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Attorneys for Plaintiff and the Aggrieved
Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

Rafael Cardenas, individually and on behalf of
all similarly situated individuals,

Plaintiff,

vs.

Jack Davenport Sweeping Services, a
California Corporation; **William Davenport**, an
individual; and **Does 1-10**, inclusive;

Defendants.

CASE NO. BCV-25-102364

REPRESENTATIVE COMPLAINT FOR:

1) PAGA Penalties (Labor Code §§ 2698, *et seq.*)

1 Plaintiff Rafael Cardenas, by and through his counsel of record allege as follows:

2 **THE PARTIES**

3 1. Plaintiff **Rafael Cardenas** ("Plaintiff") is a resident of the County of Kern in the State
4 of California. Mr. Cardenas was employed by Defendants as an hourly, non-exempt employee of
5 Defendants from on or around March 16, 2024 to on or around March 20, 2025.

6 2. Defendant **Jack Davenport Sweeping Services** ("JDSS") is a California corporation
7 with its principal place of business at 2504 Chinon Street, Bakersfield, California 93311. Upon
8 information and belief, the JDSS employs at least 50 employees.

9 3. Defendant **William Davenport** ("Mr. Davenport") is an individual who, on
10 information and belief, resides in the County of Kern. Upon information and belief, Mr. Davenport is
11 the Chief Executive Officer of JDSS. Per Labor Code § 558.1, since Mr. Davenport is a managing
12 agent, director, and/or officer of JDSS and, upon information and belief, as he caused or directed the
13 acts described herein, he is personally liable for the penalties sought under PAGA for predicate
14 violations of the Labor Code asserted herein.

15 4. The true names and capacities of the defendants named herein as Does 1 through 10,
16 inclusive (together with JDSS and Mr. Davenport, "Defendants"), are unknown to Plaintiff at this time.
17 Accordingly, Plaintiff brings this suit against them by fictitious names pursuant to California Code of
18 Civil Procedure section 474. Plaintiff believes that each of the Doe Defendants is a California resident
19 and/or does substantial business in the State of California. At all relevant times, Does 1 through 10
20 were acting within the course and scope of their employment and agency with Defendants. Plaintiff is
21 informed and believes that each Doe Defendant is responsible for the injuries and damages alleged
22 herein. Plaintiff will amend this complaint to reflect Does 1 through 10's true names and capacities
23 when they have been determined.

24 5. Except as otherwise noted herein, Defendants participated in the acts alleged herein
25 and/or were the agents, servants, employees, or representatives of the other Defendants. At all times
26 relevant to this complaint, Defendants were acting within the course, scope, and authority of their
27 agency and employment such that the acts of one defendant are legally attributable to the other
28 Defendants. Defendants, in all respects, acted as employers and/or joint employers of Plaintiff and

1 Aggrieved Employees in that each of them exercised control over the wages, hours, and/or working
2 conditions of Defendants' hourly non-exempt employees.

3 **JURISDICTION AND VENUE**

4 6. The court has jurisdiction over all causes of action in this complaint pursuant to Article
5 VI, section 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on
6 California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure,
7 and the Business & Professions Code.

8 7. Venue as to Defendants is proper in this Superior Court pursuant to California Code
9 of Civil Procedure section 395. The unlawful acts alleged have directly affected Plaintiff and similarly
10 situated employees within and throughout Kern County.

11 **GENERAL ALLEGATIONS**

12 8. As a matter of uniform and systemic policy, Defendants failed to authorize and/or
13 permit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor Code § 226.7.
14 Upon information and belief, Aggrieved Employees, including Plaintiff, were required to skip or
15 interrupt their meal and/or rest periods to sweep parking lots, otherwise interrupt or cut short their
16 meal and/or rest periods, or remain on duty and under Defendants' control during their meal and/or
17 rest periods to perform other tasks at Defendants' directions due to Defendants' policies and practices,
18 including their scheduling and staffing practices and policies.

19 9. Accordingly, Defendants failed to authorize and permit compliant meal periods as
20 required by law.

21 10. In the same manner, and as a matter of uniform and systemic policy, Defendant requires
22 non-exempt employees to continue working during their rest periods by sweeping parking lots,
23 answering phone calls, otherwise interrupting or cut short their rest periods, or remain on duty and
24 under Defendants' control during their rest periods to perform other tasks at Defendants' directions
25 due to Defendants' policies and practices, including their scheduling and staffing practices and policies.

26 11. Accordingly, Defendants failed to authorize and permit compliant rest periods as
27 required by law.

28 12. In failing to authorize and/or permit meal and rest periods, Defendants have also

1 implemented a uniform policy of denying all required compensation in lieu of meal and rest periods to
2 its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly
3 denied compliant meal and rest periods.

4 13. Defendants further failed to compensate employees for all time worked time when
5 employees were forced to interrupt and/or work through their meal periods but were clocked out
6 under Defendants' time-keeping system (and therefore treated as not working). This resulted in
7 employees being denied both straight time and overtime pay, where applicable, for the time during
8 which they were on call or under Defendants' control despite being off the clock for timekeeping
9 purposes.

10 14. As a matter of uniform and systemic policy, Defendants failed to provide its non-
11 exempt employees with accurate itemized wage statements in accordance with California's Labor Code.
12 Upon information and believe, Defendants failed to furnish Plaintiff, or Aggrieved Employees, either
13 semimonthly or at the time of each payment of wages, either as a detachable part of the check or
14 separately, an accurate, itemized statement in writing showing pick pay, gross wages earned, all
15 deductions, and the net wages earned by Plaintiff for the inclusive dates for which the Plaintiff worked.

16 15. Defendants separately failed to comply with Section 226(a) by failing to list the "the
17 name and address of the legal entity that is the employer" of Plaintiff and the Aggrieved Employees on
18 their wage statements. Defendants listed "Jack Davenport Sweeping Services, Inc." or other fictitious
19 entities on their paystubs, but the name and address of the legal entity that employed them was at all
20 relevant times "Jack Davenport Sweeping Service."

21 **FIRST CAUSE OF ACTION**

22 ***California Labor Code §2699, et seq.***

23 ***Private Attorneys General Act ("PAGA") Penalties***

24 **(Plaintiff and Aggrieved Employees Against Defendants)**

25 16. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code
26 § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general,
27 on behalf of himself and other current or former employees to recover penalties for an employer's
28 violations of the Labor Code and IWC Wage Orders.

17. Plaintiff is an “aggrieved employee” with standing to bring an action under PAGA, as he was employed by Defendants during the applicable statutory period and suffered the Labor Code violations alleged herein.

18. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, *et seq.*, seeking civil penalties for Defendants’ violation of Labor Code §§ 201, 202, 203, 204, 206.5, 226, 226.3, 226.7, 510, 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1199, and 1401 as described herein, plus attorneys’ fees and costs.

19. Entitlement to Penalties. Under the California Private Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees, against whom a violation of the same provision(s) was committed, as well as the general public, to recover penalties for an employer’s violations of the Labor Code and IWC Wage Orders within one year of filing a notice to the Labor and Workforce Development Agency.

20. These penalties shall be allocated sixty-five percent to the Labor and Workforce Development Agency and thirty-five percent to the aggrieved employees.

21. These penalties may be “stacked” separately for each of Defendants’ violations of the Labor Code, subject to the exception enumerated in Labor Code section 2698(i). *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012); *see also O’Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016); Labor Code § 2698(i).

22. *Failure to Pay Minimum Wage for All Hours Worked.* California law requires employers to compensate employees for all time that an employee is “suffered or permitted to work,” which includes all time “when any employer ‘directs, commands or restrains’ an employee.” *See, e.g., Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000). The

23. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked because Defendants had a policy and/or practice whereby they required and/or pressured Aggrieved Employees to work under Defendants’ control while off-the-clock, including but not limited

1 to forcing or requiring Aggrieved Employees to work while they were clocked out for their meal
2 periods.

3 24. Defendants further failed to pay Plaintiff and Aggrieved Employees any wages for time
4 engaged in this off-the-clock work.

5 25. *Failure to Pay Required Overtime.* California Labor Code §§ 510 and 1198 provide that it is
6 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or
7 two-times that person's regular rate of pay, depending on the number of hours worked by the person
8 on a daily or weekly basis.

9 26. Plaintiff and Aggrieved Employees who work more than eight hours in a day or more
10 than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked
11 in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate
12 of pay includes all remuneration for employment paid to, or on behalf of, the employee, including
13 commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp.*, 4 Cal. 5th
14 542, 573 (2018), as modified (Apr. 25, 2018).

15 27. Plaintiff and other Aggrieved Employees were not paid overtime premiums for all of
16 the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of
17 eight hours on the seventh consecutive day of work in a workweek, and in excess of forty hours in a
18 week.

19 28. *Failure to Provide Compliant Meal Periods.* Labor Code section 226.7, 512(a), and 1198
20 provide that no employer shall require an employee to work during any meal period mandated by an
21 applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is
22 relieved of all duty during the 30-minute meal period . . . an employer's obligation is to provide an off-
23 duty meal period: an uninterrupted 30-minute period during which the employee is relieved of all duty."
24 *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

25 29. Defendants' policies and practices served to deprive the Aggrieved Employees of legally
26 compliant 30-minute breaks free of employer control and/or relieved of all duties.

27 30. Upon information and belief, employees were required to skip breaks, interrupt their
28 breaks, cut them short, take them after the fifth hour of work, work through them due to Defendants'

1 policies and practices.

2 31. *Failure to Provide Compliant Rest Periods.* Labor Code § 226.7, 512(a), and 1198 provide
3 that no employer shall require an employee to work during any rest or meal period mandated by an
4 applicable order of the IWC.

5 32. Employers must authorize and permit employees to be relieved of all duty during their
6 rest and meal periods: “A rest period, in short, must be a period of rest.”¹ *Augustus v. ABM Sec. Sems.,*
7 *Inc.*, 2 Cal.5th 257, 273 (2016).

8 33. On information and belief, Defendants failed to authorize or permit all required
9 compliant paid rest periods for shifts worked by Aggrieved Employees by requiring them to skip rest
10 periods, interrupt rest periods, or work through rest periods.

11 34. *Failure to Provide and Maintain Compliant Wage Statements.* Labor Code § 226 requires
12 employers to furnish employees with an accurate, itemized statement in writing showing, among other
13 things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt
14 employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the
15 employee is paid; (6) the name of the employee and the last four digits of his or her social security
16 number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly
17 rates in effect during the pay period and the corresponding number of hours worked at each hourly
18 rate by the employee.

19 35. Labor Code § 226 additionally provides that employers “shall afford current and former
20 employees the right to inspect or receive a copy of records pertaining to their employment, upon
21 reasonable request to the employer” and that employers “shall comply with the request as soon as
22 practicable, but no later than 21 calendar days from the date of the request.”

23 36. Labor Code § 1198.5 provides that “[u]pon a written request from a current or former
24 employee, or her or her representative, the employer shall also provide a copy of the personnel records,
25

26
27 ¹ Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of
28 Industrial Relations, “Rest Periods/Lactation Accommodations,” *available at*
https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work
premises during my rest period? A. No, your employer cannot impose any restraints not inherent in
the rest period requirement itself.”)

1 at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date
2 the employer receives the request . . .”

3 37. Labor Code § 432 provides that “[i]f an employee or applicant signs any instrument
4 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
5 request.”

6 38. Labor Code § 1174 requires employers to maintain payroll records showing the hours
7 worked daily by all employees, for a time not less than three years. Industrial Wage Order No. 5, Section
8 7 requires that an employer maintain “time records showing when the employee begins and ends each
9 work period” and make those records available to any employee upon reasonable request. *Id.*

10 39. Plaintiff, Rafael Cardenas, through counsel, requested copies of her records kept in
11 accordance with Labor Code §§ 226, 432, 1174, and 1198.5 by certified letter on April 1, 2025.

12 40. Defendants did not provide Plaintiff with all records required to be produced by these
13 statutes by the deadlines prescribed in the Labor Code.

14 41. Labor Code § 226(f) and (h) sets forth that if an employer fails to permit a current or
15 former employee to inspect or copy records required to be kept under that section within 21 days of a
16 request to inspect, that employer is liable to the employee for a penalty of \$750, and the employee is
17 entitled to bring an action for injunctive relief to enforce compliance and shall be entitled to an award
18 of costs and reasonable attorney’s fees in doing so. Labor Code § 1198.5(k) sets forth that if an
19 employer fails to permit a current or former employee to inspect or copy records relating to the
20 employee’s performance or to any grievance concerning the employee within 30 days of a request to
21 inspect, that employer is liable to the employee for a penalty of \$750, and the employee is entitled to
22 bring an action for injunctive relief to enforce compliance and shall be entitled to an award of costs
23 and reasonable attorney’s fees in doing so.

24 42. Defendants have a policy and practice of denying requests for employee records to their
25 current and former employees in California that violates Labor Code §§ 226, 432, 1174, and 1198.5 and
26 the Wage Orders. Under information and belief, Defendants also fail to maintain these records for the
27 statutorily prescribed length of time.

28

1 43. At all times relevant to this complaint, Defendants’ failure to pay premium wages for
2 missed meal and/or rest periods further ensured that Plaintiff and Aggrieved Employees’ wage
3 statements inaccurately reflected gross and net wages earned. Defendants’ failure to compensate all
4 hours worked, earned premium pay, and/or all required overtime hours and rates further left the wage
5 statements they provided to employees to be inaccurate.

6 44. Defendants have also failed to keep accurate payroll records for Plaintiff and Aggrieved
7 Employees in accordance with Labor Code § 1174. Defendants’ failure to keep and maintain accurate
8 payroll records reflecting hours worked and wages earned has impeded Plaintiff and Aggrieved
9 Employees’ ability to calculate unpaid wages earned.

10 45. Defendants separately failed to comply with Section 226(a) by failing to list the “the
11 name and address of the legal entity that is the employer” of Plaintiff and the Aggrieved Employees on
12 their wage statements. Defendants listed “Jack Davenport Sweeping Services, Inc.” or other fictitious
13 entities on their paystubs, but the name and address of the legal entity that employed them was at all
14 relevant times “Jack Davenport Sweeping Service.”

15 46. Defendants knowingly and intentionally failed to comply with Labor Code § 226,
16 causing injury and damages to Plaintiffs and Aggrieved Employees.

17 47. Procedural Requirements Met. On April 2, 2025, Plaintiff electronically filed a notice
18 of claims with the LWDA and sent a copy to Defendants by certified mail. Plaintiff did not receive
19 notice from the LWDA that it would be investigating the complaint nor did Plaintiff receive notice
20 from the LWDA that it was declining to investigate with the 65-day period under Labor Code § 2699.3.
21 On June 7, 2025, the sixty-five-day notice period expired as to all defendants. Since the LWDA took
22 no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative
23 remedies required to seek penalties under PAGA. *See* Lab. Code § 2699.3(a)(2). A true and correct copy
24 of Plaintiff’s PAGA Notice is attached herein as **Exhibit A**.

25 48. Plaintiff—as a representative of the People of the State of California—is entitled to
26 seek any and all penalties otherwise capable of being collected by the Labor Commission or
27 Department of Labor Standards Enforcement (“DLSE”) on behalf of the State of California through
28 this Action.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully prays for judgment as follows:

- 3 A. For civil penalties under PAGA to be determined by trial;
- 4 B. For pre- and post-judgment interest as allowed;
- 5 C. For preliminary and permanent injunctive relief;
- 6 D. For reasonable attorney's fees and costs and expert fees and costs; and
- 7 E. For such other relief as this Court deems just and proper.
- 8

9 Dated: June 25, 2025

BARAHMAND LAW GROUP

11 By: /s/ Navid Barahmand

12 Navid Barahmand

13 Attorneys for Plaintiff

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EXHIBIT A

BARAHMAND LAW GROUP

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April 2, 2025

Original filed online via the LWDA's PAGA Claim Notice Portal

LABOR & WORKFORCE DEVELOPMENT AGENCY

1515 Clay Street, Ste. 801

Oakland, CA 94612

Sent via U.S. Certified Mail and Email to: lance@jdsweep.com

Human Resources Administrator

JACK DAVENPORT SWEEPING SERVICES

2504 Chinon Street

Bakersfield, California 93311

Tracking: 9589 0710 5270 1903 8544 45

Michael T. Whittington – Agent for Service of Process

JACK DAVENPORT SWEEPING SERVICES

2504 Chinon Street

Bakersfield, California 93311

Tracking: 9589 0710 5270 1903 1903 8544 52

Re: Private Attorneys General Act (“PAGA”) Notice Letter of Rafael Cardenas on Behalf of Himself and Aggrieved Employees Under California Labor Code Section 2699.3

Dear Sir/Madam:

We represent Rafael Cardenas against Defendant Jack Davenport Sweeping Services, Inc (“Jack Davenport”) and its Chief Executive Officer, William Davenport (“Mr. Davenport” and collectively with Jack Davenport as “Defendants”) in a lawsuit soon to be filed against Defendant in Kern County Superior Court (the “Action”). A copy of the proposed PAGA Representative Complaint to be filed in the Action is enclosed as **Exhibit A**.

Together with this correspondence, the enclosed Complaint serves as notice pursuant to Labor Code § 2699.3, *et seq.* that we intend to prosecute representative claims for civil penalties under the Private Attorney’s General Act (“PAGA”) on behalf of those of Defendant’s employees employed from one year prior to filing of this Notice through trial (the “Aggrieved Employees”) for the Labor Code violations asserted in the Complaint. *See* Cal. Lab. Code §§ 2699, *et seq.*

As set forth in greater detail in the Complaint, Defendant violated their obligations under the California Labor Code by (1) failing to pay minimum wage for all hours worked; (2) failing to pay required overtime pursuant to Lab. Code §§ 510, 1198 (3-4) failing to provide rest and meal breaks pursuant to Lab. Code § 226.7(b); (5) failing to reimburse employees for business expenditures pursuant to Lab. Code §2802; and (6) failing to provide and maintain records under Lab. Code §§ 226, 432, and 1198.5 due to Defendant’s practices and policies.

Jack Davenport Sweeping Services, Inc.
April 2, 2025

Please feel free to contact us with any questions.

Very truly yours,

BARAHMAND LAW GROUP

A handwritten signature in black ink, appearing to read 'Navid Barahmand', written in a cursive style.

NAVID BARAHMAND, ESQ.
Navid@barahmandlaw.com

Enclosures: Exhibit A – PAGA Complaint