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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

GERZON QUEVEDO, ERICK CAMACHO,
RAMIRO AVILA AVILA, SERGIO OJEDA, on
behalf of the State of California and other
aggrieved persons,

Plaintiffs,

vs.

HALLIN AND HERRERA, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: **CVRI 2204677**

**PAGA REPRESENTATIVE ACTION
COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.]

1 Plaintiffs GERZON QUEVEDO, ERICK CAMACHO, RAMIRO AVILA AVILA, and
2 SERGIO OJEDA (“collectively, “Plaintiffs”), based upon facts that either have evidentiary
3 support or are likely to have evidentiary support after a reasonable opportunity for further
4 investigation and discovery, allege as follows:

5 **INTRODUCTION & PRELIMINARY STATEMENT**

6 1. Plaintiffs bring this action against Defendant HALLIN AND HERRERA, INC.
7 and DOES 1 through 10 (HALLIN AND HERRERA, INC. and DOES 1 through 10 are
8 collectively referred to as “Defendants”) for civil penalties under the Private Attorneys General
9 Act of 2004, California Labor Code §§ 2698, *et seq.* (“PAGA”) stemming from Defendants’
10 failure to pay for all hours worked (minimum, straight time, and overtime wages), failure to
11 provide meal periods, failure to authorize and permit rest periods, failure to pay all earned wages
12 twice per month, failure to maintain accurate records of hours worked and meal periods, failure
13 to timely pay final wages at termination, failure to furnish accurate wage statements, and failure
14 to indemnify employees for expenditures.

15 2. For over 50 years, California’s courts and legislature have recognized that this
16 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
17 Wages are not ordinary debts. Because of the economic position of the average worker and his
18 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so
19 that employees are promptly paid the minimum/overtime wages that the Legislature has required
20 for employees. So fundamental are California’s wage-and-hour laws that the Legislature has
21 criminalized certain types of violations. In extending extra protection to deter violations of these
22 underlying statutes—since Plaintiffs are not seeking general and/or special damages, restitution
23 or other damages other than civil penalties—California has enacted the PAGA to permit an
24 individual to bring an action for PAGA penalties only, which is the precise and sole nature of this
25 action.

26 3. All California employees during the relevant statutes of limitations who are or
27 were harmed by Defendants’ illegal practices are “Aggrieved Employees.” The Aggrieved
28 Employees worked for Defendants as hourly-paid or non-exempt employees within the

1 applicable statutory period.

2 4. Plaintiffs bring this action against Defendants seeking only to recover penalties on
3 behalf of all Aggrieved Employees that worked for Defendants, and on behalf of the State of
4 California. Plaintiffs do not seek to recover anything other than penalties as permitted by
5 California Labor Code Section 2699 at this time. To the extent that statutory violations are
6 mentioned for wage violations, Plaintiffs do not seek underlying general and/or special damages
7 for those violations, but simply penalties as permitted by California Labor Code Section 2699,
8 declaratory relief, and injunctive relief for themselves, and all Aggrieved Employees as permitted
9 by the PAGA.

10 5. Defendants own/owned and operate/operated an industry, business, and
11 establishment within the State of California, including Riverside County. As such, and based
12 upon all the facts and circumstances incident to Defendants' business in California, Defendants
13 are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare
14 Commission ("IWC"), and the California Business & Professions Code.

15 6. On information and belief, Defendants, and each of them were on actual and
16 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
17 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
18 willful and deliberate.

19 7. At all relevant times, Defendants were and are legally responsible for all of the
20 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
21 foregoing paragraphs as the employer of Plaintiffs and the Aggrieved Employees. Further,
22 Defendants are responsible for each of the unlawful acts or omissions complained of herein under
23 the doctrine of "respondeat superior".

24 **THE PARTIES**

25 **A. Plaintiffs**

26 8. Plaintiff GERZON QUEVEDO is a California resident who worked for
27 Defendants in Riverside County, California as an hourly-paid, non-exempt employee from
28 approximately June 2017 to approximately March 2022.

1 9. Plaintiff ERICK CAMACHO is a California resident who worked for Defendants
2 in Riverside County, California as an hourly-paid, non-exempt employee from approximately
3 June 2021 to approximately December 2021.

4 10. Plaintiff RAMIRO AVILA AVILA is a California resident who worked for
5 Defendants in Riverside County, California as an hourly-paid, non-exempt employee from
6 approximately July 2019 to approximately March 2022.

7 11. Plaintiff SERGIO OJEDA is a resident of Riverside County, California who
8 worked for Defendants in Riverside County, California as an hourly-paid, non-exempt employee
9 from approximately April 2021 to approximately February 2022.

10 **B. Defendants**

11 12. Plaintiffs are informed and believe, and based upon that information and belief
12 allege, that Defendant HALLIN AND HERRERA, INC. is, and at all times herein mentioned,
13 was:

- 14 (a) A California corporation qualified to do business and actually conducting
15 business in numerous counties throughout the State of California, including
16 in Riverside County; and,
17 (b) The former employer of Plaintiffs and the current and/or former employer
18 of the Aggrieved Employees because Defendant HALLIN AND
19 HERRERA, INC. suffered and permitted Plaintiffs and the Aggrieved
20 Employees to work, and/or controlled their wages, hours, or working
21 conditions.

22 13. Plaintiffs do not know the true names or capacities of the persons or entities sued
23 herein as DOES 1-10, inclusive, and therefore sue said Defendants by such fictitious names.
24 Each of the Doe Defendants was in some manner legally responsible for the damages suffered by
25 Plaintiffs and the Aggrieved Employees as alleged herein. Plaintiffs will amend this complaint to
26 set forth the true names and capacities of these Defendants when they have been ascertained,
27 together with appropriate charging allegations, as may be necessary.

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1 14. At all times mentioned herein, the Defendants named as DOES 1-10, inclusive,
2 and each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
3 and/or injured a significant number of the Plaintiffs and the Aggrieved Employees in the State of
4 California.

5 15. Plaintiffs are informed and believe and thereon allege that at all relevant times
6 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs
7 and the other employees and exercised control over their wages, hours, and working conditions.
8 Plaintiffs are informed and believe and thereon allege that, at all relevant times, each Defendant
9 was the principal, agent, partner, joint venturer, officer, director, controlling shareholder,
10 subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of
11 some or all of the other Defendants, and was engaged with some or all of the other Defendants in
12 a joint enterprise for profit, and bore such other relationships to some or all of the other
13 Defendants so as to be liable for their conduct with respect to the matters alleged below.
14 Plaintiffs are informed and believe and thereon allege that each Defendant acted pursuant to and
15 within the scope of the relationships alleged above, that each Defendant knew or should have
16 known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the
17 conduct of all other Defendants.

18 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

19 16. Plaintiffs worked for Defendants in Riverside County, California as hourly-paid,
20 non-exempt employees. During Plaintiffs' employment for Defendants, Defendants paid
21 Plaintiffs hourly wages and classified them as non-exempt from overtime. Defendants typically
22 scheduled Plaintiffs to work at least five days in a workweek and at least eight hours per
23 workday, but Plaintiffs regularly worked more than eight hours in a workday and more than forty
24 (40) hours in a workweek.

25 17. Throughout Plaintiffs' employment, Defendants failed to pay for all hours worked
26 (including minimum, straight time, and overtime wages), failed to provide Plaintiffs with legally
27 compliant meal periods, failed to authorize and permit Plaintiffs to take rest periods, failed to
28 timely pay all final wages to Plaintiffs when Defendants terminated their employment, and failed

1 to furnish accurate wage statements to Plaintiffs. As discussed below, Plaintiffs' experience
2 working for Defendants was typical and illustrative.

3 **A. Failure to Pay for All Hours Worked, Including Minimum Wages, Straight**
4 **Time Wages, and Overtime Wages**

5 18. Under California law, an employer must pay for all hours worked by an employee.
6 "Hours worked" is the time during which an employee is subject to the control of an employer,
7 and includes all the time the employee is suffered or permitted to work, whether or not required
8 to do so.

9 19. In addition, Labor Code § 510 provides that employees in California shall not be
10 employed more than eight hours in any workday or forty (40) hours in a workweek unless they
11 receive additional compensation beyond their regular wages in amounts specified by law.

12 20. Labor Code §§ 1194 and 1198 also provide that employees in California shall not
13 be employed more than eight hours in any workday unless they receive additional compensation
14 beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states
15 that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

16 21. Throughout the statutory period, Defendants maintained a policy and practice of
17 not paying Plaintiffs and the Aggrieved Employees for all hours worked, including minimum,
18 straight time, and overtime wages. Defendant required Plaintiffs and the Aggrieved Employees
19 to work "off-the-clock", uncompensated, by, for example, requiring Plaintiffs and the Aggrieved
20 Employees to perform work prior to clocking in for the workday, during legally required meal
21 periods, and after clocking out for the workday. Some of this unpaid work should have been paid
22 at the overtime rate. In failing to pay for all hours worked, Defendants also failed to maintain
23 accurate records of the hours Plaintiffs and the Aggrieved Employees worked.

24 **B. Failure to Provide Meal Periods**

25 22. Under California law, employers have an affirmative obligation to relieve
26 employees of all duty in order to take their first 30-minute, duty-free meal periods no later than
27 the start of sixth hour of work in a workday, and to allow employees to take their second 30-
28 minute, duty-free meal period no later than the start of the eleventh hour of work in the workday.

Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

23. Despite these legal requirements, Defendants wrongfully failed to provide Plaintiffs and the Aggrieved Employees with legally compliant meal periods. Defendants regularly, but not always, required Plaintiffs and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiffs and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a meal period. Defendants also failed to permit Plaintiffs to take a second meal period when Plaintiffs worked at least ten hours of work in a workday. Accordingly, Defendants' policy and practice was not to provide meal periods to Plaintiffs and the Aggrieved Employees in compliance with California law.

24. Plaintiffs and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, regularly failed to pay Plaintiffs and the Aggrieved Employees the additional wages to which they were entitled for meal periods that were not provided.

C. Failure to Authorize and Permit Rest Periods

25. Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

26. Throughout the statutory period, Defendants wrongfully failed to authorize and permit Plaintiffs and the Aggrieved Employees to take legally compliant rest periods. Defendants regularly required Plaintiffs and the Aggrieved Employees to work in excess of four

consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiffs and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendants continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a rest period. Accordingly, Defendants' policy and practice was not to authorize and permit Plaintiffs and the Aggrieved Employees to take rest periods in compliance with California law.

27. Plaintiffs and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiffs and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

D. Failure to Pay All Earned Wages Twice Per Month

28. Based on Defendants' failure to pay Plaintiffs and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

29. Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiffs and the Aggrieved Employees suffered damages in those amounts.

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1 **E. Failure to Maintain Accurate Records of Hours Worked and Meal Periods**

2 30. Plaintiffs seek penalties under California Labor Code § 1174(d). Pursuant to
3 California Labor Code § 1174.5, any person, including any entity, employing labor who willfully
4 fails to maintain accurate and complete records required by California Labor Code § 1174 is
5 subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every
6 employer shall keep time records showing when the employee begins and ends each work period.
7 Meal periods and total hours worked daily shall also be recorded

8 31. Defendants, however, failed to maintain accurate records of hours worked and all
9 meal periods taken or missed by Plaintiffs and the Aggrieved Employees.

10 32. Defendants' failure to provide and maintain records required by the California
11 Labor Code and applicable IWC Wage Orders deprived Plaintiffs and the Aggrieved Employees
12 the ability to know, understand and question the accuracy and frequency of meal periods, and the
13 accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiffs and the
14 Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which
15 resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiffs and
16 the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the
17 use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in
18 seeking to compel Defendants to fully perform its obligation under state law, all to their
19 respective damage in amounts according to proof at trial. As a result of Defendants' knowing
20 failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiffs
21 and the Aggrieved Employees have also suffered an injury in that they were prevented from
22 knowing, understanding, and disputing the wage payments paid to them.

23 **F. Failure to Timely Pay All Wages at Termination**

24 33. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,
25 the wages earned and unpaid at the time of discharge are due and payable immediately, and that
26 if an employee voluntarily leaves his or her employment, his or her wages shall become due and
27 payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-
28 two (72) 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.

34. Within the applicable statute of limitations, the employment of Plaintiffs and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Defendants failed, and continue to fail to pay Plaintiffs and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

35. Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

36. Accordingly, Plaintiffs and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

G. Failure to Furnish Accurate Itemized Wage Statements

37. Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each

hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Labor Code § 226(e)(2)(B)(iii).)

38. The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Labor Code § 226(e)(1).)

39. Throughout the statutory period, Defendants failed to furnish Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). Because Defendants violated Labor Code § 226, Plaintiffs and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiffs and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) dollars per employee.

H. Failure to Indemnify for Necessary Expenditures

40. Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiffs and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiffs and the Aggrieved Employees regularly paid out-of-pocket for necessary business expenses, including, without limitation, work attire, work tools, use of personal cell phones, and use of personal vehicles. Plaintiffs and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to

indemnify Plaintiffs and the Aggrieved Employees for these employment-related expenses.

FIRST CAUSE OF ACTION

**(By All Plaintiffs Against All Defendants for Civil Penalties Under the Private Attorneys
General Act of 2004, Cal. Lab. Code § 2698, et seq.)**

41. Plaintiffs incorporate by reference and re-allege all preceding paragraphs as though fully set forth herein.

42. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable IWC Orders.

43. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

44. Plaintiffs have exhausted their administrative remedies pursuant to California Labor Code § 2699.3. On July 27, 2022, they gave written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiffs and current and former Aggrieved Employees, including the facts and theories to support the violations. Plaintiffs also paid the filing fee on July 27, 2022. Plaintiffs’ PAGA case number is LWDA-CM-898090-22 (*Gerzon Quevedo, et al. v. Hallin and Herrera, Inc., et al.*).

45. The statute of limitations is tolled while a plaintiff exhausts his or her administrative remedies with California’s LWDA prior to suit, which is required by the statute. (*See* Labor Code § 2699.3(d).)

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46. More than sixty-five (65) days has elapsed since Plaintiffs provided notice, but the LWDA has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiffs may commence a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

47. Based on the conduct described in this Complaint, Plaintiffs are entitled to an award of civil penalties on behalf of the State of California and similarly Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to be shown according to proof at trial. These penalties are in addition to all other remedies permitted by law.

48. In addition, Plaintiffs seek an award of reasonable attorney's fees and costs pursuant to Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

PRAYER FOR RELIEF

Plaintiffs, on behalf of all similarly aggrieved employees, pray for relief and judgment against Defendants, jointly and severally, as follows:

1. That the Court declare, adjudge and decree that Defendants violated the California Labor Code by failing to pay for all hours worked (minimum, straight time, and overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, failing to pay all earned wages twice per month, failing to maintain accurate records of hours worked and meal periods, failing to timely pay final wages at termination, failing to furnish accurate wage statements, and failing to indemnify for necessary expenditures;

2. An award of civil penalties on behalf of themselves and all similarly aggrieved employees pursuant to PAGA;

3. Pre-judgment and post-judgment interest at the maximum rate allowed;

4. Attorneys' fees and costs reasonably incurred;

5. Injunctive and declaratory relief to the extent allowed by PAGA; and,

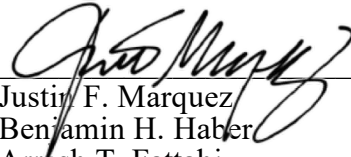
6. Such other and further relief that the Court deems proper.

Dated: October 27, 2022

Respectfully submitted,

WILSHIRE LAW FIRM

By:


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Benjamin H. Haber
Arrash T. Fattahi

Attorneys for Plaintiffs