [Cal. Lab. Code §§226.7, 512]**
- 2. FAILURE TO PAY ALL WAGES DUE UPON TERMINATION: WAITING TIME PENALTIES [Cal. Lab. Code § 201-203]**
- 3. FAILURE TO PAY ALL WAGES EARNED [Cal. Lab. Code § 201-202, 218, 218.5, 1194, 1194.2, 1198]**
- 4. FAILURE TO PAY OVERTIME WAGES [Cal. Lab. Code § 510, 21.5, AND 1194]**
- 5. FAILURE TO ISSUE ACCURATE ITEMIZED WAGE STATEMENTS [Cal. Lab. Code § 226, 226.3]**
- 6. FAILURE TO TIMELY PRODUCE PERSONNEL FILE [Cal. Lab. Code § 1198.5]**
- 7. VIOLATIONS OF CALIFORNIA'S UNFAIR COMPETITION ACT [Bus. & Prof. Code § 17200 et seq.]**
- 8. PRIVATE ATTORNEY GENERAL ACT**

JURY TRIAL DEMANDED

COMES NOW, Plaintiff, DAVID POLVOS (“Plaintiff”), who alleges as follows against PROPORTER STAFFING, INC., PRONTO JANITORIAL SVCS., INC, EDGAR RODAS, VALARIE DENISE PEREZ, and DOES 1 through 20, inclusive, (“Defendants”):

JURISDICTION

1. This Court has personal jurisdiction over Defendants because Defendants engaged in wrongful conduct in the State of California, which caused harm to Plaintiff in this state.

2. Venue is proper in this Court, because Defendants employ persons in this county, employed Plaintiff in this county, and thus a substantial portion of the occurrences related to this action occurred in this county. *Cal. Civ. Proc.* §395.

PARTIES

3. Plaintiff is now, and at all times relevant to this complaint, a competent adult over 18 years of age and a resident of the County of Los Angeles in the State of California.

4. Defendant, PRONTO JANITORIAL SVCS., INC, is organized and existing under the laws of the State of California, and at all relevant times was doing business in the janitorial industry in the County of Los Angeles.

5. Defendant, EDGAR RODAS, is an individual, and a resident and citizen of the State of California.

6. Defendant, PROPORTER STAFFING, INC., is organized and existing under the laws of the State of California, and at all relevant times was doing business, as an employment Agency in the County of Los Angeles.

7. Defendants, VALARIE DENISE PEREZ, is an individual, and a resident and citizen of the State of California.

8. At all times relevant herein, Defendants PROPORTER STAFFING, INC. and PRONTO JANITORIAL SVCS., INC were Plaintiff’s employer within the meaning of the Labor Code as they were joint employers or are each liable per the labor code, including California Labor Code 2810.3. Plaintiff has provided notice to the extent necessary to provide notice as required under California 2810.3.

1 9. Plaintiff is informed and believes that at all times herein mentioned Defendants
2 and DOES 1 through 20, are and were individuals, sole proprietorships, corporations, business
3 entities, persons, and partnerships, licensed to do business and/or actually doing business in the
4 State of California.

5 10. Plaintiff is unaware of the true names and capacities and is informed and believes
6 and thereon alleges that at all times herein mentioned Defendants and DOES 1 through 20, are
7 and were individual, corporate, associate, or otherwise, of the defendants sued as DOES 1
8 through 20, inclusive. They are unknown to Plaintiff and therefore Plaintiff sues them by such
9 fictitious names. Plaintiff will amend this complaint to allege their true names and capacities
10 when they become known to Plaintiff. Plaintiff is informed and believes, and thereon alleges,
11 that DOES 1 through 20, inclusive, are indebted to Plaintiff as hereinafter alleged, and that
12 Plaintiff's rights against such fictitiously named Defendants arise from such indebtedness.

13 11. Plaintiff is informed and believes, and on that basis alleges, that each defendant
14 sued in this action, including each defendant sued by the fictitious names DOES 1 through 20,
15 inclusive, are responsible and liable in some manner for the occurrences, controversies, and
16 damages alleged below.

17 12. All references to "Defendant", "Defendants", "company", "companies",
18 "employer", or any similar language, whether singular or plural, shall mean "defendants, and
19 each of them" when used throughout this complaint.

20 13. At all times herein mentioned, Defendants participated in the doing of the acts
21 and omissions herein alleged, were acting within the purpose, course and scope of said agency
22 and/or employment to have been done by the named Defendants; and furthermore, the
23 Defendants, and each of them, were the agents, managing agents, servants, employees, alter-
24 egos, co-conspirators, joint-venturers, partners, successors in interest and predecessors in
25 interest of each of the other Defendants.

26 14. At all times herein mentioned, Defendants were acting within the purpose, course
27 and scope of said agency and/or employment so as to invoke vicarious liability and respondeat
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1 superior liability among other theories of liability to hold Defendants liable and responsible for
2 the injuries and damages to Plaintiff.

3 15. At all times herein mentioned, the acts and omissions of various Defendants
4 contributed to the various acts and omissions of each and all of the other Defendants in
5 proximity causing the injuries and damages as herein alleged.

6 16. At all times herein mentioned, Defendants, including all Defendants' managing
7 agents, officers, and directors, had advanced knowledge of and/or ratified each and every act or
8 omission complained throughout this complaint. At all times relevant herein, Defendants and/or
9 their managing agents, officers or directors committed and/or participated in the wrongful acts
10 and omissions complained of throughout this complaint or ratified such acts and omissions.

11 17. At all times herein mentioned, the Defendants aided and abetted the acts and
12 omissions of each and all of the other Defendants in proximately causing the damages as herein
13 alleged.

14 18. Plaintiff is informed and believes and thereon alleges that there exists such a
15 unity of interest and ownership between Defendants, that the individual and separateness of
16 Defendants have ceased to exist.

17 19. Plaintiff is informed and believes and thereon alleges that each Defendant had
18 the ability to determine wages, hire, fire, and discipline Plaintiff and similarly situated
19 employees.

20 20. The business affairs of Defendants are, and at all times relevant hereto were, so
21 mixed and intermingled that the same cannot reasonably be segregated, and the same
22 inextricably entwined.

23 21. The recognition of the separate existence of any Defendant would not promote
24 injustice, in that it would permit the Defendants to wrongfully insulate themselves from
25 liability to Plaintiff.

26 22. Adherences to the fiction of the separate existence of Defendants would permit
27 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
28 from liability for the wrongful acts committed by it.

23. Plaintiff is informed and believes, and based thereon alleges that Defendants are alter egos of each other.

GENERAL FACTS AND ALLEGATIONS

24. Plaintiff is informed, believes and thereon alleges that at all times relevant hereto, Defendant EDGAR RODAS operated PRONTO JANITORIAL SVCS., INC, a company that is involved in the janitorial industry. The company is located at 12561 Persing Drive, Whittier, CA 90606.

25. On information and belief, Defendant EDGAR RODAS is the owner of PRONTO JANITORIAL SVCS., INC, and exercised pervasive control over Plaintiff's wages and working conditions.

26. Defendants PRONTO JANITORIAL SVCS., INC and PROPORTER STAFFING, INC., employed Plaintiff, at all relevant times, as a cleaner/janitor, from in or about 2018, until the termination of Plaintiff's employment on mid-September of 2021.

27. On information and belief, given Defendants' illegal failure to timely produce Plaintiff's personnel and payroll files, Plaintiff alleges as follows: From in or about 2018 until Plaintiff's termination on or about mid-September of 2021, Plaintiff was compensated at an hourly rate of about \$15. Plaintiff worked, on average, for five days per week, working on average seventeen hours per day, starting his shift at 6:00 a.m. and ending his shift at 11:30 p.m. At all times mentioned herein, Plaintiff was a non-exempt employee entitled to all minimum and overtime wages, meal period breaks, and rest period breaks.

28. Plaintiff is informed and believes, and based thereon alleges, that Defendants controlled or affected the working conditions, wages, working hours, scope and conditions of employment of Plaintiff during Plaintiff's employment with Defendant.

29. Plaintiff alleges he was only provided with one meal break per shift, as he consistently worked from 6 a.m. - 11 p.m. five days a week, but only received one meal break from 2:30 pm to 3:00 pm. Furthermore, he was unable to take his rest breaks because he was constantly needed to work due to his workload. In other words, it was not possible for Plaintiff

1 to take his meal or rest breaks because of the workload, understaffing, and company practice.
2 Therefore, Defendants deterred Plaintiff from taking compliant meal and rest periods.

3 **FIRST CAUSE OF ACTION BY**

4 **PLAINTIFF AGAINST ALL DEFENDANTS**

5 **FAILURE TO PROVIDE MEAL AND REST PERIODS [Cal. Lab. Code §§ 226.7, 512]**

6 30. Plaintiff repeats, realleges, and incorporates all allegations throughout this
7 complaint as though set forth in full herein.

8 31. Labor Code § 512 requires employers to provide every employee with an
9 uninterrupted meal period of not less than 30 consecutive minutes, for every period of work
10 exceeding five hours.

11 32. Labor Code § 226.7 requires an employer to provide every employee with an
12 uninterrupted rest period of not less than 10 minutes, for every period worked in excess of
13 four hours.

14 33. Plaintiff regularly worked in excess of five hours per day, and was thereby
15 entitled to take the aforementioned uninterrupted 30-minute meal periods and 10-minute rest
16 periods on each day of work.

17 34. At all relevant times herein, Defendants failed and refused to provide Plaintiff
18 with timely meal periods and rest periods during his work shifts, and failed to compensate
19 Plaintiff for missed meal and rest periods, as required by Labor Code § 226.7, and the
20 applicable sections of 8 Code of Regulations § 11040 and Industrial Welfare Commission
21 Order No. 4-2001.

22 35. As alleged herein, Plaintiff is not exempt from the meal and rest breaks
23 requirements of 8 Code of Regulations § 11040 and Industrial Welfare Commission Order No.
24 4-2001. Consequently, Plaintiff is owed one hour of pay at his regularly hourly rate, or the
25 requisite minimum wage, whichever is greater, for each day that he was denied such meal and
26 rest periods, and is owed one hour of pay at his regular hourly rate, or the requisite minimum
27 wage, whichever is greater, for each day that he was denied such meal and rest periods.
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1 36. Plaintiff has been deprived of his rightfully earned compensation for meal and
2 rest break violations as a direct and proximate result of Defendants' failure and refusal to pay
3 said compensation.

4 37. From in or about 2018 until Plaintiff's termination on or about mid-September
5 of 2021, Defendants failed to provide Plaintiff with timely statutory meal and rest periods for
6 those days on which he worked at for approximately 160 work weeks. Consequently, Plaintiff is
7 owed one additional hour of pay at his normal hourly rate of \$15 for each day that he was
8 denied such a meal and rest periods pursuant to Labor Code § 226.7, or \$24,000, plus interest
9 therein.

10 38. Plaintiff is entitled to recover such amounts in the combined amount of \$24,000,
11 plus interests therein and costs of suit.

12 39. In addition to the alter ego theory of liability for EDGAR RODAS and
13 VALARIE DENISE PEREZ, as alleged throughout this Complaint, California Labor Code §
14 558.1 provides for personal liability for employers, and persons acting on behalf of an employer,
15 who violate and/or cause to be violated the statute and related Industrial Welfare Commission
16 Order provision at issue throughout this cause of action.

17 **SECOND CAUSE OF ACTION BY**

18 **PLAINTIFF AGAINST ALL DEFENDANTS**

19 **FAILURE TO PAY ALL WAGES DUE UPON TERMINATION: WAITING TIME**

20 **PENALTIES [Cal. Lab. Code § 201-203]**

21 40. Plaintiff repeats, realleges, and incorporates all allegations throughout this
22 complaint as though set forth in full herein.

23 41. At all relevant times herein, Defendants failed to pay all of Plaintiff's earned
24 wages and other compensation due immediately upon termination or within seventy-two hours
25 of resignation, as required. These wages refer to, at a minimum, the wages earned and unpaid at
26 time of discharge, minimum wages, overtime compensation, and meal and rest period
27 compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
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his employment and which were, at the latest, due within the time parameter of Labor Code §§ 201- 203.

42. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§ 201 – 203.

43. As a direct and proximate result of Defendants’ willful failure to pay these wages, Plaintiff is entitled to repayment of his earned and unpaid wages at time of discharge, overtime, meal and rest periods as previously pleaded herein, amounting to \$10,800 in wait time penalties, calculated based on thirty days of wages at \$15 per hour.

44. Based on Defendants’ conduct as alleged herein, Defendants are liable for \$10,800 in statutory penalties pursuant to Labor Code § 203 and other applicable provisions, as well as attorneys’ fees and costs.

45. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor Code section § 558.1.

46. In addition to the alter ego theory of liability for EDGAR RODAS and VALARIE DENISE PEREZ, as alleged throughout this Complaint, California Labor Code § 558.1 provides for personal liability for employers, and persons acting on behalf of an employer, who violate and/or cause to be violated the statute and related Industrial Welfare Commission Order provision at issue throughout this cause of action.

**THIRD CAUSE OF ACTION BY
PLAINTIFF AGAINST ALL DEFENDANTS
FAILURE TO PAY ALL WAGES EARNED [Cal. Lab. Code § 201-202, 218, 218.5,
1194, 1194.2, 1198]**

47. Plaintiff repeats, realleges, and incorporates all allegations throughout this complaint as though set forth in full herein.

48. At all relevant times herein, Defendants were required to compensate its hourly employees for all hours worked upon reporting to work at the appointed time stated by the employer pursuant to the Industrial Commission Order 7-2001, California Code of Regulations, Title 8.

1 49. Labor Code § 1194 provides in relevant part: “Notwithstanding any agreement
2 to work for a lesser wage, any employee receiving less than the legal minimum wage ...
3 applicable to the employee is entitled to recover in a civil action the unpaid balance of the full
4 amount of this minimum wage ..., including interest thereon, reasonable attorney’s fees, and
5 costs of suit.”

6 50. “In any action under ... Section 1194 to recover wages because of the payment
7 of a wage less than the minimum wage fixed by an order of the commission, an employee shall
8 be entitled to recover liquidated damages in an amount of the wages unlawfully unpaid and
9 interest thereon.” Labor Code § 1194

10 51. As mentioned herein, Defendants failed to provide proper meal and rest breaks,
11 failed to pay wages for hours worked including overtime hours worked.

12 52. Accordingly, pursuant to Labor Code § 1194 and 218, Plaintiff is entitled to
13 recover wages for all hours, for all hours worked and for all other hours worked that were not
14 adequately compensated.

15 53. In addition to the alter ego theory of liability for EDGAR RODAS and
16 VALARIE DENISE PEREZ, as alleged throughout this Complaint, California Labor Code §
17 558.1 provides for personal liability for employers, and persons acting on behalf of an employer,
18 who violate and/or cause to be violated the statute and related Industrial Welfare Commission
19 Order provision at issue in this cause of action.

20 **FOURTH CAUSE OF ACTION BY**
21 **PLAINTIFF AGAINST ALL DEFENDANTS**

22 **FAILURE TO PAY OVERTIME WAGES [Cal. Lab. Code § 510, 218.5, AND 1194]**

23 54. Plaintiff repeats, realleges, and incorporates all allegations throughout this
24 complaint as though set forth in full herein.

25 55. Labor Code § 510 requires employers to pay their non-exempt employees one
26 and one-half times their regular hourly rate (overtime) for time worked in excess of eight hours
27 in a single day, or 40 hours per week, and double their regular hourly rate (double-time) for all
28 hours worked in excess of 12 hours in a single day. It also requires employers to pay their non-

1 exempt employees overtime compensation for the first eight hours of work done on the seventh
2 consecutive day of work done in any work week, and double-time compensation for any work
3 done beyond the first eight hours on the seventh consecutive day of work.

4 56. At all relevant times, Defendants required Plaintiff to work more than eight hours
5 per day and/or more than 40 hours per work week.

6 57. At all relevant times, Defendants failed and refused to pay Plaintiff all the
7 overtime compensation required by Labor Code § 510, § 8 Code of Regulations §11040, and
8 Industrial Welfare Commission Order No. 4-2001.

9 58. As alleged herein, Plaintiff is not exempt from the overtime requirements of
10 Labor Code § 510, § 8 Code of Regulations §11040, and Industrial Welfare Commission Order
11 No. 4-2001.

12 59. At all relevant times, Defendants, and each of them, willfully failed to pay
13 Plaintiff the correct amount of overtime compensation. Plaintiff was deprived of his rightfully
14 earned overtime compensation as a direct and proximate result of said conduct by Defendants.

15 60. In addition to the alter ego theory of liability for EDGAR RODAS and
16 VALARIE DENISE PEREZ, as alleged throughout this Complaint, California Labor Code §
17 558.1 provides for personal liability for employers, and persons acting on behalf of an employer,
18 who violate and/or cause to be violated the statute and related Industrial Welfare Commission
19 Order provision at issue in this cause of action.

20 **FIFTH CAUSE OF ACTION BY**
21 **PLAINTIFF AGAINST ALL DEFENDANTS**
22 **FAILURE TO ISSUE ACCURATE ITEMIZED WAGE STATEMENTS [Cal. Lab. Code**
23 **§ 226, 226.3]**

24 61. Plaintiff repeats, realleges, and incorporates all allegations throughout this
25 complaint as though set forth in full herein.

26 62. Defendants failed to provide Plaintiff with accurate itemized wage statements in
27 writing in violation of Labor Code § 226, which requires wage statements to show: (1) total
28 hours worked, (2) hourly wages, (3) gross wages, (4) total deductions, (5) net wages earned, (6)

1 the inclusive dates of the period for which the employee is paid, (7) the name of the employee
2 and only the last four digits of his or her social security number, (8) the name and address of the
3 legal entity that is his employer, and (9) all applicable hourly rates in effect during the pay
4 period and the corresponding number of hours worked at each hourly rate by the employee. At
5 the very least, wage statements that were issued were not accurate because Plaintiff was not
6 being compensated for work performed, Plaintiff was not compensated overtime wages, or meal
7 and rest period premiums, as more fully set forth in this complaint.

8 63. During the relevant time period, Defendants implemented an employment
9 practice whereby they willfully, intentionally, and not inadvertently, violated Labor Code
10 section 226 as they failed to provide Plaintiff with accurate wage statements compliant with the
11 Labor Code, as the wage statements were not accurate with respect to the applicable and correct
12 rates of pay including overtime rates of pay, or meal and rest period premiums. As alleged
13 herein, Plaintiff is not exempt from the requirements of Labor Code § 226.

14 64. This failure has injured Plaintiff, by misrepresenting and depriving his hour,
15 wage, and earnings information to which he is entitled, causing him difficulty and expense in
16 attempting to reconstruct time and pay records, causing him not to be paid wages he earned,
17 causing him to be unable to rely on earnings statements in dealings with third parties, and
18 eliminating his right under Labor Code § 226(b) to review itemized wage statement information
19 by inspecting the employer's underlying records. For the time periods during which Plaintiff
20 was not provided with any pay stubs, his previously mentioned injuries are presumed as a matter
21 of law.

22 65. Based on Defendants' conduct as alleged herein, Plaintiff is owed the greater of
23 actual wages earned or entitled to a maximum penalty of \$4,000 based on \$50 for each pay
24 period in which there was an initial violation of Section 226 and \$100 for each subsequent pay
25 period in which there was a further violation. Based on the number of violations against
26 Defendants, Defendants are liable to Plaintiff for \$4,000 in damages and statutory penalties
27 pursuant to Labor Code § 226, civil penalties pursuant to Labor Code § 226.3, and other
28 applicable provisions, as well as attorneys' fees and costs.

1 66. Plaintiff seeks injunctive relief under Labor Code section 226 in the form of an
2 order from the Court ordering Defendants to properly state the wages earned, the proper hours
3 worked, and to furnish accurate wage statements to each Plaintiff herein as well as other
4 similarly situated employees.

5 67. In addition to the alter ego theory of liability for EDGAR RODAS and
6 VALARIE DENISE PEREZ, as alleged throughout this Complaint, California Labor Code §
7 558.1 provides for personal liability for employers, and persons acting on behalf of an employer,
8 who violate and/or cause to be violated the statute and related Industrial Welfare Commission
9 Order provision at issue throughout this cause of action.

10 **SIXTH CAUSE OF ACTION BY PLAINTIFF AGAINST DEFENDANTS PRONTO**
11 **JANITORIAL SVCS., INC AND EDGAR RODAS**
12 **FAILURE TO TIMELY PRODUCE PERSONNEL FILE [Cal. Lab. Code § 1198.5]**

13 68. Plaintiff repeats, realleges, and incorporates all allegations throughout this
14 complaint as though set forth in full herein.

15 69. On or about September 24, 2021, Plaintiff made a written request to inspect his
16 personnel file from Defendant PRONTO JANITORIAL SVCS., INC. Defendant PRONTO
17 JANITORIAL SVCS., INC, failed to respond to Plaintiff's written request to inspect his
18 personnel file and did not timely allow Plaintiff to inspect his personnel file.

19 70. Plaintiff is entitled to \$750 in civil penalties due to each Defendant that failed to
20 provide employment records including Defendant PRONTO JANITORIAL SVCS., INC which
21 violated Labor Code Section § 1198.5.

22 71. Plaintiff seeks injunctive relief to compel Defendants PRONTO JANITORIAL
23 SVCS., INC to produce a full and accurate copy of Plaintiff's personnel files including payroll
24 records.

25 72. Defendants' conduct described herein violates the Labor Code. Therefore,
26 Plaintiff is entitled to recover all damages and civil penalties that Defendants owe Plaintiff, plus
27 interest, statutory penalties, and attorneys' fees, expenses, and costs.

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1 73. In addition to the alter ego theory of liability for EDGAR RODAS, as alleged
2 throughout this Complaint, California Labor Code § 558.1 provides for personal liability for
3 employers, and persons acting on behalf of an employer, who violate and/or cause to be violated
4 the statute and related Industrial Welfare Commission Order provision at issue throughout this
5 cause of action.

6 **SEVENTH CAUSE OF ACTION BY**
7 **PLAINTIFF AGAINST ALL DEFENDANTS**
8 **VIOLATIONS OF CALIFORNIA’S UNFAIR COMPETITION ACT Bus. & Prof.**
9 **Code § 17200 et seq**

10 74. Plaintiff repeats, realleges, and incorporates all allegations throughout this
11 complaint as though set forth in full herein.

12 75. California Business & Professional Code § 17200 prohibits any unlawful, unfair,
13 or fraudulent business practices.

14 76. California Business & Professional Code § 17204 allows “any person acting for
15 the interests of itself, its members or the general public” to prosecute a civil action for violation
16 of the UCL.

17 77. Labor code § 90.5(a) states that it is the public policy of California to force
18 vigorously minimum labor standards in order to ensure employees are not required to work
19 under substandard and unlawful conditions, and to protect employers who comply with the law
20 from those who attempt to gain competitive advantage at the expense of their workers by failing
21 to comply with minimum labor standards.

22 78. Defendants’ violation of 8 Code of Regulations §11040, Industrial Welfare
23 Commission Order No. 4-2001, Labor Code §§201, 203, 226, 226.7, 510, 512, 1194, 1194.2,
24 1197, and other applicable provisions, as alleged herein, including Defendants’ failure and
25 refusal to pay minimum wages and overtime wages, failure to pay meal period premiums,
26 failure to pay rest period premiums, failure to provide accurate and complaint wage statements,
27 failure to timely pay compensation upon termination or resignation, and Defendant's failure to
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maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professional Code §17200 et seq.

79. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

80. Defendants' unfair business practices entitled Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from her.

81. Under Section 17208 of the California Business and Professions Code, the statute of limitations for a claim under Section 17200 is four years. Accordingly, the actionable period of the unpaid wage causes of actions alleged hereinabove are extended from three years of recovery for wage claims to an additional fourth year of recovery.

82. Pursuant to Business & Professional Code §17000 and §17200, the acts constitute continuing and ongoing unlawful activities that justify the issuance of an injunction and all remedies available in the form of unpaid wages, penalties and specific damages that are cumulative and recoverable for Plaintiff.

83. Plaintiff has assumed the responsibility of enforcement of the laws and lawful claims specified herein. There is a financial burden incurred in pursuing this action which is in the public interest. Therefore, reasonable attorneys' fees are appropriate pursuant to California Code of Civil Procedure section 1021.5.

**EIGHTH CAUSE OF ACTION BY
PLAINTIFF AGAINST ALL DEFENDANTS
VIOLATION OF THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT
(Cal. Labor Code §§ 2698 et seq.)**

84. Plaintiff repeats, realleges, and incorporates all allegations throughout this complaint as though set forth in full herein.

1 85. Plaintiff has satisfied all prerequisites to serve as a representative to enforce the
2 penalty provisions of PAGA. Plaintiff, through duly appointed counsel, gave written notice
3 properly with the LWDA, Case No. LWDA-CM-889385-22 and the employer by certified mail,
4 informing them of the specific provisions of the California Labor Code that Defendants
5 violated, including the facts and theories that support the alleged violations.

6 86. Plaintiff has not received notice from the LWDA that it intends to investigate and
7 has allowed sixty-five (65) days to elapse. Thus, Plaintiff is permitted to commence this civil
8 action.

9 87. Plaintiff thus seeks, as a representative of the State of California, to recover all
10 penalties otherwise capable of being collected by the LWDA, or any of its departments,
11 divisions, commissions, boards, agencies, or employees.

12 88. This includes the civil fines applicable to Plaintiff's violations of the California
13 Labor Code §§ 204, 226(a), 226.7, 510, 512, 558 and 1194.

14 89. PAGA provides that for all provisions of the California Labor Code, except for
15 those for which a civil penalty is specifically provided, there is established a civil penalty of one
16 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
17 two hundred (\$200) for each aggrieved employee per pay period for each subsequent violation.
18 See Labor Code §2699(f).

19 90. Funds recovered under PAGA will be distributed as required by law, with 75%
20 of the civil fines being paid to the LWDA and 25% to the aggrieved employees.

21 91. Labor Code § 558(a) provides for a civil penalty that consists of both a penalty
22 and amount and any underpaid wages, with the underpaid wages going entirely to the affected
23 employee or employees as an express exception to the general rule that civil penalties recovered
24 in a PAGA action are distributed 75 percent to the LWDA and 25 percent to the aggrieved
25 employees. Thurman v. Bayshore Transit Management, Inc. (2102) 203 Cal.App.4th 1112,1114;
26 Lawson v. ZB, N.A. (2017) 18 Cal.App.5th 705, 717-718.

27 92. Plaintiff and other current and former employees of Defendants are "aggrieved
28 employees" under PAGA, as they were employed by Defendants on an hourly basis during the

1 relevant period and suffered one or more of the Labor Code violations set forth herein.

2 Accordingly, Plaintiff seeks to recover on his behalf and on behalf of other current and former
3 employees of Defendants, the civil penalties provided by PAGA, as well as attorney's fees and
4 costs for the prosecution of this action.

5 93. Plaintiff seeks to recover the PAGA civil penalties for violations of the following
6 Labor Code provisions, as more thoroughly detailed throughout this Complaint, including in the
7 PAGA Notice attached hereto as Exhibit 1, and in the First Amended PAGA Notice, attached
8 hereto as Exhibit 2, incorporated into this Complaint.

- 9 a. Labor Code § 204: Defendants violated this section by failing to pay to
10 Plaintiff, and other aggrieved employees, all of their earned wages within
11 seven (7) days after the close of the pay period. Defendants still owed
12 Plaintiff, and the other aggrieved employees, underpaid wages;
- 13 b. Labor Code § 226(a): By underpaying, or failing to pay, Plaintiff, and other
14 aggrieved employees in violation of Labor Code provisions for timely paid
15 wages, overtime wages, meal break premiums, rest break premiums and
16 wages upon discharge, Defendants have violated Labor Code § 226's
17 requirement to provide accurate wage statements.;
- 18 c. Labor Code § 226: Defendants did not provide compliant meal and rest
19 breaks to Plaintiff, and other aggrieved employees. Defendants failed to pay
20 the one-hour premium required when they caused an aggrieved employee to
21 miss a meal or rest break;
- 22 d. Labor Code § 510: Defendants failed to pay Plaintiff, and other aggrieved
23 employees, the required premiums for their overtime hours;
- 24 e. Labor Code § 512: Defendants did not provide Plaintiff, and other aggrieved
25 employees, with a thirty (30) minute uninterrupted meal period for each shift
26 of at least five (5) hours, nor a second third (30) minute uninterrupted meal
27 period for shifts exceeding ten (10) hours. Defendants failed to pay the one-
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hour premium required when they caused an aggrieved employee to miss a meal break;

- f. Labor Code § 558: Defendants are liable to all aggrieved employees for violations of Labor Code §§ 500-558.1, which include civil fines and underpaid wages which must be paid to the affected employees;
- g. Labor Code § 1194: Defendants failed to pay Plaintiff, and other aggrieved employees, the legal overtime compensation applicable to employees.

PRAYER

PLAINTIFF PRAYS for judgment against Defendant as follows:

As to the First Cause of Action:

- 1. A declaratory judgment that Defendants violated Labor Code §§ 226.7 and 512 and applicable Industrial Welfare Commission Wage Orders 4-2001 by failing to provide meal and rest periods and failing to pay premium wages for missed meal and rest periods;
- 2. For unpaid premium wages for payment of missed meal and rest period compensation pursuant to Labor Code §§ 226.7, 512, in the amount of no less than \$24,000;
- 3. For injunctive relief as justice requires, including an accounting of all hours worked, all wages paid and any financial records relating to Plaintiff's employment, restitution and other equitable relief as justice requires;
- 4. For costs under all applicable statutes alleged herein;

As to the Second Cause of Action:

- 5. For all penalties and an award of costs, interest and reasonable attorney fees in accordance with Labor Code § 201 – 203, including \$10,800.00 in waiting time penalties;
- 6. A declaratory judgment that Defendants violated Labor Code §§ 201- 203 by failing to provide plaintiff with all wages due at the time of his termination;
- 7. For injunctive relief as justice requires, including an accounting of all hours worked, all wages paid and any other financial records relating to Plaintiff's employment, restitution and other equitable relief as justice requires;

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As to the Third Cause of Action:

8. A declaratory judgment that Defendants violated Labor Code §1194 and §1194.2 by failing to pay all wages;

9. For unpaid wages as alleged herein, according to proof at time of trial;

10. For injunctive relief as justice requires, including an account of all hours worked, all wages paid and any financial records relating to Plaintiff's employment, restitution and other equitable relief as justice requires.

11. For attorney's fees and costs under all applicable statutes allege herein;

As to the Fourth Cause of Action:

12. A declaratory judgment that Defendants violated Labor Code §510 and §1194 for failing to pay overtime wages for hours worked over eight hours per day, or forty hours per week;

13. For all unpaid overtime wages, according to proof at time of trial;

14. For all penalties and an award of costs, interest and reasonable attorney's fees in accordance with Labor Code §1194 and 1194.2;

15. For injunctive relief as justice requires, including accounting of all hours worked, all wages paid and any financial records relating to Plaintiff's employment, restitution and other equitable relief as justice requires;

As to the Fifth Cause of Action:

16. For all penalties pursuant to Labor Code § 226 which is: (a) the greater of all actual damages of \$4,000 (in the form of unpaid wages), or (b) the maximum penalty of \$4,000 to each Plaintiff;

17. A declaratory judgment that Defendants violated Labor Code § 226 by failing to provide Plaintiff an accurate itemized wage statement;

18. For all costs and attorneys' fees pursuant to statute;

19. For injunctive relief as justice requires, including an accounting of all hours worked, all wages paid and any financial records relating to Plaintiff's employment, restitution and other equitable relief as justice requires;

As to the Sixth Cause of Action:

20. For civil penalties in a sum according to proof, totaling at least \$750 per Defendant;

21. For injunctive relief as justice requires, including an order for Defendants to produce Plaintiff's personnel files or any other injunctive relief that justice requires in order to obtain compliance with Labor Code § 1198.5;

As to the Seventh Cause of Action:

22. For equitable relief in the form of an order requiring Defendants, its agents, servants, and employees and all persons acting directly or indirectly, in concert with them, to restore and disgorge all funds to Plaintiff acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and therefore constituting unfair competition under §17200 of the Cal. Business & Professions Code;

23. For all unpaid wages as alleged and detailed above;

24. For equitable relief in the form of an order and restitution in the form of an additional fourth year of recovery for unpaid wages as a result of Defendant's violation of California wage and hour laws mentioned herein.

As to the Eighth Cause of Action:

25. For an award of civil penalties, per each violation, pursuant to PAGA;

26. For an award of wages unpaid, or underpaid pursuant to Labor Code §§ 500-558.1, to be paid to the affected employees.

As to all claims for relief:

27. For attorneys' fees and costs under all applicable statutes alleged herein;

28. For all costs and disbursements incurred in this suit;

29. For pre and post judgment interest as allowed by law;

30. For such other and further relief as the Court deems just and proper.

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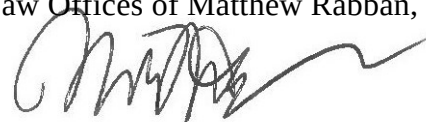
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all causes of action asserted herein.

Dated: August 22, 2022

Law Offices of Matthew Rabban, APC

BY:



Matthew Rabban, Esq.
Attorneys for Plaintiff,
DAVID POLVOS

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Exhibit 1



Law Offices of Matthew Rabban, APC
401 Wilshire Blvd. 12th Floor PH • Santa Monica, CA 90401
Telephone (818) 448-5625 • Fax (424) 645-1180
mattribban@hotmail.com

June 15, 2022

VIA ONLINE SUBMISSION

Labor and Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
PAGAfilings@dir.ca.gov

RE: David Polvos v. PRONTO JANITORIAL SVCS., INC, et al.

Dear Representative:

This office represents David Polvos (“Mr. Polvos”) with respect to his claims arising out of his employment with PRONTO JANITORIAL SVCS., INC, Edgar Rojas, and William Doe (collectively, “Employer”). The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. Mr. Polvos is an “aggrieved employee” as defined by Labor Code sections 2699, et seq, due to Defendants’ numerous violations of the Labor Code as set forth below.

Mr. Polvos intends to seek penalties for violations of the California Labor Code which are recoverable under California Labor Code section 2698, et seq., the Private Attorneys General Act of 2004 (“PAGA”). Mr. Polvos is seeking penalties on behalf of the State of California and similarly aggrieved current/former non-exempt employees of Employer who were paid in violation of California labor law in the State of California (“Aggrieved Employees”).

Mr. Polvos has been employed by Employer from approximately 2018 through mid-September of 2021 as a cleaner, Mr. Polvos was not compensated as required by applicable law including the California Labor Code, as outlined throughout this complaint.

As outlined below and throughout this complaint, Employer deprived Mr. Polvos and other Aggrieved Employees of certain protections of the Labor Code and Industrial Commission Orders, including overtime pay, meal and rest periods, and failure to provide accurate wage statements, under Labor Code 2802, among numerous other California Labor Code violations.

1. OVERTIME WAGE VIOLATIONS

Employer's payroll policies and/or practices resulted in Mr. Polvos and other Aggrieved Employees not being compensated for all overtime hours and double-time worked. Accordingly, Employer violated the applicable Wage Orders including but not limited to Wage Order No. 5, California Labor Code sections 510(a) and 1198. Mr. Polvos and other Aggrieved Employees will therefore seek unpaid wages; PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5; Labor Code 558 penalties; and attorneys' fees and costs.

2. MEAL PERIOD VIOLATIONS

Employer violated the applicable Wage Order including but not limited to Paragraph 11 of Wage Order No. 5, as Employer failed to provide Mr. Polvos and other Aggrieved Employees with all statutorily-mandated meal periods due to Employer's unlawful meal policies and/or practices, which (1) failed to provide Mr. Polvos and other Aggrieved Employees an uninterrupted 30-minute meal period before the end of their fifth hour of work, and (2) failed to provide Mr. Polvos and other Aggrieved Employees a second uninterrupted 30-minute meal period before the end of their tenth hour of work. As such, Employer also violated California Labor Code § 226.7(a), 512(a) and 1198.

Mr. Polvos and other Aggrieved Employees did not receive the premium pay for the meal periods which were not provided to them. Mr. Polvos and other Aggrieved Employees will therefore seek PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5, and/or other applicable Wage Orders; California Labor Code § 558 and 1198 penalties; and attorneys' fees and costs.

3. REST PERIOD VIOLATIONS

Employer also failed to authorize or permit provide Mr. Polvos and other Aggrieved Employees to take all required rest periods, due to Employer's practices and/or policies, which failed to authorize and permit Mr. Polvos and other Aggrieved Employees to take rest breaks when they worked more than four (4) hours or a major fraction thereof. Employers required Mr. Polvos and other Aggrieved Employees to work through their rest periods and in the event a rest period was taken, it was often interrupted. Accordingly, Employer violated Wage Order 5, California Labor Code § 226.7(a), 512(a) and 1198.

Despite Employer's failure to authorize and permit all required rest periods due to their uniform and unlawful practices, Employer never provided Mr. Polvos and other Aggrieved Employees with an hour of pay at their regular rate for each rest period violation, as required. Mr. Polvos and other Aggrieved Employees will therefore seek PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage

Order 5, and/or other applicable Wage Orders; California Labor Code § 558 and 1198 penalties; and attorneys' fees and costs.

4. WAGE STATEMENT VIOLATIONS

Employer knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Polvos and the other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, and total meal and rest premium wages, in violation of Labor Code § 226 *et seq.* Employer's failure to furnish Mr. Polvos and the other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of all the information necessary to identify discrepancies in Employer's reported data.

5. TIMING OF FINAL PAYMENT UPON TERMINATION

Employer failed to timely pay Aggrieved Employees all wages due at the end of their employments because Aggrieved Employees were not paid all overtime wages, and meal and rest break premiums, as set forth herein. Accordingly, Employer violated California Labor Code sections 201 and/or 202.

Employee and Aggrieved Employees will therefore seek PAGA default penalties; California Labor Code §§ 203, 558.1, 1199, and 2699(f)(2) penalties; and attorney's fees and costs.

6. RECORD KEEPING VIOLATIONS

Employer has no accurate records relating to Mr. Polvos and other Aggrieved Employees' work periods, meal periods, rest periods, total daily hours worked, total hours worked per payroll period and applicable pay rates. Accordingly, Employer violated the applicable Wage Orders including but not limited to Wage Order 5, California Labor Code § 1198 and 1174(d). Mr. Polvos and other Aggrieved Employees will therefore seek PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5, and/or other applicable Wage Orders; California Labor Code § 1174.5 penalties; and attorney's fees and costs.

CONCLUSION

Employer has violated or has caused to be violated a number of California wage and hour laws. Mr. Polvos therefore intends to file civil claims for the aforementioned violations of the Labor Code and other law. Mr. Polvos requests the agency review this notice per PAGA's provisions.

Very truly yours,



Matthew Rabban, Esq.

Attorney for the Aggrieved Employees

Notice Provided to Employer via Certified Mail

(Tracking No. 9407 1118 9876 5877 9257 58)

PRONTO JANITORIAL SVCS., INC

12561 Persing Dr.

Whittier, CA 90606

Notice Provided to Employer via Certified Mail

(Tracking No. 9407 1118 9876 5877 9259 01)

PRONTO JANITORIAL SVCS., INC

c/o Jesse L. Atilano

2639 Commerce Way

Commerce, CA 90040

Registered Agent for service of process

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Exhibit 2



Law Offices of Matthew Rabban, APC
401 Wilshire Blvd. 12th Floor PH • Santa Monica, CA 90401
Telephone (818) 448-5625 • Fax (424) 645-1180
matrabban@hotmail.com

August 18, 2022

VIA ONLINE SUBMISSION

Labor and Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
PAGAfilings@dir.ca.gov

First Amended Notice of Labor Code Violations and PAGA Penalties

RE: David Polvos v. PRONTO JANITORIAL SVCS., INC, et al.

Dear Representative:

This office represents David Polvos (“Mr. Polvos”) with respect to his claims arising out of his employment with PROPORTER STAFFING, INC., PRONTO JANITORIAL SVCS., INC, Edgar Rodas, and Valarie Denise Perez (collectively, “Employer”). The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. Mr. Polvos is an “aggrieved employee” as defined by Labor Code sections 2699, et seq, due to Defendants’ numerous violations of the Labor Code as set forth below.

Mr. Polvos intends to seek penalties for violations of the California Labor Code which are recoverable under California Labor Code section 2698, et seq., the Private Attorneys General Act of 2004 (“PAGA”). Mr. Polvos is seeking penalties on behalf of the State of California and similarly aggrieved current/former non-exempt employees of Employer who were paid in violation of California labor law in the State of California (“Aggrieved Employees”).

Mr. Polvos has been employed by Employer from approximately 2018 through mid-September of 2021 as a cleaner, Mr. Polvos was not compensated as required by applicable law including the California Labor Code, as outlined throughout this complaint.

As outlined below and throughout this complaint, Employer deprived Mr. Polvos and other Aggrieved Employees of certain protections of the Labor Code and Industrial Commission Orders, including overtime pay, meal and rest periods, and failure to provide

accurate wage statements, under Labor Code 2802, among numerous other California Labor Code violations.

1. OVERTIME WAGE VIOLATIONS

Employer's payroll policies and/or practices resulted in Mr. Polvos and other Aggrieved Employees not being compensated for all overtime hours and double-time worked. Accordingly, Employer violated the applicable Wage Orders including but not limited to Wage Order No. 5, California Labor Code sections 510(a) and 1198. Mr. Polvos and other Aggrieved Employees will therefore seek unpaid wages; PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5; Labor Code 558 penalties; and attorneys' fees and costs.

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Employer violated the applicable Wage Order including but not limited to Paragraph 11 of Wage Order No. 5, as Employer failed to provide Mr. Polvos and other Aggrieved Employees with all statutorily-mandated meal periods due to Employer's unlawful meal policies and/or practices, which (1) failed to provide Mr. Polvos and other Aggrieved Employees an uninterrupted 30-minute meal period before the end of their fifth hour of work, and (2) failed to provide Mr. Polvos and other Aggrieved Employees a second uninterrupted 30-minute meal period before the end of their tenth hour of work. As such, Employer also violated California Labor Code § 226.7(a), 512(a) and 1198.

Mr. Polvos and other Aggrieved Employees did not receive the premium pay for the meal periods which were not provided to them. Mr. Polvos and other Aggrieved Employees will therefore seek PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5, and/or other applicable Wage Orders; California Labor Code § 558 and 1198 penalties; and attorneys' fees and costs.

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Despite Employer's failure to authorize and permit all required rest periods due to their uniform and unlawful practices, Employer never provided Mr. Polvos and other Aggrieved Employees with an hour of pay at their regular rate for each rest period

violation, as required. Mr. Polvos and other Aggrieved Employees will therefore seek PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5, and/or other applicable Wage Orders; California Labor Code § 558 and 1198 penalties; and attorneys' fees and costs.

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Employer failed to timely pay Aggrieved Employees all wages due at the end of their employments because Aggrieved Employees were not paid all overtime wages, and meal and rest break premiums, as set forth herein. Accordingly, Employer violated California Labor Code sections 201 and/or 202.

Employee and Aggrieved Employees will therefore seek PAGA default penalties; California Labor Code §§ 203, 558.1, 1199, and 2699(f)(2) penalties; and attorney's fees and costs.

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Employer has no accurate records relating to Mr. Polvos and other Aggrieved Employees' work periods, meal periods, rest periods, total daily hours worked, total hours worked per payroll period and applicable pay rates. Accordingly, Employer violated the applicable Wage Orders including but not limited to Wage Order 5, California Labor Code § 1198 and 1174(d). Mr. Polvos and other Aggrieved Employees will therefore seek PAGA default penalties; Wage Order Penalties pursuant to paragraph (20)(A) of Wage Order 5, and/or other applicable Wage Orders; California Labor Code § 1174.5 penalties; and attorney's fees and costs.

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Employer has violated or has caused to be violated a number of California wage and hour laws. Mr. Polvos therefore intends to file civil claims for the aforementioned violations of the Labor Code and other law. Mr. Polvos requests the agency review this notice per PAGA's provisions.

Very truly yours,



Matthew Rabban, Esq.

Attorney for the Aggrieved Employees

Notice Provided to Employer via Certified Mail

(Tracking No. 9407 1118 9876 5815 5620 76)

PRONTO JANITORIAL SVCS., INC

12561 Persing Dr.

Whittier, CA 90606

Notice Provided to Employer via Certified Mail

(Tracking No. 9407 1118 9876 5815 5602 01)

PRONTO JANITORIAL SVCS., INC

c/o Jesse L. Atilano

2639 Commerce Way

Commerce, CA 90040

Registered Agent for service of process

Notice Provided to Employer via Certified Mail

(Tracking No. 9407 1118 9876 5815 5609 97)

PROPORTER STAFFING, INC.

c/o Valarie Denise Perez

8327 5th Street, Suite 102

Downey, CA 90241

Notice Provided to Employer via Certified Mail

(Tracking No. 9407 1118 9876 5815 5601 33)

PROPORTER STAFFING, INC.

c/o William Rodas

8327 5th Street, Suite 102

Downey, CA 90241

Registered Agent for service of process