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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Brenda Ramirez, Deputy Clerk

Attorneys for Plaintiff JUAN GUARDADO RAMIREZ

SUPERIOR COURT OF CALIFORNIA
SAN DIEGO COUNTY

JUAN GUARDADO RAMIREZ, an individual,

Plaintiff,

v.

PLAZA ALTA RECYCLING, LLC; SUSANA
GARCIA AMEZCUA, an individual;
CHRISTIAN RODRIGUEZ ALBARRAN, an
individual; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 37-2023-00002912-CU-WT-CTL

COMPLAINT FOR DAMAGES:

1. FAILURE TO PAY WAGES
2. FAILURE TO TIMELY FURNISH
ACCURATE ITEMIZED WAGE
STATEMENTS
3. UNFAIR BUSINESS PRACTICES
4. WAITING TIME PENALTIES PER
LABOR CODE §203
5. MEAL AND REST PERIOD
VIOLATIONS
6. FAILURE TO PROVIDE A COPY OF
PAYROLL RECORDS AND EMPLOYEE
FILE AND FAILURE TO MAINTAIN
ACCURATE TIME RECORDS
7. PRIVATE ATTORNEYS GENERAL
ACT OF 2004 ("PAGA") PER LABOR
CODE §2699, et seq.
8. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;
9. WRONGFUL TERMINATION AND
RETALIATION IN VIOLATION OF
LABOR CODE §1102.5, et seq.

[IMAGED FILE]

1 Plaintiff JUAN GUARDADO RAMIREZ, an individual (hereinafter “Plaintiff”) alleges
2 as follows:

3 **GENERAL ALLEGATIONS**

4 The public policy of California declares:

5
6 It is the public policy of this state to vigorously enforce minimum labor standards in
7 order to ensure employees are not required or permitted to work under substandard
8 unlawful conditions or for employers that have not secured the payment of compensation
9 and to protect employers who comply with the law from those who attempt to gain a
10 competitive advantage at the expense of their workers by failing to comply with
11 minimum labor standards.

12 (Labor Code §90.5 subd. (a).)

13 Despite this clear mandate, DEFENDANTS blatantly violated the California Labor Code
14 and the Industrial Welfare Commission (“IWC”) Wage Orders. Defendants willfully failed to
15 pay mandated overtime, regular, and minimum wage compensation, failed to provide meal and
16 rest periods, failed to reimburse business expenditures, and failed to provide and maintain proper
17 employee records to their employees.

18 1. This lawsuit is brought in response to the Defendants’ refusal to pay Plaintiff and
19 the other aggrieved employees all wages that they earned during their employment with
20 Defendants, among other Labor Code violations.

21 2. The acts complained of herein have occurred within the time period from four (4)
22 years preceding the filing of the original Complaint herein (hereinafter, the “Relevant Time
23 Period”).

24 **JURISDICTION AND VENUE**

25 3. The Superior Court of the State of California for the County of San Diego has
26 jurisdiction over this case due to the fact that some of the alleged violations (a) of California
27 Labor Code (i.e. §§ 200 et seq.), (b) California Business and Professions Code §§ 17200 et seq.
28 and (c) related common law violations occurred in the County of San Diego.

4. Venue is proper in Central Division of San Diego County Superior Court pursuant to Code of Civil Procedure §395(a) and §395.5, because *inter alia*, (a) the Defendants' and Defendant corporation's principal place of business is situated in this County, and (b) complaints regarding such issues may be filed in the Central Division.

PARTIES

5. Plaintiff JUAN GUARDADO RAMIREZ is an individual over the age of eighteen (18) and was an employee of Defendants during the last 4 years.

6. Plaintiff is informed and believes that Defendant PLAZA ALTA RECYCLING, LLC is a California Liability Company, and at all times mentioned herein operated its businesses within the jurisdiction of this Court.

7. Plaintiff is informed and believes that Defendant SUSANA GARCIA AMEZCUA is an individual who during the relevant time period has owned, managed and operated and continues to own, manage and operate PLAZA ALTA RECYCLING, LLC, and who at all times mentioned in this Complaint herein resided within the jurisdiction of this Court. SUSANA GARCIA AMEZCUA was and remains a person acting on behalf of PLAZA ALTA RECYCLING, LLC, on information and belief as the chief executive officer, managing agent, and director of PLAZA ALTA RECYCLING, LLC, who violated and/or who caused to violate various Labor Code sections and other provisions regulating hours and days of work established by the Industrial Welfare Commission of the State of California rendering him individually liable pursuant to Labor Code Sections 558, 558.1, 1102.5, and 2699 et. seq. In addition, SUSANA GARCIA AMEZCUA is an officer, director, and person acting either individually or as a managing agent, who paid or caused to be paid the Plaintiff and the other aggrieved employees a wage less than the minimum, regular, and overtime rate of pay under the law, failed to relieve them of duties during their meal and rest periods, failed to reimburse, and failed to provide

1 accurate records, or by an order of the commission and is therefore subject to a civil penalty,
2 restitution of wages payable to the employee, and any applicable wages, damages and penalties
3 plus fees and costs imposed pursuant to Labor Sections 203, 558, 558.1, and 2699 et. seq.

4 Further, SUSANA GARCIA AMEZCUA is a person who retaliated against Plaintiff for
5 disclosing a violation of state or federal statute, or a violation of or noncompliance with a local,
6 state or federal rule or regulation, in violation of Labor Code §1102.5.

8 8. Plaintiff is informed and believes that Defendant CHRISTIAN RODRIGUEZ
9 ALBARRAN is an individual who during the relevant time period has owned, managed and
10 operated and continues to own, manage and operate PLAZA ALTA RECYCLING, LLC, and
11 who at all times mentioned in this Complaint herein resided within the jurisdiction of this Court.
12 CHRISTIAN RODRIGUEZ ALBARRAN was and remains a person acting on behalf of PLAZA
13 ALTA RECYCLING, LLC, on information and belief as the manager, managing agent, and
14 director of PLAZA ALTA RECYCLING, LLC, who violated and/or who caused to violate
15 various Labor Code sections and other provisions regulating hours and days of work established
16 by the Industrial Welfare Commission of the State of California rendering him individually liable
17 pursuant to Labor Code Sections 558, 558.1, 1102.5, and 2699 et. seq. In addition, CHRISTIAN
18 RODRIGUEZ ALBARRAN is a manager, director, and person acting either individually or as a
19 managing agent, who paid or caused to be paid the Plaintiff and the other aggrieved employees a
20 wage less than the minimum, regular, and overtime rate of pay under the law, failed to relieve
21 them of duties during their meal and rest periods, failed to reimburse, and failed to provide
22 accurate records, or by an order of the commission and is therefore subject to a civil penalty,
23 restitution of wages payable to the employee, and any applicable wages, damages and penalties
24 plus fees and costs imposed pursuant to Labor Sections 203, 558, 558.1, and 2699 et. seq.

25 Further, CHRISTIAN RODRIGUEZ ALBARRAN is a person who retaliated against Plaintiff
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1 for disclosing a violation of state or federal statute, or a violation of or noncompliance with a
2 local, state or federal rule or regulation, in violation of Labor Code §1102.5.

3 9. DOES 1 to 50, inclusive are now, and/or at all times mentioned in this Complaint
4 were licensed to do business and/or actually doing business in the State of California. Plaintiff
5 does not know the true names or capacities, whether individual, partner or corporate, of DOES 1
6 to 50, inclusive and for that reason, DOES 1 to 50 are sued under such fictitious names pursuant
7 to California Code of Civil Procedure (“CCP”) §474. Plaintiff will amend this Complaint to
8 allege such names and capacities as soon as they are ascertained.
9

10 10. Plaintiff is informed and believes and thereon alleges that DOES 1 to 50,
11 inclusive, are former co-employers and/or joint employers of Plaintiff.
12

13 11. Plaintiff is informed and believes and thereon alleges that DOES 1 to 50,
14 inclusive, are successors in interest to Defendants or are otherwise obligated to pay Plaintiff the
15 wages due and owing to them, e.g. by way of statute, common law, quantum meruit, express
16 written contract, implied in fact contract, or by way of common counts such as money had and
17 received. Plaintiff reserves the right to augment the foregoing allegations to more clearly set
18 forth this Defendant’s liability as discovery progresses and reveals the same.
19

20 12. Plaintiff is informed and believes, and based upon such information and belief
21 alleges that the Defendants, and each of them, are now and/or at all times mentioned in this
22 Complaint were in some manner legally responsible for the events, happenings and
23 circumstances alleged in this Complaint.

24 13. Plaintiff is further informed and believes, and based upon such information and
25 belief alleges, that at all times herein mentioned, all Defendants, and each of them, were and are
26 the agents, servants, employees, joint venturers, and/or partners of each of the other Defendants,
27 and were, at all such times, acting within the course and scope of said employment and/or
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1 agency; furthermore, that each and every Defendant herein, while acting as a high corporate
2 officer, director and/or managing agent, principal and/or employer, expressly directed, consented
3 to, approved, affirmed and ratified each and every action taken by the other co-Defendants, as
4 herein alleged and was responsible in whole or in part for the matters referred to herein.

5
6 14. Plaintiff is further informed and believes, and based upon such information and
7 belief alleges, that at all times herein mentioned, Defendant, and each of them, proximately
8 caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or
9 damages alleged in this Complaint.

10 15. Plaintiff is further informed and believes, and based upon such information and
11 belief alleges, that at all times herein mentioned, Defendants, and each of them were co-
12 employers and/or joint employers of Plaintiff.

13
14 16. Defendants, and each of them, are now and/or at all times mentioned in this
15 Complaint were members of and/or engaged in a joint venture, partnership and common
16 enterprise, and were acting within the course and scope of, and in pursuit of said joint venture,
17 partnership and common enterprise and, as such were co-employers and/or joint employers of
18 Plaintiff.

19
20 17. Defendants, and each of them, at all times mentioned in this Complaint concurred
21 with, contributed to, approved of, aided and abetted, condoned and/or otherwise ratified the
22 various acts and omissions of each and every one of the other Defendants in proximately causing
23 the complaints, injuries and/or damages alleged in this Complaint.

24 18. Plaintiff is informed and believes and thereon alleges that at all times herein
25 mentioned, some of the Defendants DOES 1 through 50, Inclusive, were the *alter egos* of the
26 named Defendants. Plaintiff is informed and believes and thereon alleges that there exists such a
27 unity of interest and ownership between the named Defendants and DOES 1 through 50, that the
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1 individuality and separateness of the named Defendants and DOES 1 through 50 has ceased to
2 exist. The business affairs of named Defendants and DOES 1 through 50, are, and at all times
3 relevant hereto were, so mixed and intermingled that the same cannot reasonably be segregated,
4 and the same are in inextricable confusion. Defendants, and at all times relevant hereto, used
5 each other as a mere shell and conduit for the conduct of certain of Defendants' affairs. The
6 recognition of the separate existence of Defendants would not promote justice, in that it would
7 permit Defendants to insulate themselves from liability to Plaintiff. Accordingly, the named
8 Defendants constitute the *alter ego* of Defendants DOES 1 through 50, and the fiction of their
9 separate existence must be disregarded.
10

11 **FIRST CAUSE OF ACTION**

12 **FAILURE TO PAY WAGES**

13 **(Against all Defendants)**

14
15 19. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
16 section as though fully set forth herein.

17 20. Plaintiff was an "employee" of Defendants (as defined by section 350 of the
18 Labor Code) but Defendants failed to pay Plaintiff and the other aggrieved employees for all
19 hours worked. Plaintiff and the other aggrieved employees were employed as maintenance
20 workers for rental properties, mainly beachfront properties.
21

22 21. Pursuant to Labor Code section 1197, payment of less than the minimum wage
23 fixed by the commission is unlawful.

24 22. During the entire period of time that Plaintiff and the other aggrieved employees
25 were employed by Defendants, and for the four (4) years preceding the filing of this lawsuit,
26 Defendants were required to compensate them at least at the minimum wage, but failed to carry
27 out their duties and responsibilities as an employer imposed under the laws and regulations of the
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1 State of California and violated the law by failing to pay Plaintiff and the other aggrieved
2 employees a minimum wage for all hours worked pursuant to all applicable wage orders and in
3 accordance with Labor Code sections 200, 226, 500, 510, 558.1, 1194, 1194.2, and 1197.

4 23. Defendants regularly failed to pay Plaintiff and the other aggrieved employees all
5 of the wages that they earned. Specifically, Defendants have intentionally failed to pay Plaintiff
6 and the other aggrieved employees for all hours worked (“wage theft”), where Defendants pay a
7 set salary that is not enough to compensate their employees for all of the hours they are required
8 to work, of at least on average 15 hours per day 5 days per week or 75 hours per week, causing
9 them to not receive at least the minimum, regular, and/or overtime wage for all of their hours
10 worked.
11

12 24. In violation of state law, Defendants have knowingly and willfully refused to
13 perform their obligations to compensate Plaintiff and the other aggrieved employees for
14 minimum and regular wages earned and all hours worked. As a direct result, Plaintiff and the
15 other aggrieved employees have suffered, and continue to suffer, substantial losses related to the
16 use and enjoyment of such unpaid wages, lost interest on such wages, costs and attorneys’ fees in
17 seeking to compel Defendants to fully perform its obligation under state law, all to their damage
18 in amounts according to proof at the time of trial, but in amounts in excess of the minimum
19 jurisdiction requirement of this Court. Defendants committed the acts alleged herein knowingly
20 and willfully, with wrongful and deliberate intent.
21

22 25. Defendants’ conduct described herein violates Labor Code sections 200, 226, 500,
23 510, 558, 558.1, 1194, 1194.2, and 1197. As a proximate result of the aforementioned
24 violations, Plaintiff and the other aggrieved employees have been damaged in an amount
25 according to proof at the time of trial, but in an amount in excess of the minimum jurisdiction
26 requirement of this Court. Therefore, pursuant to Labor Code sections 200, 203, 226, 558,
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1 558.1, 1194, 1194.2, 1197, and 1197.1, Plaintiff is therefore entitled to recover the unpaid
2 balance of minimum wages and damages for minimum wage violations, including but not limited
3 to LC 1194.2 liquidated damages in an amount to be proven at trial, plus interest, penalties,
4 attorneys' fees, expenses, and costs of suit.

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6 26. Pursuant to Labor Code §200, "wages" includes all amounts for labor performed
7 by employees of every description, whether the amount is fixed or ascertained by the standard of
8 time, task, piece, commission basis, or other method of calculation.

9 27. Plaintiff and the other aggrieved employees have not been paid for all of their
10 hours worked at least at their regular rate of pay and are thus entitled to their earned unpaid
11 wages in an amount to be proven at trial, plus interest, penalties, attorneys' fees and costs.

12 28. Under California law, including but not limited to, Labor Code sections 200, 226,
13 500, 510, 558, 558.1, and 1198, Defendants were required to compensate Plaintiff and the other
14 aggrieved employees for all overtime, which is calculated at one and one-half (1.5) times the
15 regular rate of pay for hours worked in excess of forty (40) per week or after eight (8) in one day,
16 and double time (2) times the regular rate of pay for hours worked on the seventh consecutive
17 work day, or after twelve (12) hours in any workday.

18
19 29. Throughout their employment with Defendants, Plaintiff regularly worked on
20 average at least 15 hours per day and at least five days per week or 75 hours per week. Plaintiff
21 and the other aggrieved employees are or were non-exempt employees entitled to overtime pay
22 under California law, including but not limited to Labor Code sections 200, 226, 500, 510, 558,
23 558.1, 1194 and 1198. Throughout Plaintiff's employment, Defendants regularly failed to pay
24 Plaintiff and the other aggrieved employees at the overtime wage rate for their overtime hours
25 worked. Specifically, Defendants would intentionally fail to pay Plaintiff, and other aggrieved
26 employees, at the overtime rate instead paying them a set salary that did not compensate for all
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1 hours worked, causing them to not receive at least the minimum or regular wage for all of their
2 hours worked, much less their overtime wages.

3 30. Under the applicable wage orders, statutes and regulations, Plaintiff and the other
4 aggrieved employees are entitled to one and one-half (1.5) times and double their regular rate of
5 pay for overtime work performed during the entire course of their employment with Defendants.
6

7 31. As a direct result, Plaintiff and the other aggrieved employees have suffered
8 substantial losses related to the use and enjoyment of such wages, lost interest on such wages,
9 and expenses and attorneys' fees in seeking to compel Defendants to fully perform its obligation
10 under state law, all to their respective damage in amounts according to proof at the time of trial,
11 but in amounts in excess of the jurisdiction of this Court. Defendants committed the acts alleged
12 herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff,
13 from improper motives amounting to malice, and in conscious disregard of Plaintiff's rights.
14 Plaintiff is thus entitled to recover nominal, actual, compensatory damages in amounts according
15 to proof at the time of trial, but in amounts in excess of the jurisdiction of this Court.
16

17 32. Defendants' conduct described herein violates Labor Code sections 200, 226, 500,
18 510, 558, 558.1, 1194, and 1197.1. As a proximate result of the aforementioned violations,
19 Plaintiff has been damaged in an amount according to proof at the time of trial, but in an amount
20 in excess of the jurisdiction of this Court. Therefore, pursuant to Labor Code sections 200, 203,
21 226, 558, 558.1, and 1194, Plaintiff is entitled to recover the unpaid balance of overtime
22 compensation Defendants owe to Plaintiff in an amount to be proven at trial, plus interest,
23 penalties, attorneys' fees, expenses, and costs of suit.
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SECOND CAUSE OF ACTION
FAILURE TO TIMELY FURNISH
ACCURATE ITEMIZED WAGE STATEMENTS
(Pursuant to Labor Code §226(a) and (e))
(Against all Defendants)

33. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this section as though fully set forth herein.

34. Plaintiff is informed and believes and thereon alleges that Defendants, in violation of Labor Code §226(a), engaged in a practice with respect to Plaintiff and the other aggrieved employees of regularly failing to furnish them with accurate, itemized statements in writing showing (1) all gross wages earned, (2) all deductions, (3) net wages earned, and/or (4) accurate rate of pay during each respective pay period for which wages have been and continue to be due and owing, as well as all other information required by section 226 of the Labor Code. Specifically, Defendants failed to provide wage statements to Plaintiff and the other aggrieved employees showing the above required information, and paid them part by check and part by cash, where the cash amounts are not reflected in the paycheck statements.

35. Plaintiff seeks damages pursuant to Labor Code §226(e) for each violation by Defendants of Labor Code §226 of at least \$4,000.00, and pursuant to §§ 226.3, 558.1, plus attorneys' fees and costs. In addition, Plaintiff seeks preliminary and permanent injunctive relief pursuant to Labor Code §226(h).

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1 the other aggrieved employees, who are current and former employees of the Defendants, and for
2 which there is no adequate remedy at law. Thus, Plaintiff requests that the Court issue a
3 preliminary and permanent injunction prohibiting Defendants from engaging in the foregoing
4 conduct.

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6 **FOURTH CAUSE OF ACTION**

7 **FAILURE TO PAY WAGES UPON SEPARATION OF EMPLOYMENT**

8 **WAITING TIME PENALTIES PURSUANT TO LABOR CODE §203**

9 **(Against all Defendants)**

10 42. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
11 section as though fully set forth herein.

12 43. Defendants failed to pay Plaintiff and the other aggrieved employees all earned
13 wages upon the separation of their employment with Defendants in violation of Labor Code
14 sections 201 and 202, including but not limited to, overtime, minimum, regular, and meal and
15 rest period premium wages, and despite his several demands to be paid. Further, Defendants
16 have failed to pay Plaintiff anything for at least his last two days of work.

17 44. Defendants' failure to pay Plaintiff and the other aggrieved employees all wages
18 due was willful and done with malice. Plaintiff and the other aggrieved employees are therefore
19 entitled to penalties pursuant to Labor Code §203, and pursuant to §§ 558, 558.1, plus attorneys'
20 fees and costs.
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1 **FIFTH CAUSE OF ACTION**

2 **MEAL AND REST PERIOD VIOLATIONS**

3 **LABOR CODE §§ 226.7 and 512**

4 **(Against all Defendants)**

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6 45. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
7 section as though fully set forth herein.

8 46. Under California Labor Code sections 226.7, 512 and California Wage Orders,
9 Off Duty Meal Periods of 30 minutes are required for all non-exempt employees who work at
10 least 5 hours in a shift, except that when a work period of not more than 6 hours will complete
11 the day's work then the meal period may be waived by mutual consent of the employer and
12 employee. Time records of meal periods must be kept except that meal periods during which
13 operations cease need not be recorded. Employers must provide non-exempt employees 2 Off
14 Duty Rest Periods of 10 minutes each in a normal 8 hour shift. Rest Periods need not be
15 recorded. The Meal Periods are unpaid unless the employee is not fully relieved of all duties.
16 Rest Periods must be paid. An employer who fails to provide off duty meal and rest periods
17 (breaks) must pay the employee an additional 1 hour regular pay for each category of break not
18 provided in a work day.
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21 47. At all times mentioned herein, Defendants violated Labor Code sections 226.7
22 and 512 by refusing to allow Plaintiff and the other aggrieved employees to be fully relieved of
23 their duties during their meal and rest periods. Defendants did not allow Plaintiff and the
24 aggrieved employees to be fully relieved of their duties during their meal and rest periods, and
25 were required to work through them throughout the year.
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1 48. Accordingly, Plaintiff seeks damages available pursuant to the Labor Code,
2 including but not limited to Labor Code sections 226.7, 512, 558, and 558.1 in an amount proven
3 at trial, plus interest, penalties, fees, and costs.
4

5 **SIXTH CAUSE OF ACTION**

6 **EMPLOYEE FILE & PAYROLL RECORDS VIOLATION**

7 **LABOR CODE §§ 1198.5, 432, 226(b), (c), and (f), 1174**

8 **(Against all Defendants)**

9 49. Plaintiff incorporates by reference and re-alleges each and every one of the
10 allegations contained in this Complaint as though fully set forth herein.
11

12 50. On or about August 22, 2022, Plaintiff, through his counsel, requested in writing
13 that Defendants provide Plaintiff with a copy of certain documents in his employee file and
14 payroll and time records. Defendants failed to timely furnish Plaintiff with a copy of his full
15 employee file and payroll and time records in violation of Labor Code §§432, and 226(b),(c), (f),
16 and 1198.5; IWC Orders 1 through 15, Section 7, and IWC Order 16, Section 6, despite multiple
17 requests to do so. Plaintiff is entitled to recover any and all penalties and compensation provided
18 by the Labor Code, including the above mentioned sections and section 558.1, for Defendant's
19 failure to furnish the requested personnel and payroll and time records including at least \$750.00
20 in penalties pursuant to LC §§226(f) and 1198.5, plus attorneys' fees and costs.
21

22 51. Pursuant to Labor Code §1174(d), Defendants have a legal obligation to "[k]eep,
23 at a central location in the state or at the plants or establishments at which employees are
24 employed, payroll records showing the hours worked daily by and the wages paid to, and the
25 number of piece-rate units earned by and any applicable piece rate paid to, employees employed
26 at the respective plants or establishments."
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52. Defendants failed to maintain records of Plaintiff's and the other aggrieved employees' accurate hours worked which Defendant was required to keep pursuant to Labor Code §1174(d). Therefore, Defendants violated Labor Code §1174(d) by failing to collect and keep records indicating the daily hours worked by Plaintiff and the other aggrieved employees.

53. Pursuant to Labor Code §1174.5, “any person employing labor who willfully fails to maintain... accurate and complete records required by subdivision (d) of Section 1174... shall be subject to a civil penalty of five hundred dollars (\$500).” Accordingly, Defendants are required to pay Plaintiff an additional \$500.00 along with consequential damages.

SEVENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”)

PER LABOR CODE §2699, et seq.

(Against All Defendants)

54. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this section as though fully set forth herein.

55. On or about November 15, 2022, pursuant Labor Code sections 2699(a) and 2699.3, Plaintiff, through his counsel, provided notice in writing by online submission to the California Labor Workforce Development Agency (“LWDA”) and via certified US Mail to Defendants and each of them, that Plaintiff intended to assert a PAGA claim pursuant to section 2699(a) on his own behalf, and in a representative capacity on behalf of other aggrieved employees of Defendants, for Defendants’ violations of specified provisions of the California Labor Code. See Exhibit 1 attached to this Complaint. The LWDA did not respond within 65 days.

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1 56. As a result, Plaintiff has perfected his right to sue Defendants in a civil action, and
2 to collect statutory penalties, pursuant to Labor Code section 2699.3(a)(2)(A)(1) on behalf of all
3 aggrieved employees (PAGA Employees).

4
5 57. As a result of the acts alleged above, Plaintiff brings this action on his own behalf,
6 and in a representative capacity on behalf of other current or former aggrieved employees
7 (PAGA Employees), for penalties pursuant to California Labor Code section 2699 for
8 Defendants' violations of the enumerated Labor Code sections, including, but not limited to
9 sections 200, 201, 202, 203, 210, 216, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227,
10 227.3, 246, 510, 512, 558, 558.1, 98.6, 1102.5, 1174, 1174.5, 1175, 1194, 1194.2, 1197.1, 1198,
11 1198.5, 1199, 1770-1781, and 2802.

12
13 58. Pursuant to California Labor Code section 2699, Plaintiff and PAGA Employees
14 are entitled to be awarded twenty-five (25%) percent of all penalties due under California law, in
15 addition to interest, attorney's fees and costs.

16
17 59. The Court should award seventy-five (75%) percent of all penalties due under
18 California law to the State of California.

19 60. Plaintiff, on behalf of the State of California and the aggrieved employees,
20 therefore seeks to recover from Defendants, and each of them, allowable damages and civil
21 penalties for the violations claimed above regarding Plaintiff's claims, plus interest, costs, and
22 attorneys' fees, plus civil penalties regarding the other aggrieved employees' claims in an
23 amount according to proof at trial, in accordance with Labor Code sections 2699, *et seq.*

24
25 61. Labor Code Section 558 states that "[a]ny employer or *other person* acting on
26 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
27 provision regulating hours and days of work in any order of the Industrial Welfare Commission
28

1 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
2 each underpaid employee for each pay period for which the employee was underpaid in addition
3 to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one
4 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
5 was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages
6 recovered pursuant to this section shall be paid to the affected employee. The Section goes on to
7 state that “[t]he civil penalties provided for in this section are in addition to any other civil or
8 criminal penalty provided by law.”
9

10 62. Labor Code Section 558.1(a) provides in pertinent part: “Any employer or other
11 person acting on behalf of an employer, who violates, or causes to be violated, any provision
12 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
13 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or
14 2802, may be held liable as the employer for such violation.”
15

16 63. Defendants violated/violate, or caused/causes to be violated, multiple sections of
17 the Labor Code as well as provisions regulating hours and days of work in any order of the
18 Industrial Welfare Commission including those requiring payment of minimum and regular
19 wages and payment of overtime wages, meal and rest periods, records violations, as set forth in
20 detail throughout this Complaint.
21

22 64. Accordingly, Plaintiff is also entitled to recovery of wages, premium wages,
23 damages, and penalties pursuant to Labor Code Sections 558 and 558.1.
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1 **EIGHTH CAUSE OF ACTION**

2 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

3 **(Against All Defendants)**

4
5 65. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
6 section as though fully set forth herein.

7 66. California Labor Code §1102.5 generally prohibits employers from retaliating
8 against and terminating employees that complain regarding unfair labor practices and/or who
9 report illegal activity.
10

11 67. Plaintiff believes and alleges that Defendants terminated Plaintiff's employment
12 because he complained to Defendant CHRISTIAN RODRIGUEZ ALBARRAN about driving
13 too many hours in a one day and one week period in violation of Department of Transportation
14 (DOT) and Department of Motor Vehicles (DMV) regulations. More specifically, Plaintiff had
15 driven his required schedule for two days from 4 a.m. to 9 p.m. on average, and on the third day
16 he had driven from 4 a.m. to 4:30 p.m., after which Defendant CHRISTIAN RODRIGUEZ
17 ALBARRAN required Plaintiff to drive back the company vehicle at 12 a.m. which would have
18 taken several hours without required rest pursuant to DOT and DMV laws. Plaintiff disclosed to
19 Defendant CHRISTIAN RODRIGUEZ ALBARRAN that driving back from Yuma, Arizona to
20 San Diego, California at 12 a.m. on that fourth day, which would take several hours, after having
21 driven from 4 a.m. to 9 p.m. on average the previous days first two days, and from 4 a.m. to 4:30
22 p.m. earlier that day, would not allow him required in violation of DMV and DOT laws, and that
23 this would put his safety and the safety of others at great risk. After Plaintiff disclosed this,
24 Defendant CHRISTIAN RODRIGUEZ ALBARRAN terminated him despite Plaintiff having an
25 exemplary record and work ethic with the company.
26
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28

1 68. Based on the misconduct alleged in this Complaint, Plaintiff believes and alleges
2 that Plaintiff's termination was wrongful because it was in violation of the public policy of the
3 State of California in that Plaintiff's termination was based on Defendants' violations of the
4 above-mentioned laws.

5
6 69. In terminating Plaintiff for these reasons and under the circumstances alleged
7 herein, Defendants' discharge of Plaintiff violated the public policy of the State of California, as
8 expressed in provisions of the above-mentioned laws.

9
10 70. As a direct, foreseeable, and proximate result of Defendants' wrongful
11 termination of Plaintiff in violation of the public policy of the State of California, Plaintiff
12 sustained damages in the form of lost and continued loss of income and benefits, and has
13 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress, and
14 discomfort all to Plaintiff's damage in an amount to be proven at trial, but in excess of the
15 jurisdictional amount.

16
17 71. In doing the things herein alleged, Defendants are guilty of oppression, fraud and
18 malice, and, insofar as the things alleged were attributable to employees of Defendants, said
19 employees were employed by Defendants with advance knowledge of the unfitness of the
20 employees and they were employed with a conscious disregard for the rights of others; or
21 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
22 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
23 an officer, director or managing agent of defendants all entitling Plaintiff to the recovery of
24 exemplary and punitive damages.

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1 **NINTH CAUSE OF ACTION**

2 **Retaliation in Violation of Cal. Lab. Code §1102.5, *et seq.***

3 **(Against All Defendants)**

4 72. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
5 section as though fully set forth herein.
6

7 73. Labor Code §1102.5, subdivision (a), prohibits employers from making, adopting,
8 or enforcing any rule, regulation or policy that prevents employees from disclosing information
9 to his or her employer or to governmental agencies where the employee has reasonable cause to
10 believe that the information discloses a violation of state or federal law, or a violation or
11 noncompliance with a state or federal rule or regulation.
12

13 74. Labor Code §1102.5, subdivision (b), prohibits employers from retaliating against
14 an employee for disclosing information to his employer or a governmental agency where the
15 employee has reasonable cause to believe the information discloses a violation of state or federal
16 law, or a violation or noncompliance with a state or federal rule or regulation.
17

18 75. As alleged above, Defendants violated Labor Code §1102.5, *et seq.* because
19 Defendants retaliated against Plaintiff because he disclosed and reported that he would put his
20 safety and the safety of others at risk if he was required to drive so many hours in a row in a day
21 and week period, which violated federal and state laws and regulations regarding driving hours
22 for commercial purposes.
23

24 76. As a proximate result of Defendants' actions, Plaintiff has suffered and continues
25 to suffer damages in an amount according to proof, but in excess of the jurisdictional amounts,
26 plus penalties of at least \$10,000 per incident pursuant to LC §1102.5, plus other penalties.
27

28 ///

77. In doing the things herein alleged, Defendants were guilty of oppression, fraud and malice, and, insofar as the things alleged were attributable to employees of Defendants, said employees were employed by Defendants with advance knowledge of the unfitness of the employees and they were employed with a conscious disregard for the rights of others; or Defendants authorized or ratified the wrongful conduct; or there was advance knowledge, conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of an officer, director or managing agent of defendants all entitling Plaintiff to the recovery of exemplary and punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For compensatory damages, including but not limited to, those pursuant to Labor Code §§ 200, 201, 203, 218, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 246, 350-356, 500, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1194, 1194.2, 1194.3, 1197.1, 1198, 1198.5, 1770-1781, 2802, 2699, et seq., California Wage Orders, and other statutes and laws;
2. For special damages according to proof;
3. For general damages according to proof;
4. For pre-judgment interest pursuant to all applicable statutes including but not limited to, Labor Code §§218.6, et seq., loss of earnings damages, and pursuant to Civil Code §§ 3287(b) and 3289;
5. For penalties pursuant to Labor Code §§ 203, 225.5, 226, 226(f) and 1198.5, 226.3, 226.7, 246, 350-356, 98.6, 512, 558, 558.1, 1174.5, 1194.2, 1197.1, 2802, civil penalties pursuant to section 2699, et seq., 1102.5, and other statutes and laws;
6. For all damages available pursuant to all applicable sections of the Labor Code;
7. For injunctive relief pursuant to Labor Code §226(h);

- 1 8. For an award of reasonable attorneys' fees and costs;
- 2 9. For restitution of all monies due to Plaintiff and disgorged profits from the unlawful
- 3 business practices of Defendants;
- 4 10. For all remedies available pursuant to Business and Professions Code section 17200 et
- 5 seq.;
- 6 11. For punitive and exemplary damages;
- 7 12. For all other appropriate injunctive, declaratory and equitable relief;
- 8 13. For interest to the extent permitted by law; and
- 9 14. For such other and further relief as the Court may deem proper.
- 10

11 Dated: January 23, 2023

12 
Rodolfo Ruiz-Velasco, Esq.
Attorneys for Plaintiff,
JUAN GUARDADO RAMIREZ

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EXHIBIT 1

RUIZ-VELASCO LAW FIRM

November 15, 2022

Via Electronic Submission

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

By Certified Mail

Susana Garcia Amezcua
Christian Rodriguez Albarran
Plaza Alta Recycling, LLC
9246 Jamacha Road
Spring Valley, CA 91977

Re: **Guardado Ramirez v. Plaza Alta Recycling, LLC, et al.**

To Whom It May Concern:

We represent Juan Guardado Ramirez individually and on behalf of all other individuals (collectively “Plaintiffs”) who are either former or current employees of Plaza Alta Recycling, LLC, a California Limited Liability Company, and its owners, officers, members, managers, and managing agents, Susana Garcia Amezcua and Christian Rodriguez Albarran, (collectively “Defendants”). Pursuant to Labor Code section 2699.3, this letter constitutes written notice of Defendant’s Labor Code violations and of our client’s intent to recover statutory penalties under the Labor Code Private Attorney General Act of 2004. A copy of this letter is also being sent to Defendants via certified mail pursuant to Labor Code section 2699.3.

Plaintiffs were employed by Defendants as recycling drivers and laborers. Plaintiffs are regularly required to work on average at least 15 hours per day x 5 days per week, that is, at least on average 75 hours per week, without receiving payment for all hours worked at their regular rate of pay of at least \$25.17 per hour, but Defendants instead pay the employees a weekly salary that does not cover all hours worked, thus causing minimum wage, regular wage, and overtime wage violations (“wage theft”). Specifically, regarding Mr. Guardado Ramirez, his regular rate was at least \$25.17 per hour and he worked at least on average 75 hours per week, but he was only paid about \$1,300 per week, part in check and part in cash, which does not cover all of his wages earned, thus causing minimum, regular, and overtime wage violations (“wage theft”).

Further, to date, Defendants have failed to pay anything for Mr. Guardado Ramirez's last two days of work.

As a result of the violations above and below, Defendants have failed to provide paycheck statements with accurate hours worked, rate of pay, and regular and overtime hours, and all other required information on the paycheck statements. Further, Defendants failed to keep accurate time records regarding Plaintiffs, in violation of Section 7 of the Wage Orders and Labor Code section 1174.5. On or about August 22, 2022, Mr. Guardado Ramirez requested in writing through his attorneys a copy of his employee file and records pursuant to LC 226, 1198.5, and 432. Defendants failed to timely provide any records in response in violation of LC 226, 1198.5, and 432. To date, they have not provided any records.

Plaintiffs were not paid all of their wages owed at the time of their separation of work in violation of LC §§ 203 and 204.

In addition, Defendants fail to fully relieve Plaintiffs from all meal and rest periods and regularly require Plaintiffs to work through their meal and rest periods but fail to pay them any premiums for their on-duty meal and rest periods. Specifically, Plaintiffs are not fully relieved of their duties during their meal and rest periods because Defendants require them to work through their meal and rest periods and even if they were allowed, they are not able to because they would not be able to complete their required tasks.

Defendants have required Plaintiffs to use their cellular phone service in performance of their duties, however, they did not reimburse Plaintiffs for said expenditures in violation of LC §2802. Defendants also failed to reimburse Plaintiffs for per diem meal expenses and for transportation costs when they had to be transported from a required work drop off point to another location.

Defendants also terminated and retaliated against Mr. Guardado Ramirez because Mr. Guardado Ramirez refused to drive the company vehicle at 12 a.m. from Yuma, AZ to San Diego, CA because he was too tired and would potentially put himself and others in danger in violation of the DOT and DMV laws, after he had already driven from 4 a.m. to 9 p.m. on average for the previous three days, and from 4 a.m. to 4:30 p.m. earlier that day. Defendants terminated Mr. Guardado Ramirez despite him having an exemplary record at the company. This is in violation of LC §1102.5, and therefore Defendants owe Mr. Guardado Ramirez penalties, damages, fees and costs pursuant to LC §1102.5.

Susana Garcia Amezcua and Christian Rodriguez Albarran, as the owners, officers, directors, managing agents, members and managers of Plaza Alta Recycling, LLC are jointly and severally liable for the above violations pursuant to LC Sections 558, 558.1, 1102.5, 1197.1, and others.

The payment of a less wage than the California minimum wage and minimum wage violations, including failure to pay split shift premiums, are unlawful pursuant to Labor Code Sections 1197, 1197.1, 1194, 558, 558.1. Overtime compensation is statutorily required by California Labor Code Section 510, 558, 558.1. Meal and rest periods are required pursuant to Labor Code section 226.7 and 512, 558, 558.1. Failure to reimburse for expenses incurred in the course of one's employment is a violation of Labor Code Section 2802, et seq. Accurate wage statements must be timely given to employees pursuant to Labor Code section 226. Illegal deductions are in violation of LC Sections 220, 221, 222, 223, 224, et seq. Taking of gratuities from aggrieved employees is a violation of Labor Code sections 350-356. Failure to pay sick pay wages is a violation of LC 246. Failure to pay vacation pay is a violation of LC 227, 227.3. Defendants' misclassification of Plaintiffs is a violation of LC 226.8. Retaliation and threats for requesting his or her rights and reporting illegal behavior is a violation of Labor Code Sections 98.6, 1102.5, among other laws and statutes. Defendants' employment practices implicate violations of numerous other Labor Code sections, including but not limited to the following: Labor Code §§ 98.6, 201, 202, 203, 204, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227.3, 350-356, 510, 512, 558, 558.1, 1102.5, 1194, 1194.2, 1197.1, 2802, et seq., and 2698, et seq.

Accordingly, Plaintiffs respectfully request that the Labor & Workforce Development Agency ("LWDA") initiate an enforcement action with respect to the aforementioned violations. If the LWDA declines to pursue enforcement, Plaintiffs will pursue these claims for statutory penalties on behalf of themselves and all other current and former employees. If you have any questions or concerns regarding the above, do not hesitate to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Rodolfo Ruiz-Velasco', with a stylized flourish at the end.

Rodolfo Ruiz-Velasco, Esq.