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similarly situated
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF MADERA

12
13 CHARLES LAIZURE, an individual, and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 ALLWIRE, INC., a California Corporation;
18 ALAN HOPKINS, an individual; and DOES 1
through 10, inclusive,

19 Defendants.
20
21
22
23
24

Case No. MCV087990

**CLASS ACTION AND
REPRESENTATIVE ACTION
COMPLAINT**

[unlimited civil case]

1. Failure to Furnish Compliant Wage Statements (Cal. Lab. Code §§ 226, 246, 248 et seq.);
2. Failure to Pay All Wages at Termination (Cal. Lab. Code §§ 201-203, 227.3.);
3. Violation of Cal. Bus. Code section 17200 et seq. (Unfair Business Practices);
4. Civil Penalties under the Private Attorneys General Act (Cal. Lab. Code §§ 2698-2699.5.)

DEMAND FOR JURY TRIAL

25 Comes now Plaintiff CHARLES LAIZURE, an individual, and on behalf of all others
26 similarly situated, and files this unlimited civil Class Action and Representative Action Complaint
27 against Defendants ALLWIRE, INC., a California corporation; ALAN HOPKINS, an individual;
28 and DOES 1 through 10, inclusive (collectively the "Parties"), and alleges and states as follows:

PARTIES

1
2 1. Plaintiff CHARLES LAIZURE ("Plaintiff") is an individual who resides within the
3 county of Madera, in the state of California.

4 2. Defendant ALLWIRE, INC. ("Allwire") is a California corporation with a principal
5 place of business in Chowchilla, California, in the county of Madera. On information and belief,
6 Defendant Allwire employs more than 25 employees.

7 3. Defendant ALAN HOPKINS, ("Mr. Hopkins") on information and belief, is the
8 owner and Chief Executive Officer of ALLWIRE, INC.

9 4. Defendants ALLWIRE, INC., and ALAN HOPKINS (collectively "Defendants")
10 employed Plaintiff as "Controller" and/or "Chief Financial Officer" from September 2020, until his
11 termination, the exact date of which is unknown but, on information and belief, occurred sometime
12 after September 20, 2021.

13 5. The true names and capacities of defendants Does 1 through 10, inclusive, and each
14 of them, are unknown to Plaintiff, who sues said defendants by such fictitious names. Plaintiff is
15 informed and believes and thereon alleges that each of the defendants fictitiously named herein is
16 legally responsible in some actionable manner for the events described herein, and thereby
17 proximately caused the damage to Plaintiff. Plaintiff will seek leave of Court to amend this Complaint
18 to state the true name(s) and capacities of such fictitiously named defendants when the same have
19 been ascertained.

20 6. Defendants, including Does 1 through 10, inclusive, are now, and/or at all times
21 mentioned in this Complaint were members of, and/or engaged in a joint venture, partnership and
22 common enterprise, and acting within the course and scope of, and in pursuance of said joint venture,
23 partnership and common enterprise.

24 7. All references to "Defendant," "Defendants," "Company," "Employer," or any similar
25 language, whether singular or plural, shall mean "Defendants, and each of them" when used
26 throughout this Complaint.

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1 Defendants failed to accurately account for COVID-19 sick pay as required by Labor Code 248,
2 248.1, and 248.2.

3 16. On information and belief, all employees of Defendants were issued wage statements
4 that failed to comply with California Labor Code sections 226, 246(i), 248, 248.1, and 248.2.

5 17. During the relevant period, Defendant had a policy whereby employees earned
6 vacation pay depending on their seniority. Upon termination, Plaintiff received a regular paycheck
7 for pay through September 20, 2021. Defendants did not pay Plaintiff for at least two days of vested
8 vacation time.

9 18. On information and belief, Defendants had a pattern and practice of not paying its
10 employees for all wages, including vested vacation time, upon discharge or termination in violation
11 of Labor Codes sections 201-203, and 227.3.

12 19. All claims alleged herein arise under California law for which Plaintiff seeks relief
13 authorized by California law.

14 **CLASS ACTION ALLEGATIONS**

15 20. Plaintiff brings this action on behalf of himself and the following Classes pursuant
16 to section 382 of the Code of Civil Procedure:

17 a. The Wage Statement Class consists of all current and former employees
18 employed by Defendants in the state of California who received wage statements from Defendants
19 in the three years preceding the filing of this suit through the present.

20 b. The Unpaid Wages at Termination or Resignation Class consists of all former
21 employees employed by Defendants in the state of California who were terminated or resigned and
22 did not receive all wages due at the time of their termination or resignation of employment with
23 Defendants in the three years preceding the filing of this suit through the present.

24 c. The Private Attorneys General Class consists of all current and former
25 employees who have suffered violations of the California Labor Code by Defendants for the time
26 period of 430 days prior to the filing of this suit through the present.

27 21. At all material times, Plaintiff was a member of the class. Plaintiff undertakes this
28 concerted activity to improve the wages and working conditions of all Class members.

1 22. This action is brought, and may properly be maintained, as a Class Action under
2 California Code of Civil Procedure § 382 because there is a well-defined community of interest in
3 the litigation and the proposed Class is easily ascertainable. This action satisfies the predominance,
4 typicality, numerosity, superiority, and adequacy requirements of these provisions.

5 a. *Numerosity/ Ascertainability:* The members of the Class (and each subclass,
6 if any) are so numerous that joinder of all members would be unfeasible and impractical. The
7 membership of the entire Class is unknown to Plaintiff at this time, however, the Class is estimated
8 to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable
9 by inspection of Defendants' records.

10 b. *Common Questions of Law and Fact Predominate/ Well Defined Community*
11 *of Interest:* There are common questions of law and fact as to the Class (and each subclass, if any)
12 that predominate over questions affecting only individual members, including without limitation,
13 whether, as alleged herein, Defendants have:

- 14 i. Failed to promptly pay all wages due, including accrued vacation
15 time, to Class members upon their discharge or resignation;
16 ii. Failed to provide Class members with accurate wage statements; and
17 iii. Violated Business & Professions Code section 17200 et seq. as a
18 result of their illegal conduct as described above.

19 c. *Typicality:* Plaintiff is qualified to, and will, fairly and adequately protect the
20 interests of each Class member with whom there is a shared, well-defined community of interest,
21 and Plaintiffs claims (or defenses, if any) are typical of all Class members' claims as demonstrated
22 herein.

23 d. *Adequacy of Representation:* Plaintiff is qualified to, and will, fairly and
24 adequately protect the interests of each Class member with whom there is a shared, well-defined
25 community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts
26 with or interests antagonistic to any Class member. Plaintiff's attorneys, the proposed class counsel,
27 are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has
28 incurred, and throughout the duration of this action, will continue to incur costs and attorney's fees

1 that have been, are, and will be necessarily expended for the prosecution of this action for the
2 substantial benefit of each Class member.

3 e. *Superiority:* A class action is superior to other available methods for the fair
4 and efficient adjudication of the present controversy. Class members have little interest in
5 individually controlling the prosecution of separate actions because the individual damage claims
6 of each Class member are not substantial enough to warrant individual filings. In sum, for many, if
7 not most, Class members, a class action is the only feasible mechanism that will allow them an
8 opportunity for legal redress and justice. The conduct of this action as a class action in this forum,
9 with respect to some or all of the issues presented herein, presents fewer management difficulties,
10 conserves the resources of the parties and of the court system, and protects the rights of each Class
11 member.

12 f. *Public Policy Considerations:* The public policy of the State of California is
13 to resolve the Labor Code claims of many employees through a class action. Indeed, current
14 employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former
15 employees are also fearful of bringing actions because they believe their former employers might
16 damage their future endeavors through negative references and/or other means. Class actions
17 provide the class members who are not named in the complaint with a type of anonymity that allows
18 for the vindication of their rights at the same time as their privacy is protected.

19 23. Moreover, individualized litigation would also present the potential for varying,
20 inconsistent, or incompatible standards of conduct for Defendants, and would magnify the delay and
21 expense to all parties and to the court system resulting from multiple trials of the same factual issues.
22 The adjudication of individual Class members' claims would also, as a practical matter, be
23 dispositive of the interests of other members not parties to the adjudication, and could substantially
24 impair or impede the ability of other Class members to protect their interests.

25 24. Plaintiff contemplates the eventual issuance of notice to the proposed members of
26 the Class that would set forth the subject and nature of the instant action. The Defendants' own
27 business records may be utilized for assistance in the preparation and issuance of the contemplated
28 notices. To the extent that any further notices may be required, Plaintiff would contemplate the use

1 of additional techniques and forms commonly used in class actions, such as published notice, e-mail
2 notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the
3 Class and deemed necessary and/or appropriate by the Court

4 25. Plaintiff and the members of the Class have suffered and will continue to suffer harm
5 as a result of Defendant(s)' unlawful and wrongful conduct. Defendant(s) have acted, or refused to
6 act, on grounds generally applicable to the Class, thereby making appropriate final and injunctive
7 relief with regard to the members of the Class as a whole.

8 **FIRST CAUSE OF ACTION**

9 Failure to Furnish Compliant Wage Statements (Cal. Lab. Code §§ 226, 246, 248 et seq., 1174)
10 (Against all Defendants)

11 26. The allegations as set forth in the paragraphs above are re-alleged and incorporated
12 herein by reference.

13 27. At all times relevant herein, Defendants were required to keep accurate records
14 regarding their California employees pursuant to the mandate of Labor Code sections 226 and 1174.

15 28. Defendants failed to provide Plaintiff and the Class with compliant, accurate, and
16 itemized wage statements accounting for regular sick leave in violation of Labor Code section
17 246(i), and COVID-19 sick leave in violation of Labor Code section 248 et seq., thereby violating
18 Labor Code section 226.

19 29. Defendants are liable to Plaintiff for damages and penalties for the violations of
20 Labor Code sections 226, 246(i) and 248 et seq.

21 **SECOND CAUSE OF ACTION**

22 Failure to Pay All Accrued Wages at Termination (Cal. Lab. Code §§ 201, 202, 203, 227.3.)
23 (Against all Defendants)

24 30. The allegations as set forth in the paragraphs above are re-alleged and incorporated
25 herein by reference.

26 31. Labor Code section 227.3 requires employers to pay employees for all unused vested
27 vacation time at their final rate of pay upon termination of the employee's employment. Unused
28 vacation is treated as wages.

1 thus giving Defendants a competitive advantage over other employers and business with whom
2 Defendants were in competition and who was in compliance with the law.

3 39. As a direct and proximate result of Defendants' violations, Plaintiff's rights under
4 the law were violated because Plaintiff suffered monetary losses. Plaintiff seeks restitution in the
5 form of front and back pay, restitution in the form of unpaid wages with interest thereon, and
6 injunctive relief to prohibit Defendants from violating California laws and regulations listed in this
7 cause of action.

8 **FOURTH CAUSE OF ACTION**

9 **VIOLATION OF PAGA**
10 **(Against all Defendants)**

11 40. The allegations as set forth in the paragraphs above are re-alleged and incorporated
12 herein by reference.

13 41. PAGA expressly establishes that any provision of the California Labor Code which
14 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
15 divisions, commissions, boards, agencies or employees for a Violation of the California Labor Code
16 through a civil action brought by an aggrieved employee on behalf of himself or herself, and other
17 current or former employees.

18 42. On May 23, 2018, the Court of Appeal published its decision in the case *Huff v.*
19 *Securitas Security Services USA, Inc.* 23 Cal.App.5th 745 (2018) clarifying that an employee who
20 brings a representative action and who was affected by at least one of the Violations alleged in the
21 complaint had standing to pursue penalties on behalf of the state not only for that Violation, but also
22 for Violations affecting other employees and could recover penalties.

23 43. On July 29, 2022, Plaintiff provided written notice to the LWDA and Defendants of
24 the specific provisions of the Labor Code he contends were violated, and the theories supporting his
25 contentions. Attached hereto as **Exhibit A** and incorporated herein by reference is the copy of the
26 written notice to the LWDA. Plaintiff believes that as of October 3, 2022, the sixty-five (65) days'
27 notice period expired. The LWDA has not responded to the written notice indicating its intent to
28

1 investigate the claims, thereby providing Plaintiff the ability to bring these claims on behalf of
2 himself and the aggrieved employees.

3 44. Plaintiff and other hourly, salaries, non-exempt, or exempt employees and
4 misclassified employees that worked for Defendant are "aggrieved employees" as defined by
5 California Labor Code section 2699(c) in that they are all current or former employees of Defendants
6 who were affected by at least one of the violations alleged in the LWDA letter and this Complaint.

7 45. Pursuant to California Labor Code § 2699, Plaintiff, individually, and on behalf of
8 other current and former aggrieved employees, requests and is entitled to recover from Defendants,
9 and each of them, civil penalties, interest, attorneys' fees and costs pursuant, as well as all statutory
10 penalties against Defendants, and each of them, including but not limited to:

11 46. Penalties under California Labor Code section 2699 in the amount of a hundred
12 dollars (\$100) for each aggrieved employee per pay period for the initial Violation, and two hundred
13 dollars (\$200) for each aggrieved employee per pay period for each subsequent Violation;

14 47. Penalties under applicable California Wage Orders in the amount of fifty dollars
15 (\$50) for each aggrieved employee per pay period for the initial Violation, and one hundred dollars
16 (\$100) for each aggrieved employee per pay period for each subsequent Violation;

17 48. Any and all additional penalties and sums as provided by the Labor Code and/or
18 other statutes; and

19 49. Attorneys' fees and costs.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for judgment individually, and on behalf of all other
22 similarly situated, as follows:

- 23 1. For an order certifying the proposed Class;
24 2. For an order appointing Plaintiff as a representative of the Class;
25 3. For an order appointing Counsel for Plaintiff as Counsel for the Class;
26 4. Upon the First Cause of Action, for statutory penalties pursuant to Labor Code
27 section 226, 246, and 248 et seq.;

EXHIBIT A



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July 29, 2022

VIA ONLINE SUBMISSION:

*Labor & Workforce Development Agency /
Dept. of Industrial Relations Portal*

VIA EMAIL:

LWesterlund@ch-law.com; vkearney@ch-law.com.

VIA CERTIFIED MAIL:

Lawrence E. Westerlund, Esq.
Counsel for Allwire, Inc.
Coleman & Horowitz, LLP
499 West Shaw Ave., Ste 116
Fresno, California 93704

Allwire, Inc.
16395 Ave. 24 1/2
Chowchilla, CA 93610

Re: Charles Laizure v. Allwire, Inc. – PAGA Claim Notice to LWDA
Internal Matter No.: 03578

To Whom It May Concern:

Please be advised that this law firm represents Mr. Charles Laizure in claims arising from his employment with Allwire, Inc. and DOES 1 through 10 (collectively "Allwire"). The purpose of this letter is to comply with Labor Code sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated in order to invoke the authority and protections afforded by the Private Attorneys General Act of 2004 ("PAGA").

Pursuant to California Labor Code sections 2699.3 and 2699.5, Complainant, on behalf of himself and other similarly situated, aggrieved, current, and former employees of Employer, hereby gives written notice ("Notice") of his claims against Employer. This Notice is being provided via online filing to the California Labor and Workforce Development Agency ("LWDA") and Employer via (1) its Managing Agents at, including but not limited to, Employer's principal address(es) for business operations and (2) its registered agents for service of process. This Notice also serves to demonstrate Complainant's reasonable attempt at settlement with Employer. If Employer is interested in settling this matter before a lawsuit is filed, Employer may contact Raimondo | Miller, ALC at the address included at the close of this letter. This settlement attempt is in compliance with relevant California law. (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 561.)



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This letter is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This letter further reserves any and all rights by Complainant to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities or other individuals are named and charged with violations of the California Labor Code—making them liable on an individual basis as permitted by numerous California Labor Code sections including, but not limited to, Sections 558, 558.1, and 1197.1—Complainant reserves any and all rights to add, substitute, or change the name of Employer entities or individuals responsible for the violations at issue. Any further amendments or changes to this notice shall relate back to the date of this notice. Consequently, Employer is on notice that Complainant continues its investigation with the full intent to amend or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change or add the identities of any entities or individuals responsible for the violations contained herein. If Employer intends to cure the alleged violations within the statutory time period set forth in California Labor Code sections 2699 and 2699.3, subdivision (a), Employer shall provide notice, including a description of actions taken to cure. If the alleged violation is not cured within the statutory time period, Complainant will commence a civil action pursuant to California Labor Code section 2699.

Facts

Allwire, inc. has a principal place of business in Chowchilla, California in the county of Madera. It is in the business of manufacturing industrial electric cables for a variety of applications and develops new products based on its client's needs. Mr. Laizure worked for Allwire as a "Controller" from September 15, 2020, until September 15, 2021. During the period that Plaintiff was employed by Defendants, Plaintiff typically worked five days per week for eight hours or more per day at a salaried hourly rate of \$32.45 per hour, which was paid as salary. At the end of Mr. Laizure's employment with Allwire, not all wages were paid out to him as required by California Labor Code section 202, among other violations described below. Therefore, Mr. Laizure is an "aggrieved employee" as defined by California Labor Code section 2698 *et seq.*, and Mr. Laizure may represent all aggrieved employees of Allwire for any and all violations of the California Labor Code. (*See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745.)

For the purposes of this letter, the "aggrieved employees" whom Mr. Laizure seeks to represent are himself and the other aggrieved employees of Allwire who performed work in California at any time during the one-year preceding the date of this letter through the present.

At the conclusion of Mr. Laizure's employment, Mr. Laizure was not paid for the accrued vacation days owed to him. Moreover, his paystubs are deficient under Labor Code sections 245 and 248 for failing to show accrued sick time or available COVID-19 sick time. On information



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and belief, all of the other employees of Allwire, whether they are paid hourly or salary, experienced similar labor code violations within the relevant period.

Allwire did not permit its hourly employees to take all legally required rest periods. Specifically, Allwire's aggrieved employees were not compensated in any fashion for the time spent on working during their rest breaks pursuant to Wage Order 1, section 12, and California Labor Code sections 226.7 and 516. Despite Allwire's failure to authorize and permit aggrieved employees to take all lawful paid rest periods, Allwire also failed to pay any rest period premium wages at the rate of one hour of pay per daily rest period violation as required by Labor Code section 226.7. Upon information and belief, Allwire failed to authorize rest breaks for its employees, and failed to pay rest period premiums in the event aggrieved employees were required to work through their lawful rest breaks.

Allwire did not provide the aggrieved employees with a legally compliant first meal period when they worked shifts in excess of 5 hours. Specifically, due to pressure from Allwire to complete work within narrow time frames, the aggrieved employees would often not be permitted to take a legally compliant meal period, or if they were authorized to take a meal period, it would be less than 20 minutes. Allwire also failed to provide employees with a legally compliant second meal period if an employee worked for more than 10 hours. Upon information and belief, Allwire's time and attendance reports will substantiate these claims. Despite Allwire's failure to provide the aggrieved employees with all lawful meal periods to their uniform and unlawful practices, Allwire never provided the aggrieved employees with a meal period premium, calculated as an hour of pay at their regular rate for each meal period violation as required by Labor Code section 226.7.

As described above, Allwire committed the following violations of the Labor Code and Industrial Welfare Commission Wage Orders.

Individual Liability Under California Labor Code Sections 558 and 558.1

California Labor Code section 558, subdivision (a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the

employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee." California Labor Code section 558, subdivision (d), provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."



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In passing AB 588, the California legislature added California Labor Code section 558.1. Section 558.1 permits joint and several liability as to both an individual and an employer for violations of California Labor Code sections 203, 226, 226.7, and 1194. Employer, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Complainant's and other Aggrieved Employees' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "a natural person who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute. (Cal. Civ. Code § 3294(b).) Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. (*White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 566-67.) For the reasons set forth above and others, at all relevant times, the above-listed individuals meet the criteria of managing agents under California law and therefore may be held liable under California Labor Code sections 558 and 558.1 for violations of California Labor Code sections 203, 226, 226.7, and 1194, as further described in detail below.

Complainant intends to further name any unknown individuals responsible for violations arising under California Labor Code sections 558 and 558.1 after further discovery. Complainant will ask the Court to relate the amendment of the PAGA charge and the operative Complaint to the date of filing of these initial charges. Complainant asks and demands that Employer put these individuals on notice immediately to provide them as much notice as possible to mount a defense. In the alternative, Complainant also offers to Employer to place those individuals on notice if Employer voluntarily provides their contact information.

Labor Code Violations

a. Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the total hours worked by each employee at each corresponding pay rate and the total wages earned by all non-exempt employees. IWC Wage Orders similarly require employers to keep time records showing when the employees being and end each work period, and reflecting the time during which a meal period was provided each day.

At all relevant times, Employer has failed to keep the required payroll records. Among other things, Employer was required to provide all employees written notice of their available sick pay and COVID-19 supplemental paid sick leave, which it did not. By failing to keep records accurately reflecting all available sick leave hours, Employer failed to keep "accurate and complete" records as required by the statute.

Employer's failure to keep "accurate and complete" payroll records for Complainant and other aggrieved employees violates California Labor Code sections 246, 248.1, 1174, 1198, 1199, and IWC Wage Orders. These violations subject Employer to civil penalties under California



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Labor Code sections 1174.5 and 2699. Each violation of each California Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.¹

b. Failure to Pay All Accrued Wages at Termination

Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of his or her intention to quit, in which case, the employee is entitled to his or her wages at the time of quitting. Labor code section 227.3 requires employers to pay employees for all unused vested vacation time at their final rate of pay upon termination of their employment.

During the relevant period, Allwire had a policy whereby employees earned vacation pay depending on their seniority. Mr. Laizure worked for Allwire, Inc. for a period of 12 months from September 2020 through at least September 2021 and was owed two days of vacation at the time of his termination which was never paid upon termination. Upon information and belief, not paying earned benefits and wages owed at the time of termination is a pattern and practice of Allwire. As a result, Mr. Laizure and the other aggrieved employees are owed liquidated damages in addition to Waiting Time Penalties under Labor Code section 203 for failure to pay all wages at termination.

c. Violation of California Labor Code Sections 226, 245-248.5

Per Labor Code section 226, Allwire was required to furnish Mr. Laizure and the other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their accrual of available sick time and COVID sick pay. Mr. Laizure's pay stubs indicates that Allwire, Inc. violated provisions of the California Healthy Workplace Healthy Families Act of 2014 (AB 1522) which was codified in the California Labor Code under sections 245 et seq. This code section requires employers to "provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages." No accrual of sick time is noted in Mr. Laizure's paystubs, and no separate notice of sick leave accrual was ever provided to Mr. Laizure. Furthermore, Labor Code section 248 regarding COVID-19 pay was not included on Mr. Laizure's paystubs, which is considered a technical violation as well. On information and belief, Allwire was and is deficient in its wage statements and has therefore violated Labor Code sections 226, 245, 248.

¹ See California Labor Code § 2699, subdivision (f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").



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d. Meal Period Violations

As alleged above, Allwire failed to provide certain aggrieved employees with all required and compliant meal periods due to Allwire's meal period policies and practices that often failed to provide the legally required 30 minute off-duty first meal periods before the end of the fifth hour of work or to provide second meal periods. (See Labor Code §§ 226.7 and 512; Wage Order 1, § 11.) As a result, certain aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. (See Labor Code § 226.7.) ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

e. Rest Period Violations

As alleged above, Allwire also failed to authorize and permit certain aggrieved employees to take all required paid rest periods. (See Labor Code §§ 226.7 and 516; Wage Order 1, § 12.) As a result, certain aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required paid rest periods. (See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided."))

f. Final Pay

Labor Code sections 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Allwire failed to do so with respect to Mr. Laizure by failing to pay vacation wages earned upon termination. Allwire also failed to provide meal and rest period premiums to employees who have left Allwire's employment within the relevant period of time. As the Supreme Court recently ruled, meal period premiums and rest break premiums are wages for the purposes of Labor Code section 203, (See *Naranjo v. Spectrum Security Services, Inc.* (Cal., May 23, 2022, No. S258966) 2022 WL 1613499, at *6.) On information and belief, within the relevant period, Allwire failed to pay to the aggrieved employees all wages due and owing at the time of separation of employment. Pursuant to Labor Code section 203, Allwire's failure to pay all final wages due to Mr. Laizure and other aggrieved employees was willful and, consequently, entitles Mr. Laizure and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Allwire failed to pay their final wages after their separation from employment, up to a maximum of thirty days.

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Conclusion

As an "aggrieved employee," Mr. Laizure intends to initiate a civil action on behalf of himself and the estimated fifty other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Laizure's own records, and on information and belief, Allwire committed and continues to commit the following California Labor Code violations:

- a. Allwire violated Labor Code §§ 246, 248.1, 1174, 1198, 1199, and IWC Wage Orders for failing to properly maintain employment records.
- b. Allwire violated Labor Code § 226, 245, and 248 by failing to furnish Mr. Laizure and other aggrieved employees with accurate and compliant itemized wage statements, including but not limited to accounting for accrued sick leave;
- c. Allwire violated Labor Codes §§ 201, 202, 203, and 227.3 by failing to timely pay all final wages due upon separation of employment to Mr. Laizure and other aggrieved employees;
- d. Allwire violated Labor Codes §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Laizure and other aggrieved employees.
- e. Allwire violated Labor Codes §§ 226.7, 512, and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to certain aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- f. Allwire violated Labor Codes §§ 226.7, 516, and 558 by failing to authorize and permit aggrieved employees from taking all required paid rest periods, and/or failing to pay all rest period premiums to certain aggrieved employees at their respective regular rates of compensation;

Pursuant to California Labor Code section 2699.3(a)(2)(A), please notify the undersigned and Allwire if the LWDA intends to investigate the alleged violations of the California Labor Code stated herein. Please contact me should you require additional information.

Sincerely,

Ryan W. Porte

Attorney

Raimondo | Miller, ALC

cc: Lawrence E. Westerlund, counsel for Allwire, Inc.