

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Monica Bachner

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GARNIK NAJARYAN
7

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 GARNIK NAJARYAN, *an individual*,

12 Plaintiff,

13
14 vs.

15 COMMERCIAL PROPERTY
16 MANAGEMENT INC., *a California*
Corporation; and DOES 1-50, inclusive,

17 Defendant.
18
19

Case No.: **23STCV01869**

REPRESENTATIVE ACTION

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 et seq.**

20 Plaintiff GARNIK NAJARYAN brings this Complaint and alleges as follows:

21 **NATURE OF THE ACTION**

22 1. Plaintiff GARNIK NAJARYAN worked as an electrician for defendant
23 COMMERCIAL PROPERTY MANAGEMENT INC. and Does 1-50 (collectively
24 “Defendants”). Plaintiff brings this action pursuant to the Private Attorneys General Act of 2004
25 (“PAGA”), Cal. Labor Code §2698 et seq., on a representative basis. All current and former
26 employees of Defendant within one year of filing this action to the present are aggrieved
27 employees.
28

2. Defendants failed to comply with California Labor Code requirements due to erroneous, willful and intentional employment practices and policies. Plaintiff brings this representative action on behalf of himself, all others similarly situated based upon the claims articulated below. Plaintiff provided notice of his claims pursuant to §2698 *et. seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as illustrated by the attached Exhibit. The LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

3. Defendants have had a consistent policy and/or practice of: (1) failing to pay for all hours worked, including overtime hours worked; (2) failing to timely pay all wages owed; (3) failing to comply with California sick pay requirements; (4) failing to provide wages due upon termination; (5) failing to provide rest breaks; (6) failing to provide compliant meal breaks and second meal breaks; (7) failing to provide accurate wage statements and maintain accurate payroll records; and (8) failing to reimburse for required business expenses. Defendants are therefore liable for civil penalties under the Cal. Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, as described more fully herein.

THE PARTIES

7. Plaintiff GARNIK NAJARYAN is a resident of the State of California and lives in North Hollywood, California. Plaintiff was employed as and misclassified an exempt, salaried employee of defendant COMMERCIAL PROPERTY MANAGEMENT INC. from 2001 through May 2022.

8. Defendant COMMERCIAL PROPERTY MANAGEMENT INC., is a California corporation and is doing business in California with the capacity to sue and to be sued, and doing business, in the county of Los Angeles, State of California.

9. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the

wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names, Plaintiffs will amend this complaint when their true names and capabilities are ascertained.

10. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees of the representative class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

JURISDICTION AND VENUE

11. Venue is proper in this judicial district because Defendants conduct business in this county and each defendant has legal obligations to Plaintiff and many of the aggrieved employees in this case that arose in this county.

12. The statutory penalties sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars (\$25,000).

13. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendants are incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

14. During the relevant time-period, Defendants committed various violations of the California Labor Code as alleged below in more detail. Defendants enforce multiple policies that violate state law, which are intended to increase profits to the detriment of aggrieved employees.

15. Defendant COMMERCIAL PROPERTY MANAGEMENT INC., is a property management company with numerous properties and units in the Los Angeles area. This

1 representative action represents approximately over sixty current and former aggrieved
2 employees.

3 16. For at least one (1) year prior to the date of filing this action, and continuing to the
4 present, Defendants engaged in unlawful employment practices that resulted in violations of
5 numerous Labor Code sections, as set forth more fully below.

6 17. Section 2(K) or Wage Order 5 defines “hours worked” as “the time during which an
7 employee is subject to the control of an Defendants and including all the time the employee is
8 suffered or permitted to work, whether or not required to do so.” When employees like Plaintiff
9 and aggrieved employees earning at or near minimum wage do not receive payment for all hours
10 worked, including time shaved from their timecards due to Defendants rounding and
11 miscalculation of overtime, and failure to pay meal and rest break penalty premiums, the result is
12 that they are earning less than the statutory minimum wages for all hours worked. Defendants
13 have been engaged in many unlawful employment practices which resulted in underpayment for
14 hours worked each pay period, including penalty payments and overtime hours worked.

15 18. Plaintiff and all current and former employees within one year of filing this action to
16 the present are aggrieved employees within the meaning of Labor Code 2699, *et seq.* (See Labor
17 code §2699(c).)

18 19. Defendants, and each of them, have committed the following violations of the
19 California Labor Code:

20 **Failure to Pay for All Hours Worked, Including Overtime Hours Worked**

21 (Cal. Labor Code §§218, 510, 558, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*)

22 20. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
23 incorporate said paragraphs herein by reference.

24 21. Section 2(K) or Wage Order 5 defines “hours worked” as “the time during which an
25 employee is subject to the control of an Defendants, and including all the time the employee is
26 suffered or permitted to work, whether or not required to do so.” When employees like Plaintiff
27 and aggrieved employees earning at or near minimum wage do not receive payment for all hours
28 worked, including time shaved from their timecards due to Defendants rounding and auto-

deducting meal break practices, the result is that they are earning less than the statutory minimum wages for all hours worked. Defendants have been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including penalty pay and overtime hours worked, as more fully set forth below:

Off-the-Clock Hours Worked – On Call Duties. Plaintiff and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Defendants' control but not compensated for their time. Plaintiff and aggrieved employees were expected to work all around the clock, at all hours throughout the day. Property Managers were required to managing noise complaints, tending to tenant complaints and concerns, conducting repairs, changing light bulbs, stopping pipe leakages, and conducting elevator checks, which occurred at all hours of the day, requiring the property manager to stay nearby at all times. However, Plaintiff and aggrieved employees were only compensated for their scheduled hours—twenty-five hours per week. Plaintiff and aggrieved employees were not paid for this time worked, resulting in failure to pay wages, including overtime and minimum wages. Defendants has violated Labor Code §§510 1194, 1194.2, 1197, 1198, 1199 and Wage Order 7. Defendants is liable for civil penalties pursuant to Labor Code §2698 *et seq*

22. Failure to Pay Overtime Wages. Defendants has required Plaintiff and aggrieved employees to work hours in excess of eight hours in a day and forty in a week but has not paid these employees overtime compensation. As a result, Plaintiff and aggrieved employees have been denied payment for all hours worked as required by Cal. Labor Code. §1194, §1198. Defendants is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq*.

Failure to Timely Pay Final Wages

(Cal. Labor Code §§201, 202, 203, 558, and 2698 *et seq*.)

23. Defendants knowingly and willfully failed to pay all compensation due and owing to Plaintiff and aggrieved employees at the time employment terminated. Defendants willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.

1 24. Plaintiff believes that other employees who separated from the company, whether
2 voluntary or involuntary, were also denied payment of wages in a timely manner as required by
3 §203. Plaintiff seeks restitution pursuant to §558 (a)(3) for himself and other aggrieved
4 employees for each violation of §203 and civil penalties under PAGA pursuant to §2698 *et. seq.*,
5 on behalf of the Labor and Workforce and Development Agency (LWDA).

6 25. Pursuant to §§203, Plaintiff and similarly situated individuals are now also entitled to
7 recover up to thirty (30) days of wages due to Defendants' "willful" failure to comply with the
8 statutory requirements of §§201 and 202 of the Labor Code. Moreover, because Defendants
9 violated §§201, 202 and 203, Defendants are liable for civil penalties pursuant to Cal. Lab. Code
10 § 2698 *et. seq.*

11 **Failure to Comply with California Sick Pay Requirements**

12 (Cal. Lab. Code §§ 246, 247.5, 248.5 and 2698 *et seq.*)

13 26. Plaintiff and aggrieved employees allege that Defendants failed to provide required
14 California paid sick days and further failed to distribute and maintain required documentation
15 concerning how many sick days were available, in violation of Labor Code §§246, 246(a),
16 246(b)(1), and 247.5.

17 27. Defendants failed to list available and used sick pay hours on employee wage
18 statements or otherwise distribute documentation to aggrieved employees concerning their sick
19 pay.

20 **Failure to Provide Rest Breaks**

21 (Cal. Labor Code §§226, 226.7, 512, 558, 2698 *et seq.*)

22 28. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
23 incorporate said paragraphs herein by reference.

24 29. Defendants have failed to maintain a policy and practice that provides or permits its
25 employees with off-duty rest periods as required by California law. Plaintiff and aggrieved
26 employees regularly worked in excess of four hours, or a major fraction thereof, during work
27 days without being provided any rest break, despite the fact that employees are entitled to at least
28 a ten minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code

§226.7, §512 and Wage Order 5. The only possible break in Plaintiff's day was a meal break, which as explained herein, were frequently interrupted, late, on duty, or not permitted.

30. Defendants: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Defendants did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy

31. Defendants did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 7. When breaks were non-compliant, Defendants failed to pay the 1-hour penalty, as required, at the properly calculated regular rate of pay. Because Defendants violated the Wage Order, Defendants is liable under Labor Code §1198. As a result of these violations, Defendants is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

32. Plaintiff will seek statutory penalties pursuant to Labor Code §558 in this representative action for each violation of Labor Code §226.7. Further, as a derivative claim of failing to pay the premium pay of one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided, Plaintiff will seek statutory penalties under Labor Code §226(a)(1) because the failure to pay such premium wages rendered her gross pay calculations inaccurate in violation of Labor Code §226(e)(2)(B)(i).

Failure to Provide Uninterrupted Meal Breaks & Second Meal Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*)

33. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

34. Defendants prohibited employees from taking uninterrupted 30-minute minimum meal breaks and required rest breaks during work hours. Labor Code §512 provides, "[a]n

1 Defendants may not employ an employee for a work period of more than five hours per day
2 without providing the employee with a meal period of not less than 30 minutes...” Labor Code
3 §226.7(a) provides, “[n]o Defendants shall require an employee to work during any meal...
4 period mandated by an applicable order of the Industrial Welfare Commission.” Paragraph 11(A)
5 of the Wage Orders provides, in pertinent part, “[u]nless an employee is relieved of all duty
6 during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period
7 and counted as time worked.” Labor Code §1198 makes it unlawful for an Defendants to employ
8 an employee for longer hours than those fixed by the wage order or under conditions of labor
9 prohibited by the order.

10 35. Plaintiff alleges, that during his employment, Defendants failed to maintain a
11 compliant meal period policy and practice. Plaintiff and aggrieved employees are required to
12 work during meal breaks. This cuts into their meal break time and constitutes hours worked off
13 the clock as they are under the control of their Defendants during the work that is interfering
14 with their meal periods.

15 36. Defendants failed to permit Plaintiff and aggrieved employees to take timely, off-
16 duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in
17 violation of Labor Code §§226.7 and 512. As a derivative claim, Plaintiff and aggrieved
18 employees allege that pay statements were inaccurate, failing to include required meal period
19 penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations,
20 Defendants are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

21 37. Plaintiff alleges on information and belief that Defendants’ failure to pay aggrieved
22 employees the unpaid balance of these meal period wages upon the termination of their
23 employment, as alleged in this cause of action, was willful, and thus entitles aggrieved
24 employees to penalties under Labor Code § 203. Specifically, Labor Code § 203 provides that an
25 employee's wages shall continue as a penalty until paid or for a period of up to 30 days from the
26 time they were due, whichever period is shorter.

27 38. Plaintiff seeks penalties pursuant to Labor Code §558 in this representative action for
28 each violation of Labor Code §226.7. Further, as a derivative claim of failing to pay the premium

1 pay of one (1) hour of pay at the employee's regular rate of compensation for each workday that
2 the meal period is not provided, Plaintiff will seek statutory penalties under Labor Code
3 §226(a)(1) because the failure to pay such premium wages rendered gross pay calculations
4 inaccurate in violation of Labor Code §226(e)(2)(B)(i).

5 **Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping**
6 **Requirements**

7 (Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq*)

8 39. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
9 incorporate said paragraphs herein by reference.

10 40. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
11 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
12 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and
13 aggrieved employees, and the records maintained by Defendants, have not accurately reflected
14 actual gross wages earned, including total hours worked due to required off the clock work.

15 41. Such failures caused injury to Plaintiff and others, by, among other things, impeding
16 them from knowing the total hours worked and the amount of wages to which they are and were
17 entitled. Defendants is liable for civil penalties pursuant to Labor Code § 2698 *et seq*.

18 42. Defendants has violated Labor Code §432.5 for forcing Plaintiff and aggrieved
19 employees to sign employment related contracts and documents that contained unlawful terms of
20 employment.

21 43. California Labor Code § 226(a) provides that "[e]very Defendants shall, semimonthly
22 or at the time of each payment of wages, furnish each of his or her employees...an accurate
23 itemized statement in writing showing (1) gross wages earned, (2) **total hours worked...**, (3) the
24 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
25 piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) **the inclusive dates of period**
26 **for which the employee is paid**, (7) the name of the employee and his or her social security
27 number..., (8) **the name and address of the legal entity that is the Defendants**, and (9) **all**
28

1 **applicable hourly rates in effect during the pay period** and the corresponding number of
2 hours worked at each hourly rate by the employee.” (Emphasis added.)

3 44. Labor Code § 1174 provides that “[e]very Defendants employing labor in this state
4 shall ... (c) [k]eep a record showing the names and addresses of all employees employed and the
5 ages of all minors [and] (d) [k]eep at a central location in the state or at the plants or
6 establishments at which employees are employed, payroll records showing the hours worked
7 daily by and the wages paid to, and the number of piece-rate units earned by and any applicable
8 piece rate paid to, employees employed at the respective plants or establishments. These records
9 shall be kept in accordance with rules established for this purpose by the commission, but in any
10 case shall be kept on file for not less than two years.”

11 45. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
12 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
13 and 1174. As a result of the unlawful employment practices discussed herein, the statements
14 provided to Plaintiff and aggrieved employees have not accurately reflected actual gross wages
15 earned, including overtime and meal/rest premiums and total regular, overtime, and double time
16 hours worked. In addition, Plaintiff’s final pay stub failed to list the pay period, address of the
17 legal entity that is the Defendants, total hours worked, or rates of pay.

18 46. Labor Code § 226.3 provides, “[a]ny Defendants who violates subdivision (a) of
19 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
20 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
21 for each violation in a subsequent citation, for which the Defendants fails to provide the
22 employee a wage deduction statement or fails to keep the records required in subdivision (a) of
23 Section 226. The civil penalties provided for in this section are in addition to any other penalty
24 provided by law.”

25 47. Defendants are liable for civil penalties under §226.3 for violation of §226(a).

26 48. Plaintiff alleges on information and belief that Defendants knowingly and
27 intentionally failed to furnish aggrieved employees with accurate itemized statements for each
28

1 pay period that they worked and failed to maintain accurate payroll records of the aggrieved
2 employees as mandated by Labor Code §§ 226.

3 49. Defendants failed to timely furnish final wages upon separation as required under
4 Labor Code §201-202, and failed to pay resulting waiting time penalties when final wages were
5 ultimately paid. As a result, Defendants issued inaccurate final wage statements to aggrieved
6 employees.

7 50. Inaccuracies in the wage statements and payroll records were also caused, among
8 other reasons, by Defendants' unlawful timekeeping practices that resulted in underreporting
9 hours worked, including overtime hours worked, resulting from missed and interrupted meal
10 periods. Plaintiff alleges on information and belief that as a result of Defendants' conduct,
11 aggrieved employees sustained damages. As such, aggrieved employees are entitled to civil
12 penalties §§ 226.3 and §2698.

13 51. Through this representative action, Plaintiff will advance the interests of hundreds of
14 current and former employees, such that joinder is impracticable. These current and former
15 employees can be readily be identified through a review of Defendants' payroll records and the
16 records of the company that handles payroll for Defendants.

17 52. Plaintiff seeks to recover the PAGA civil penalties through a representative action
18 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
19 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

20 **Failure to Reimburse For Required Business Expenses**

21 (Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

22 53. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
23 incorporate said paragraphs herein by reference.

24 54. Labor Code §2802 requires Defendants to indemnify employees for necessary
25 expenditures or losses incurred by employees in direct consequence of discharge of duties.

26 55. Defendants required Plaintiff and aggrieved employees to provide their own tools for
27 maintenance, their own vehicle and cellphone for business-related errands and calls, and their
28 own internet.

56. Defendants failed to reimburse Plaintiff and employees for these use as required by the Labor Code. Accordingly, Defendants is liable for civil penalties under PAGA §2699 *et seq.*

FIRST CAUSE OF ACTION

Against All Defendants for Violation of the Private Attorneys General Act (“PAGA”)
(California Labor Code §2698 *et seq.*)

57. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

58. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

59. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code provisions:

- a. Failure to Pay for All Hours Worked, Including Overtime Hours Worked (Cal. Labor Code §§218, 510, 558, 1194, 1197, 1197.1, 1198, 2699 *et seq.*);
- b. Failure to Timely Pay All Wages Owed (Cal. Lab. Code §§201, 202, 203, 204(a), 2698 *et seq.*);
- c. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 2698 *et seq.*);
- d. Failure to Provide Uninterrupted Meal Breaks
(Cal. Labor Code §§226, 226.7, 512, 558, 2698 *et seq.*);
- e. Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Records (Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, 2698 *et seq.*).

60. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per

1 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
2 employee for each subsequent violation of Labor Code §226(a).

3 61. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil
4 penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial
5 violations for each underpaid employee for each pay period for which the employee was
6 underpaid in addition to an amount sufficient to recover underpaid wages, and one hundred
7 dollars (\$100) for subsequent violations for each underpaid employee for each pay period for
8 which the employee was underpaid in addition to an amount sufficient to recover underpaid
9 wages. Moreover, Plaintiff seeks civil penalties in the amount of unpaid wages owed to
10 aggrieved employees pursuant to Labor Code §558(a)(3).

11 62. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
12 pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay
13 period, per aggrieved employee for subsequent violations for all Labor Code provisions for
14 which a civil penalty is not specifically provided.

15 63. Plaintiff and the other current and former employees of Defendants are aggrieved
16 employees. They were or are employed by Defendants, and each of them, and the violations
17 alleged herein were committed against them. Plaintiff brings this action on behalf of himself and
18 all other current and former aggrieved employees.

19 64. At the time of each violation, Defendants employed one or more employees.

20 65. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of
21 them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be
22 determined at trial, pre-judgment interest, costs and attorneys' fees.

23 66. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior
24 to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and
25 Workforce Development Agency ("LWDA") and served by certified mail upon Defendants,
26 Plaintiff through counsel notified the LWDA and Defendants of the specific Labor Code
27 provisions that Defendants have violated. The LWDA did not respond to Plaintiff's Notice
28 within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies.

Pursuant to Labor Code §2699.3, Plaintiff may now pursue his PAGA claims in this action on behalf of aggrieved employees and the State of California.

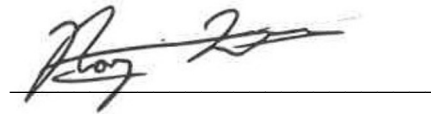
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for judgement against Defendants as follows:

1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;
2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;
3. For penalties as provided under Labor Code §558(a)(1) and 558(a)(2);
4. Pre-judgement and post-judgement interest as provided by law; and
5. Such other and further relief that the Court may deem just and proper.

DATED: January 27, 2023

KOUL LAW FIRM



BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff GARNIK NAJARYAN,
and all aggrieved employees

EXHIBIT 1



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F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

November 23, 2022

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

COMMERCIAL PROPERTY MANAGEMENT INC.
3251 West 6th Street, Suite 109
Los Angeles, CA 90020

Via Email:

Jared Slater, Esq.
Ervin Cohen & Jessup LLP
9401 Wilshire Boulevard, 9th Floor
Beverly Hills, CA 90212-2974
jslater@ecjlaw.com

Re: PAGA Notice Pursuant to California Labor Code §2698 *et seq.*

Claimant: Garnik Najaryan

Employer: Commercial Property Management Inc.

Dear Sir or Madam:

Garnik Najaryan (“Claimant”) has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM, to represent him, and all other aggrieved employees, for conditions of employment and wage and hour claims against his former employer, Commercial Property Management Inc. (hereafter “Employer” or “CPM”).

Employer Commercial Property Management Inc. is a property management company, managing commercial, residential and industrial properties throughout the State of California. Claimant has worked for CPM as a property manager for over twenty years at 603 S. Cochran Avenue, Los Angeles, CA 90036 (the Property). Claimant’s proposed PAGA representative action would represent other aggrieved employees throughout the state, as well as the State of California.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and it is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency

investigate the claims alleged below, or permit claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 248-248.5, 510, 558, 1194, 1197, 1197.1, 1198, 2699 *et seq.*)

Section 2(G) or Wage Order 7 “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” When employees like Claimant and his coworkers earning at or near minimum wage do not receive payment for all hours worked, the result is that they are earning less than the statutory minimum wages for all hours worked in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 7-2001 9(A)(1). Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below:

Off-the-Clock Hours Worked – On Call Duties

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer’s control but not compensated for their time.

Claimant and aggrieved employees were expected to work all around the clock, at all hours throughout the day. Property Managers were required to managing noise complaints, tending to tenant complaints and concerns, conducting repairs, changing light bulbs, stopping pipe leakages, and conducting elevator checks, which occurred at all hours of the day, requiring the property manager to stay nearby at all times. However, Claimant and aggrieved employees were only compensated for their scheduled hours—twenty-five hours per week.

Claimant and aggrieved employees were not paid for this time worked, resulting in failure to pay wages, including overtime and minimum wages. Employer has violated Labor Code §§1194, 1194.2, 1197, 1198, 1199 and Wage Order 7. Employer is liable for civil penalties pursuant to Labor Code §2698 *et seq*

Failure to Pay Overtime Wages

Employer has required claimant and aggrieved employees to work hours in excess of eight hours in a day and forty in a week but has not paid these employees overtime compensation. As a result, Claimant and aggrieved employees have been denied payment for all hours worked as required by Cal. Labor Code. §1194, §1198. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq*

Failure to Timely Pay All Wages Owed

(Cal. Lab. Code §§201, 202, 203 and 2698 *et seq.*)

Failure to Pay Wages Due Upon Termination

As set forth above, due to Employer's unlawful employment practices, Employer knowingly and willfully failed to pay all compensation, including regular, overtime, and penalty wages, due and owing to separated aggrieved employees at the time employment terminated. Employer willfully failed to pay aggrieved employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Pursuant to §§203 and 256, separated aggrieved employees are now also entitled to recover up to thirty (30) days of wages due to Employer's "willful" failure to comply with the statutory requirements of §§201 and 202 of the Labor Code. Moreover, because Employer violated §§201-203 and 256, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Claimant believes that aggrieved employees who separated from the company, whether voluntary or involuntary, were denied payment of wages in a timely manner as required by §203. Claimant will seek civil penalties pursuant to §558 (a)(3) for all aggrieved employees for each violation of §203 and §256 and will seek civil penalties under PAGA pursuant to §2698 *et. seq.*, on behalf of the Labor and Workforce and Development Agency (LWDA) against Employer if authorized to file a representative action on behalf of the State of California.

Failure to Comply with California Sick Pay Requirements

(Cal. Lab. Code §§ 246, 247.5, 248.5 and 2698 *et seq.*)

Claimant and aggrieved employees allege that Employer failed to provide required California paid sick days and further failed to distribute and maintain required documentation concerning how many sick days were available, in violation of Labor Code §§246, 246(a), 246(b)(1), and 247.5. Employer failed to list available and used sick pay hours on employee wage statements or otherwise distribute documentation to aggrieved employees concerning their sick pay.

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including penalty wages, and underpaid regular and overtime wages, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Aggrieved employees are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Rest Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 et seq.

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law. Claimant believes that aggrieved employees were unable to take their required to work during their rest breaks. This cuts into their rest break time and they are not allowed any additional rest break time to ensure they get the legally required 10 minutes.

Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

Employer did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 7. When breaks were non-compliant, Employer failed to pay the 1-hour penalty, as required, at the properly calculated regular rate of pay. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks & Second Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 et seq.

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Claimant and aggrieved employees are required to work during meal breaks. This cuts into their meal break time and constitutes hours worked off the clock as they are under the control of their employer during the work that is interfering with their meal periods.

Employer failed to provide all of its hourly employees with their right to take an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Claimant and aggrieved employees frequently received non-compliant meal breaks because, if they wanted to leave the place of employment, they were required to undergo security checks. Accordingly, full, uninterrupted, off-duty, thirty-minute meal periods were not always provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy. Employees were not paid a premium payment, paid as an hour's wage when meal periods were not given to them in compliance with California law.

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided to Claimant and aggrieved employees, and the records maintained by Employer, have not accurately reflected actual gross wages earned, including total hours worked due to required off the clock work. Employer further listed an address in New Jersey on the wage statements when the principal office listed on the California Secretary of State website is 1328 Broadway 3rd Fl, New York, NY 10001.

Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled. Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq*.

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment related contracts and documents that contained unlawful terms of employment.

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq*.)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Employer required Claimant and aggrieved employees to provide their own tools for maintenance, their own vehicle and cellphone for business-related errands and calls, and their own internet.

Regardless, Employer failed to reimburse Claimant and employees for these use as required by the Labor Code. Accordingly, Employer is liable for civil penalties under PAGA §2699 *et seq.*

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform him if it does not intend to investigate these violations so that she may pursue their claims as a representative action in civil court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a long horizontal flourish extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant