

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Pooja V. Patel, Esq. (SBN 317891)
Courtney M. Miller, Esq. (SBN 327850)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
ppatel@lelawfirm.com
cmiller@lelawfirm.com
WHT1@lelawfirm.com

Attorneys for Plaintiff RAMIRO SALDIVAR J.R.,
on behalf of himself and current and former aggrieved employees

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

RAMIRO SALDIVAR J.R., on behalf of
himself and other aggrieved employees,

Plaintiff,

vs.

JTS MODULAR, INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: BCV-22-103270

PAGA ACTION

**PLAINTIFF RAMIRO SALDIVAR
J.R.'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff RAMIRO SALDIVAR J.R. ("Plaintiff"), who alleges and
complains against Defendants JTS MODULAR, INC. and DOES 1 to 100, inclusive (collectively
"Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys' General Act of 2004, Lab. Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure
2 to pay reporting time pay; failure to authorize or permit all legally required and/or compliant meal
3 periods or pay meal period premium wages; failure to authorize or permit all legally required
4 and/or compliant rest periods or pay rest period premium wages; failure to pay wages for accrued
5 paid sick time at the regular rate of pay; statutory penalties for failure to timely pay earned wages
6 during employment; statutory penalties for failure to provide accurate wage statements; statutory
7 waiting time penalties in the form of continuation wages for failure to timely pay employees all
8 wages due upon separation of employment. Plaintiff seeks on a representative basis, following
9 notice to the Labor and Workforce Development Agency, civil penalties, reasonable attorneys'
10 fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State
11 of California, and others aggrieved.

12 **II. JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
14 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
15 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
16 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
17 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
18 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
19 aggrieved California-based hourly non-exempt employees occurred in locations throughout
20 California, including but not limited to Kern County, at 300 E. Planz Road, Bakersfield, California
21 93307.

22 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
23 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
24 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
25 tolled from April 6, 2020, until October 1, 2020.

26 **III. PARTIES**

27 4. Plaintiff brings this action as a representative of the Labor and Workforce
28 Development Agency on behalf of himself and other current and former employees subject to

1 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
2 filed include current, former and/or future employees of Defendants who work, worked, or will
3 work for Defendants as direct employees as well as temporary employees employed through temp
4 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
5 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
6 employed by Defendants in an hourly position at Defendants' location in Kern County from in or
7 around March 2020, until on or about March 25, 2022.

8 5. Plaintiff is informed and believes and thereon alleges that Defendant JTS
9 MODULAR, INC. is authorized to do business within the State of California and is doing business
10 in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto
11 were persons acting on behalf of Defendant JTS MODULAR, INC. in the establishment of, or
12 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant JTS
13 MODULAR, INC. operates in Kern County and employed Plaintiff and putative class members in
14 Kern County, including but not limited to, at 300 E. Planz Road, Bakersfield, California 93307.

15 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
16 through 50 are corporations, or are other business entities or organizations of a nature unknown to
17 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
18 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
19 working conditions of employment of Plaintiff and aggrieved employees.

20 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
21 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
22 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
23 supervisor, independent contractor and/or employee of each defendant who violated or caused to
24 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
25 the Industrial Welfare Commission's wage orders regulating hours and days of work.

26 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
27 sues said defendants by said fictitious names, and will amend this complaint when the true names
28 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as

1 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
2 named defendants is in some manner responsible for the events and allegations set forth in this
3 complaint.

4 9. Plaintiff makes the allegations in this complaint without any admission that, as to
5 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
6 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

7 **FIRST CAUSE OF ACTION**

8 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**
9 **GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

10 **(Against all Defendants by Plaintiff)**

11 10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

12 11. During the period beginning one (1) year preceding Plaintiff sending the initial
13 PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
14 202, 203, 204, 226, 226.7, 246, 510, 512, 1194, 1197 and Sections 14 and 15 of the applicable
15 Wage Orders.

16 12. Specifically, Defendants have committed the following violations of California
17 Labor Code:

18 13. **Failure to pay wages for all hours worked at the legal minimum wage:**
19 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
20 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
21 which includes all time that an employee is under control of the employer and all time the
22 employee is suffered and permitted to work. This includes the time an employee spends, either
23 directly or indirectly, performing services which inure to the benefit of the employer.

24 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
25 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
26 Wage Orders.

27 15. In this case, Plaintiff and other current and former aggrieved California-based
28 hourly non-exempt employees worked more minutes per shift than Defendants credited them with

1 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
2 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
3 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
4 not limited to:

5 (a) "Rounding" down or "shaving" Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees daily hours at the time of their clock-ins and
7 clock-outs, including clock-ins and clock-outs for meal breaks, to the nearest quarter of an hour, to
8 the benefit of Defendants; and

9 (b) Since the outbreak of COVID-19, requiring Plaintiff and other current and former
10 aggrieved California-based hourly non-exempt employees to line up and wait to undergo and
11 undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock-in for their
12 shift.

13 16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
14 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
15 control without paying wages for that time. This resulted in Plaintiff and other current and former
16 aggrieved California-based hourly non-exempt employees working time for which they were not
17 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
18 Wage Order.

19 17. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
20 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
21 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
22 which includes all time that an employee is under control of the employer and all time the
23 employee is suffered and permitted to work. This includes the time an employee spends, either
24 directly or indirectly, performing services that inure to the benefit of the employer.'

25 18. Labor Code sections 510 and 1194 require an employer to compensate employees a
26 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
27 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

28 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of

work in any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

19. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) "Rounding" down or "shaving" Plaintiff and other current and former aggrieved California-based hourly non-exempt employees daily hours at the time of their clock-ins and clock-outs, including clock-ins and clock-outs for meal breaks, to the nearest quarter of an hour, to the benefit of Defendants; and

(b) Since the outbreak of COVID-19, requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to line up and wait to undergo and undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock-in for their shift.

20. Overtime is based upon an employee's regular rate of pay. "The regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

21. In this case, Plaintiff alleges that when he and other current and former aggrieved California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay due to Defendants' failure to include all remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration such as COVID pay, for example, when calculating Plaintiff and other current and former aggrieved California-based hourly non-exempt employees regular rate of pay for the purpose of paying overtime.

22. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt

1 employees were under the control of Defendants but were not compensated. To the extent that the
2 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
3 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
4 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
5 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
6 sections 510 and 1194 and the applicable Wage Order.

7 **23. Failure to pay wages to hourly non-exempt employees for workdays that**
8 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
9 current and former aggrieved California-based hourly non-exempt employees regularly worked
10 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

11 24. California law requires an employer to authorize or permit an employee an
12 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
13 all duties and the employer relinquishes control over the employee's activities prior to the
14 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 16 at §11; *Brinker*
15 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
16 employee for a work period of more than ten (10) hours per day without providing the employee
17 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
18 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
19 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
20 period is only permitted when: (1) the nature of the work prevents an employee from being
21 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

22 25. If an employer fails to provide an employee a meal period in accordance with the
23 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
24 for each workday that a legally required and compliant meal period was not provided. Labor Code
25 section 226.7; Wage Order 16 at §11.

26 26. In this case, Defendants failed to authorize or permit legally required and compliant
27 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
28 exempt employees due to Defendants' policies, practices, and/or procedures, including but not

1 limited to:

2 (a) “Rounding” down or “shaving” Plaintiff and other current and former aggrieved
3 California-based hourly non-exempt employees total daily hours at the time of their clock-ins and
4 clock-outs for meal breaks to the nearest quarter of an hour resulting in meal breaks less than 30
5 minutes.

6 27. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
7 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
8 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
9 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
10 employees did not receive legally required and compliant meal periods, in violation of Labor Code
11 section 226.7.

12 28. Finally, on occasions when Defendants paid Plaintiff and other current and former
13 aggrieved California-based hourly non-exempt employees a “premium” wage for late, missed,
14 short, on-premises, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1)
15 additional hour of pay at Plaintiff and other current and former aggrieved California-based hourly
16 non-exempt employees regular rate of compensation. Specifically, Defendants maintained a
17 policy, practice, and/or procedure of failing to include all remuneration such as COVID pay, for
18 example, when calculating Plaintiff’s and similarly situated employees’ regular rate of
19 compensation for the purpose of paying meal period premium wages.

20 29. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
21 and other current and former aggrieved California-based hourly non-exempt employees not
22 receiving wages to compensate them for workdays during which Defendants did not provide them
23 with meal periods in compliance with California law.

24 30. **Failure to pay wages to hourly non-exempt employees for workdays that**
25 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
26 current and former aggrieved California-based hourly non-exempt employees regularly worked
27 shifts of more than three-and-a-half (3.5) hours.

28 31. California law requires every employer to authorize and permit an employee a rest

1 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
2 Code section 226.7; Wage Order 16 at §12. Under California law, “[e]mployees are entitled to 10
3 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
4 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
5 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
6 section 226.7; Wage Order 16 at §12. Rest periods, insofar as practicable, shall be in the middle of
7 each work period. Wage Order 16 at §12. Additionally, the rest period requirement “obligates
8 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
9 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
10 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

11 32. If the employer fails to authorize or permit a required rest period, the employer
12 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
13 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
14 Wage Order 16 at § 12.

15 33. In this case, Defendants failed to authorize or permit all legally required and
16 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
17 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
18 limited to:

19 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
20 non-exempt employees to remain on Defendant’s premises during their rest breaks. Defendants’
21 continued exercise of control over how Plaintiff and other current and former aggrieved
22 California-based hourly non-exempt employees spent their rest breaks resulted rest breaks that
23 were on-duty and/or less than ten (10) minutes.

24 34. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
25 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
26 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
27 workday they did not receive legally required and compliant rest periods, in violation of Labor
28 Code section 226.7.

1 35. Finally, on occasions when Defendants did pay Plaintiff and other current and
2 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
3 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
4 one (1) additional hour of pay at Plaintiff’s and similarly situated employees’ regular rate of
5 compensation. Specifically, Defendants maintained a policy, practice, and/or procedure of failing
6 to include all remuneration such as COVID pay, for example, when calculating Plaintiff and other
7 current and former aggrieved California-based hourly non-exempt employees regular rate of
8 compensation for the purpose of paying rest period premiums.

9 36. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
10 and other current and former aggrieved California-based hourly non-exempt employees not
11 receiving wages to compensate them for workdays in which Defendants did not provide them with
12 rest periods in compliance with California law.

13 37. **Failure to pay wages for accrued paid sick days at the regular rate of pay:**
14 Defendants had a policy and/or procedure where Plaintiff and other current and former aggrieved
15 California-based hourly non-exempt employees accrued paid sick time.

16 38. Labor Code section 246, subdivision (a), states in relevant part “[a]n employee
17 who...works in California for the same employer for 30 or more days within a year from the
18 commencement of employment is entitled to paid sick days.” Additionally, an employee accrues
19 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked,
20 beginning at the commencement of employment. Labor Code section 246(b).

21 39. Here, Plaintiff and other current and former aggrieved California-based hourly non-
22 exempt employees were employed by Defendants for 30 or more days and were entitled to paid
23 sick days. Also, Plaintiff and similarly situated employees began accruing paid sick days since the
24 beginning of each of their respective employment with Defendants.

25 40. Labor Code section 246, subdivision (l), provides that an employer shall calculate
26 the paid sick time for non-exempt employees in the same manner as the regular rate of pay for the
27 workweek in which the employee elected to use paid sick time. “The regular rate at which an
28 employee is employed shall be deemed to include all remuneration for employment paid to, or on

1 behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement Policies
2 and Interpretations Manual, Section 49.1.2.

3 41. In this case, Plaintiff alleges that when he and other current and former aggrieved
4 California-based hourly non-exempt employees elected to use paid sick time, Defendants failed to
5 pay them sick time wages at the proper sick time rate of pay due to Defendants’ failure to include
6 all remuneration when calculating the sick time rate of pay. Specifically, Defendants maintained a
7 policy, practice, and/or procedure of failing to include all remuneration such as COVID pay, for
8 example, when calculating Plaintiff and other current and former aggrieved California-based
9 hourly non-exempt employees regular rate of pay for the purpose of paying sick time.

10 42. Defendants’ foregoing policy, practice, and/or procedure resulted in Defendants
11 failing to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
12 employees at their sick time regular rate of pay for all sick time accrued, in violation of Labor
13 Code section 246

14 43. **Failure to timely pay earned wages during employment:** In California, wages
15 must be paid at least twice during each calendar month on days designated in advance by the
16 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
17 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
18 16th and the 26th day of that month and wages earned between the 16th and the last day,
19 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
20 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
21 paid within seven (7) calendar days following the close of the payroll period in which wages were
22 earned. Labor Code section 204(d).

23 44. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed
24 to timely pay Plaintiff’s and other current and former aggrieved California-based hourly non-
25 exempt employees’ earned wages (including minimum wages, overtime wages, meal period
26 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
27 Defendants’ aforementioned policies, practices, and/or procedures resulted in their failure to pay
28 Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’

1 their earned wages within the applicable time frames outlined in Labor Code section 204.

2 **45. Failure to provide complete and accurate wage statements:** Labor Code section
3 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
4 employee his or her wages, the employer must “furnish each of his or her employees ... an
5 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
6 employee, except for any employee whose compensation is solely based on a salary and who is
7 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
8 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
9 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
10 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
11 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
12 name of the employee and his or her social security number, (8) the name and address of the legal
13 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
14 the corresponding number of hours worked at each hourly rate by the employee.”

15 **46.** As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
16 and other current and former aggrieved California-based hourly non-exempt employees all wages
17 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
18 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
19 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
20 section 226.

21 **47. Failure to pay employees all wages due at time of termination/resignation:** An
22 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
23 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
24 hours of resignation (Labor Code section 202).

25 **48.** As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
26 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
27 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
28 and/or rest period premium wages), Defendants failed to pay those employees timely after each

1 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

2 49. Defendants' violations of Wage Order 16 constituted violations of Labor Code
3 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

4 50. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
5 employee, on behalf of himself or herself and other current or former employees, to bring a civil
6 action to recover civil penalties against all Defendants pursuant to the procedures specified in
7 Labor Code section 2699.3.

8 51. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code section 2699.3. On September 30, 2022, Plaintiff filed a PAGA Claim Notice with the
10 LWDA and provided notice to Defendants by certified mail which provided notice of the specific
11 provisions of the Labor Code alleged to have been violated, including the facts and theories to
12 support the violations alleged.

13 52. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
14 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
15 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
16 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
17 to investigate Plaintiff's claims.

18 53. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
19 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 246,
20 510, 512, 1194, 1197, beginning one (1) year preceding Plaintiff sending the initial PAGA Claim
21 Notice to the LWDA to the present, in the following amounts:

22 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 2802, 512,
23 and 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
24 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
25 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

26 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
27 for each employee for each pay period for the initial violation, and for each subsequent violation,
28 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts

1 established by Labor Code section 226.3].

2 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
3 employee for each pay period for the initial violation, and for each subsequent violation, one
4 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
5 established by Labor Code section 558] and any unpaid wages.

6 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
7 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
8 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
9 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

10 54. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
11 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER**
14 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

15 **ON THE FIRST CAUSE OF ACTION:**

16 1. That Defendants be found to have violated the provisions of the Labor Code and
17 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

18 2. For any and all legally applicable penalties during the relevant statute of limitations
19 subject to any permissible tolling, including but not limited to those recoverable under the
20 California Labor Code, including but not limited to section 2699(f);

21 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
22 under California Labor Code section 2699(g); and

23 4. For such and other further relief, in law and/or equity, as the Court deems just or
24 appropriate

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1 Dated: December 5, 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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3 By: 

4 Joseph Lavi, Esq.
5 Vincent C. Granberry, Esq.
6 Pooja V. Patel, Esq.
7 Courtney Miller, Esq.
8 Attorneys for Plaintiff
9 RAMIRO SALDIVAR J.R.,
10 on behalf of himself and current and former
11 aggrieved employees
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