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Assigned for All Purposes
Judge William Claster
cx-104

Attorneys for Plaintiff ETHAN ROGERS as designated Private Attorney General, pursuant to
the Private Attorney General Act

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

ETHAN ROGERS, as a designated
Private Attorney General

Plaintiff,

v.

TRITON AIR, INC.; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 30-2022-01295857-CU-OE-CXC

COMPLAINT FOR DAMAGES

1. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys General Act, Labor Code § 2802 for Failure to Reimburse for Necessary Expenditures; and
6. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment.

1 Plaintiff TRITON AIR, INC. (“Plaintiff”) complains and allege as follows:

2 **INTRODUCTION**

3 1. This is an action brought on behalf of state of California as a Private Attorney
4 General pursuant to the Private Attorney General Act (2004), and more specifically, Labor Code
5 §2698 et seq. as a result of one or more of the violations of the California Labor Code alleged
6 herein by Defendant TRITON AIR, INC. (“Defendant”). The term “RELEVANT TIME
7 PERIOD” or “TIME PERIOD” is defined as one (1) year and sixty-five (65) days prior to the
8 filing of the complaint. Plaintiff as a Private Attorney General, reserves the right to amend this
9 complaint to reflect a different “Time Period” as further discovery is conducted.

10 2. Plaintiff, on behalf of the State of California as a Private Attorney General seeks
11 relief against Defendant for its: (1) failure to pay all wages due, including regular and overtime
12 wages; (2) failure to provide accurate itemized wage statements; (3) failure to reimburse for
13 necessary business expenses; (4) failure to provide meal periods or compensation in lieu thereof,
14 (5) failure to provide rest periods or compensation in lieu thereof; and (6) failure to pay wages
15 due upon termination of employment.

16 3. At all relevant times herein, Defendant has consistently maintained and enforced
17 the following unlawful policies and practices against its workforce by:

- 18 (a) Willfully refusing to pay all hours worked, including both minimum and overtime
19 wages;
20 (b) Willfully refusing to furnish accurate itemized wage statements upon payment of
21 wages;
22 (c) Willfully refusing to reimburse necessary business expenses;
23 (d) Willfully refusing to provide timely uninterrupted meal and rest periods or
24 compensation in lieu thereof; and
25 (e) Willfully refusing to pay all wages due upon separation of employment;

26 **JURISDICTION AND VENUE**

27 4. This Court has subject matter jurisdiction over the causes of action alleged in this
28 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise

1 excluded from exercising subject matter jurisdiction over said causes of action.

2 5. Venue is proper in the County of Orange because Defendant, transacts business in
3 this county, the obligations and liability arise in this county.

4 6. The California Superior Court has jurisdiction in the matter, because of the
5 individual claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional
6 threshold for Federal Court and this action seeks recovery of civil penalties. Plaintiff is a resident
7 of and/or domiciled in the County of Orange, State of California.

8 7. Further, there is no federal question at issue as the issues herein are based solely
9 on California statutes and law, including the Labor Code, Code of Civil Procedure, Business and
10 Professions Code, and California Rules of Court.

11 **THE PARTIES**

12 **Plaintiff**

13 8. Plaintiff began his employment with Defendant in or around August 2020 through
14 April 2022, as an installer. Throughout the Relevant Time Period, he worked for Defendant within
15 the County of Orange, was always paid an hourly wage, and was deemed a non-exempt hourly
16 employee by Defendant.

17 **Defendants**

18 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant, is a
19 California corporation with its principal place of business in California, including Orange County.

20 10. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
21 participation in the conduct herein alleged of Defendant sued herein as DOES 1 through 50,
22 inclusive, but on information and belief alleges that said Defendant is legally responsible for the
23 violations alleged herein. Plaintiff will amend this complaint to allege the true names and
24 capacities of the DOE Defendants when ascertained.

25 11. Plaintiff is informed believes, and thereon alleges, that each Defendant acted in all
26 respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
27 business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally
28 attributable to the other Defendants. Furthermore, Defendants operate as a joint venture and/or

single business enterprise, integrated enterprise and/or are agents of one another, are alter egos, joint employers and conspire with one another to increase profits by engaging in the conduct described in this complaint.

12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

PAGA ADMINISTRATIVE PREREQUISITE

13. Plaintiff brings this case as private Attorney General pursuant to the Private Attorney General Act (2004), and more specifically, Labor Code §2698 et seq. seeking penalties, as provided by the Private Attorney General Act, Labor Code section 2698 et seq. (“PAGA”).

14. Prior to filing this complaint, on October 3, 2022, Plaintiff gave written notice by certified electronic mail to the Labor and Workforce Development Agency (“LWDA”) and to Defendant of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violation as required by Labor Code section 2699.3. A true and correct copy of Plaintiff’s original letter sent to the LWDA is attached hereto as “Exhibit A.”

15. More than sixty-five (65) days have passed since Plaintiff submitted his October 3, 2022, notice to the LWDA and Defendant of the specific alleged Labor Code violations, and the LWDA has not provided notice to Plaintiff of its intent to investigate such alleged violations. Plaintiff further have received no notice of Defendant; intent to cure any of the alleged violations. Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action as a Private Attorney General with regard to their PAGA notices.

FACTUAL ALLEGATIONS

16. This lawsuit arises out of an ongoing wrongful scheme by Defendant to deny its employees the benefits due under California’s wage and hour laws for work performed in

1 California. Defendant wrongfully refused to compensate its employees for minimum wages,
2 overtime compensation, provide timely uninterrupted meal and rest periods, provide accurate
3 wage statements, reimbursement and pay wages owed at the end of the employment, as required
4 under California law.

5 17. Throughout the Relevant Time Period, Defendant employed hourly non-exempt
6 positions throughout California. Defendant in compensated said positions at an hourly rate less
7 than twice that of the state minimum wage and such positions remained under the direct control
8 and supervision of Defendant. Accordingly, these positions remain non-exempt from California's
9 wage and hour laws yet Defendant failed to pay overtime, and otherwise pay all wages due to
10 these non-exempt employees as required by law.

11 18. Plaintiff is informed and believe, and based thereon allege, that Defendant's
12 policies and practices described herein are common within the State of California.

13 19. Plaintiff is informed and believe, and based thereon allege, that at all times herein
14 mentioned, Defendant was advised by skilled lawyers, employees and other professionals who
15 were knowledgeable about California's wage and hour laws, employment and personnel
16 practices, and the requirements of California law.

17 20. Plaintiff is informed and believe, and based thereon allege, that Defendant knew
18 or should have known that by not compensating its employees for all hours worked, including
19 minimum, regular, and overtime wages, for work that was required to be performed was in
20 violation of the California labor code. In violation of the Labor Code and IWC Wage Orders,
21 Defendant failed to pay its employees earned wages by failing to compensate at the mandatory
22 minimum wage. Defendant also failed to pay its employees at the requisite overtime and double
23 time rate for all hours worked in excess of eight (8) hours and/or twelve (12) hours per workday.

24 21. Further, to the extent the total hours worked exceeded eight (8) in one day, or forty
25 (40) in one week, all excess hours were required to be compensated at a rate of one-and-a-half
26 times the employee's base rate of pay. Similarly, all excess hours over twelve (12) hours in a day
27 were required to be compensated at a rate of two times the employee's base rate of pay.

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1 22. Plaintiff is informed and believe, and based thereon allege, that Defendant knew
2 or should have known that it was required to provide its employees with itemized wage statements
3 that accurately showed their actual hours worked, total hours worked, number of hours worked at
4 each hourly rate, gross and net wages earned, and premium wages earned per pay period in
5 accordance with California law. In violation of the Labor Code, Defendant failed to provide its
6 employees with accurate itemized wage statements showing their rate of pay, the actual hours
7 worked, correct premium wages earned per pay period, as well as the total hours work per pay
8 period.

9 23. By failing to include on its wage statements all minimum wage and overtime and
10 double-time, and meal and rest period premiums owed, Defendant failed to keep and provide
11 accurate wage statements in violation of the California labor code.

12 24. Defendant willfully failed to reimburse its employees for necessary business
13 expenses incurred during their employment with Defendant. Specifically, Defendant failed to
14 indemnify Plaintiff and other employees for expenditures they incurred on their behalf, including
15 without limitation, maintaining Defendant's uniform in direct consequence of the discharge of
16 their duties to Defendant and reimbursing a reasonable percentage of its employees' personal cell
17 phone bill.

18 25. Plaintiff is informed and believe, and based thereon allege, that Defendant knew
19 or should have known that its employees were entitled to timely payment of wages due upon
20 separation of employment. In violation of the Labor Code, Defendant failed to pay all wages due,
21 within permissible time periods, upon separation of employment.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF PAGA FOR RECOVERY OF UNPAID MINIMUM WAGE AND**
24 **OVERTIME**

25 **(Plaintiff As a Private Attorney General Against All Defendants)**

26 26. Plaintiff realleges and incorporates by reference the preceding paragraphs of this
27 complaint as if fully set forth herein.

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1 27. Any work in excess of eight hours in any workday and any work in excess of forty
2 (40) hours in a workweek shall be compensated at a rate of no less than one and one-half times
3 the regular rate of pay for an employee. (Labor Code § 510(a); IWC Wage Order 9-2001, Sect.
4 3(A).) Any work in excess of twelve (12) hours in a workday shall be compensated at the rate of
5 twice the regular rate of pay for an employee. (*Ibid.*)

6 28. Defendant's employees regularly worked over eight (8) hours per day and forty
7 (40) hours per week. Defendant failed to pay its employees minimum wage for all hours worked
8 and overtime premium for hours worked in excess of over eight (8) hours per day and/or forty
9 (40) hours per week for work performed for the Defendant. Defendant's failure to compensate
10 Plaintiff and other employees for the time spent reporting to Defendant's facilities and driving to
11 job sites off-the-clock caused said employees to work in excess of eight (8) hours per day and/or
12 forty (40) hours per week.

13 29. Since the LWDA has not indicated that it will be investigating more than sixty-
14 five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to
15 remedy the allegations set forth above, Plaintiff, as a Private Attorney General, will seek any and
16 all penalties otherwise capable of being collected by the Labor Commission, the LWDA and/or
17 the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following,
18 as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a),
19 applies to any alleged violation of the following provisions: 510 and 1194.

20 30. Plaintiff is informed and believes that Defendant has violated, and continues to
21 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
22 minimum wages and overtime.

23 31. Plaintiff, as a Private Attorney General, will and does seek to recover any and all
24 penalties for each and every violation shown to exist or to have occurred during the Relevant
25 Time Period, in an amount according to proof, as to those penalties that are otherwise only
26 available to public agency enforcement actions.

27 32. Additionally, Plaintiff as a Private Attorney General are entitled to attorney's fees
28 and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment

1 interest.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR**
4 **COMPENSATION IN LIEU THEREOF**

5 **(Plaintiff As a Private Attorney General Against All Defendants)**

6 33. Plaintiff realleges and incorporates by reference the preceding paragraphs of this
7 complaint as if fully set forth herein.

8 34. Labor Code sections 226.7 and 512 and IWC Wage Order 9-2001, sect. 11 provide
9 that no employer shall employ any person for a work period of more than five (5) hours without
10 providing a meal period uninterrupted by work duties of not less than thirty (30) minutes.

11 35. Labor Code section 226.7 provides that if an employer fails to provide an
12 employee with a meal period in accordance with this section, the employer shall pay the employee
13 one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
14 period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide
15 legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not
16 relieving employees from all work duties during meal periods thereby preventing employees from
17 taking legally compliant meal periods.

18 36. At all times relevant hereto, Plaintiff and other non-exempt hourly employees have
19 worked shifts more than five (5) hours in a workday.

20 37. Plaintiff and other non-exempt hourly employees did not voluntarily or willfully
21 waive meal periods.

22 38. Pursuant to Labor Code section 226.7, Plaintiff and other non-exempt hourly
23 employees are entitled to damages in the amount equal to one (1) hour of wages at their regular
24 rate of pay for each missed meal break, in an amount to be proven at trial.

25 39. Plaintiff, as a Private Attorney General, will and does seek to recover any and all
26 penalties for each and every violation shown to exist or to have occurred during the Relevant
27 Time Period, in an amount according to proof, as to those penalties that are otherwise only
28 available to public agency enforcement actions.

40. Additionally, Plaintiff as a Private Attorney General are entitled to attorney's fees and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment interest.

THIRD CAUSE OF ACTION

**VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR
COMPENSATION IN LIEU THEREOF**

(Plaintiff As a Private Attorney General Against All Defendants)

41. Plaintiff realleges and incorporates by reference the preceding paragraphs of this complaint as if fully set forth herein.

42. Labor Code section 226.7 and IWC Wage Order 9-2001, section 12 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours, or major fraction thereof.

43. Labor Code section 226.7, subdivision (b) provides that if an employer fails to provide and employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employees' regular rate of compensation for each workday that the rest period is not provided. Plaintiff and other employees consistently worked over four (4) hours per shift with no rest breaks, due to Defendant's uniform policies and practices.

44. As described above, Defendant failed to reasonably make available rest breaks to Plaintiff and other non-exempt hourly employees throughout the Relevant Time Period.

45. Plaintiff, as a Private Attorney General, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions.

46. Additionally, Plaintiff as a Private Attorney General are entitled to attorney's fees and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment interest.

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1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE ACCURATE ITEMIZED**
3 **WAGE STATEMENTS**

4 **(Plaintiff As a Private Attorney General Against All Defendants)**

5 47. Plaintiff realleges and incorporates by reference the preceding paragraphs of this
6 complaint as if fully set forth herein.

7 48. Labor Code section 226, subdivision (a), states in pertinent part that, “every
8 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
9 employees, either as a detachable part of the check, draft, or voucher paying the employee’s
10 wages, or separately when wages are paid by personal check or cash, an accurate itemized
11 statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee . .
12 . ; (3) the number of piece-rate units earned . . . ; (4) all deductions . . . ; (5) net wages; (6) the
13 inclusive dates of the period for which the employee is paid; (7) the name of the employee and
14 only the last four digits of his or her social security number or an employee identification number
15 other than a social security number; (8) the name and address of the legal entity that is the
16 employer . . . ; and (9) all applicable hourly rates in effect during the pay period and corresponding
17 number of hours worked at each hourly rate by the employee...” (Lab. Code, § 226.)

18 49. Defendant knowingly and intentionally failed to provide timely and accurate
19 itemized wage statements to its employees in accordance with Labor Code section 226,
20 subdivision (a), by failing to record the accurate number of hours worked, the accurate rate of pay
21 for each hour worked, the accurate amount of premiums wages earned, the accurate net pay, and
22 the accurate gross pay. Such failure caused injury to its employees in violation of the California
23 labor code.

24 50. Plaintiff, as a Private Attorney General pursuant to the Private Attorney General
25 Act (2004), and more specifically, Labor Code section 2698, will and does seek to recover any
26 and all penalties for each and every violation shown to exist or to have occurred during the
27 Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise
28 only available to public agency enforcement actions. Funds recovered will be distributed in

1 accordance with the PAGA.

2 51. Additionally, Plaintiff is entitled to attorneys' fees and costs pursuant to Labor
3 Code section 2699, subdivision (g)(1), and prejudgment interest.

4 **FIFTH CAUSE OF ACTION**

5 **VIOLATION OF PAGA FOR FAILURE TO REIMBURSE**

6 **NECESSARY BUSINESS EXPENDITURES**

7 **(Plaintiff As a Private Attorney General Against All Defendants)**

8 52. Plaintiff realleges and incorporates by reference the allegations in the preceding
9 paragraphs.

10 53. Labor Code section 2802 states that "An employer shall indemnify his or her
11 employee for all necessary expenditures or losses incurred by the employee in direct consequence
12 of the discharge of his or her duties...."

13 54. Defendant failed to reimburse its employees for necessary expenditures as a direct
14 consequence of the discharge of their duties.

15 55. Defendant knowingly, willingly, and intentionally attempted to offset the cost of
16 doing business on its employees in violation of the California labor code.

17 56. Defendant have a corporate practice and policy of requiring its employees to
18 shoulder the burden of Defendant's cost of doing business by failing to reimburse its employees
19 for necessary business expenditures, specifically requiring employees to maintain Defendant's
20 uniform and use their personal cell phones in direct consequence of the discharge of their duties
21 to Defendant.

22 57. Plaintiff acting as a Private Attorney General pursuant to the Private Attorney
23 General Act (2004), and more specifically, Labor Code section 2698, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
26 otherwise only available to public agency enforcement actions. Funds recovered will be
27 distributed in accordance with the PAGA.

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58. Accordingly, Plaintiff entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

SIXTH CAUSE OF ACTION

VIOLATION OF PAGA FOR FAILURE TO PAY WAGES DUE UPON

TERMINATION OF EMPLOYMENT

(Plaintiff As a Private Attorney General Against All Defendants)

59. Plaintiff realleges and incorporates by reference the preceding paragraphs of this complaint as if fully set forth herein.

60. Employees who ended their employment with Defendant during the Relevant Time Period, were entitled to be promptly paid all wages and meal and rest period premiums owed, including both minimum wage and lawful overtime compensation and other premiums, as required by Labor Code sections 201 and 203.

61. Defendant refused and/or failed to promptly compensate its employees for wages owed as a result of Defendant's failure to properly pay both minimum and overtime compensation owed for work performed for Defendant.

62. Plaintiff, as a Private Attorney General pursuant to the Private Attorney General Act (2004, and more specifically, Labor Code §2698 et seq, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 201-203, 226, 226.7, 510, 512, 1174, 1194, and 2802.

63. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA.

64. Additionally, Plaintiff as a Private Attorney General is entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

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1. For civil penalties for each violation as provided by law, including, but not limited to, those civil penalties provided by PAGA;
2. For costs of suit and expenses incurred herein pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis or pursuant to the California Rules of Court;
3. For reasonable attorneys' fees pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis; and
4. For all such other and further relief as the Court may deem just and proper.

MAHONEY LAW GROUP, APC

Kevin Mahoney, Esq.
John A. Young, Esq.
Attorneys for Plaintiff ETHAN ROGERS

EXHIBIT A



John Young, Esq.
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October 3, 2022

VIA ONLINE SUBMISSION

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator308

VIA CERTIFIED MAIL # 7021 0950 0000 9825 4482

Return Receipt Requested

Triton Air, Inc.
1221 Puerta Del Sol, #300
San Clemente, CA 92673

VIA CERTIFIED MAIL # 7021 0950 0000 9825 4499

Return Receipt Requested

Triton Air, Inc.
ATTN: Jerry Morey
665 Camino De Los Mares, #306
San Clemente, CA 92673

Re: *Ethan Rogers v. Triton Air, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION SECTIONS 2698 *et seq.***

To: California Labor and Workforce Development Agency and Triton Air, Inc.

From: Ethan Rogers on behalf of himself and aggrieved employees who were subject to Triton Air, Inc.'s unlawful wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Ethan Rogers ("Mr. Rogers") as a representative for all other aggrieved employees, who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698, *et seq.* ("PAGA").

Please be advised that this letter constitutes written notice required by Labor Code sections 2699.3, subdivision (a)(1) and 2699.3, subdivision (c)(1) and may lead to action against Triton Air, Inc. (referred to herein as "Employer") in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Employer, and any and all related, parent, and/or alter ego companies, corporations, partnerships, subsidiaries, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under law for any of the violations alleged herein.

Theories of Labor Code Violations and Remedies

Employer is a heating, air conditioning, water heating, and refrigeration company that provides services throughout California is located in San Clemente, California. Mr. Rogers worked for Employer as a non-exempt employee from approximately August 2020 through April 2022. Mr. Rogers' job duties included but were not limited to loading and unloading supply trucks, transporting supplies to job sites, and assisting in the installation/repair of units.

Mr. Rogers alleges that Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 206, 210, 226, 226.3, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 2802 by failing to provide Mr. Rogers and all other aggrieved employees all wages for all hours worked, including minimum wage and overtime, failed to provide meal and rest periods or compensation in lieu thereof, failing to provide accurate wage statements, failing to maintain accurate records of hours worked, failing to pay all compensation due upon separation of employment and failing to reimburse Mr. Rogers and all other aggrieved employees for work related expenses. Mr. Rogers and other aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer as non-exempt employees during the PAGA Period defined as one year prior to the submission of Mr. Rogers' initial letter to the Labor Workforce and Development Agency ("LWDA") and certified mailing to Employer until resolution of these claims.

Mr. Rogers and other aggrieved employees were regularly not compensated for all hours worked, including minimum wages as well as overtime wages, which is in violation of Labor Code sections 510, 1194, 1182.12, 1197 and is actionable under Labor Code section 2699.5. Specifically, Employer requested and incentivized Mr. Rogers and other aggrieved employees to report to Employer's facility in San Clemente, California prior to their scheduled start time in order to load trucks with supplies, drive to job sites, and or meet to discuss work responsibilities prior to the aggrieved employees scheduled start time, when they were allowed to clock-in. Mr. Rogers and other aggrieved employees were not compensated an hourly rate for this time during the which they were subject to the control of Employer, or suffered or permitted to work for Employer. Mr. Rogers and other aggrieved employees were often required to drive at least one-hour drive time to job site locations in Southern California. Once at a location, then Mr. Rogers and other aggrieved employees were required to clock in by using their cell-phones. The same was true at the end of their shifts, where Mr. Rogers and other aggrieved employees were required to clock out first and then return back home. Of note, the

location where Mr. Rogers and other aggrieved employees worked was different on a regular basis, and the job sites were scattered throughout Southern California.

Mr. Rogers and other aggrieved employees were all under the control and supervision of Employer during the driving time, since they were all required to report to the job site that Employer had communicated to them. Mr. Rogers and other aggrieved employees could not stop to perform personal errands during their commute to work. Nevertheless, Mr. Rogers and other aggrieved employees never received compensation for their drive time. Accordingly, the time spent by Mr. Rogers and other aggrieved employees performing work for Employer or being subjected to Employer's control off-the-clock was performed without compensation and in violation of Labor Code sections 510, 1194, 1182.12, 1197 and is actionable under Labor Code section 2699.5.

Employer also failed to provide Mr. Rogers and other aggrieved employees with timely uninterrupted meal and rest periods. Employer had a practice of failing to adequately staff employees to allow Mr. Rogers and other aggrieved employees to be completely relieved of all of their work responsibilities while on their legally mandated meal and rest breaks. Specifically, Employer ordered that Mr. Rogers and other aggrieved employees to prioritize completing projects and tasks over taking their legally compliant meal and rest breaks. In addition, if Employer provided a full uninterrupted meal period, the meal period was regularly not provided prior to the start of Mr. Rogers and other aggrieved employees fifth (5th) hour of work. Further, Employer failed to provide Mr. Rogers and other aggrieved employees a second meal period for all shifts over ten hours. As a result of Employer's policy and practices, Mr. Rogers and other aggrieved employees did not receive timely uninterrupted meal periods and were not compensated with premium wages for non-compliant meal and rest periods. Employer's conduct is in violation of Labor Code sections 226.7 and 512, is also actionable under PAGA.

As a result of Employer's failure to pay all wages owed as described herein, Employer violated Labor Code sections 201, 202, 203, 204, 206, and 210 due to their uniform policy, practice, and procedure of failing to timely pay all of the above-mentioned wages earned during and after Mr. Rogers and the aggrieved employees' employment with Employer.

Further, Employer required Mr. Rogers and other aggrieved employees to wash and maintain their work uniforms which is a shirt containing Employer's logo at their own expense. Employer failed to reimburse Mr. Rogers and other aggrieved employees for the cost of washing and maintaining Employer's uniform which is required as part of their employment. Employer failure to reimburse Mr. Rogers and other aggrieved employees for the cost of washing and maintaining Employer's uniform is in violation of Labor Code section 2802 and therefore is actionable under PAGA. Moreover, Mr. Rogers and other aggrieved employees were also obligated to use their personal cellular phones to clock-in and clock-out for their shifts, receive work-related text messages, calls, and/or emails, rely on their phone's GPS system for navigation while driving to jobsites for Employer, but Employer did not reimburse them for a reasonable percentage of their cellular phone bills, in violation of PAGA.

In addition, Employer failed to maintain accurate payroll records and failed to provide Mr. Rogers and other aggrieved employees with complete and accurate wage statements showing premium wages earned per pay period, among other things. This conduct is in violation of Labor Code sections 226, 226.3, 1174, and 1174.5 and is actionable under PAGA.

Mr. Rogers will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,



John Young, Esq.

MAHONEY LAW GROUP, APC