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David W. Slayton,
Executive Officer/Clerk of Court,
By D. Williams, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHRISTOPHER PENNINGTON, an
individual; ANDREW ALLAN BARKER, an
individual; and JOSE LUIS SANCHEZ, an
individual

Plaintiffs,

vs.

A1 HD TOWING, LLC, a California limited
liability company; JOSE FRANCISCO
PINEDA, JR. an individual; and DOES 1
through 20, inclusive,

Defendants.

Case No.: 23STCV12291

COMPLAINT FOR DAMAGES:

- 1. FAILURE TO PAY ALL MINIMUM WAGES EARNED** (*Cal. Lab. Code §§ 510, 1194, 1194.2, & 1198*)
- 2. FAILURE TO PAY ALL OVERTIME WAGES EARNED** (*Cal. Lab. Code §§ 510, 1194, & 1198*)
- 3. FAILURE TO PAY WAGES FOR MISSED MEAL PERIODS** (*Cal. Lab. Code §§ 226.7 & 512*)
- 4. FAILURE TO PAY WAGES FOR MISSED REST PERIODS** (*Cal. Lab. Code §§ 226.7 & 512*)
- 5. FAILURE TO FURNISH ACCURATE WAGE STATEMENTS** (*Cal. Labor Code § 226*)
- 6. FAILURE TO PAY ALL WAGES UPON DISCHARGE, WAITING TIME PENALTIES** (*Cal. Lab. Code §§ 201, 202, & 203*)
- 7. CONSTRUCTIVE WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
- 8. CIVIL PENALTIES PURSUANT TO P.A.G.A.** (*Cal. Lab. Code § 2699, et seq.*)

JURY TRIAL DEMANDED

COME NOW Plaintiffs, CHRISTOPHER PENNINGTON, an individual, ANDREW ALLAN BARKER, an individual, and JOSE LUIS SANCHEZ, an individual, who bring this action against Defendants, A1 HD TOWING, LLC, a California limited liability company, JOSE FRANCISCO PINEDA, JR., an individual, and DOES 1 through 20, inclusive, and allege, on information and belief

(except as to those allegations related to Plaintiffs, which are asserted on personal knowledge), as follows:

STATEMENT OF PARTIES

1. Plaintiff, CHRISTOPHER PENNINGTON (Hereinafter “PENNINGTON”) is an individual and at all time material herein was and is a resident of the City of Lancaster, in the County of Los Angeles, California, and was continuously employed by Defendants from approximately May 4, 2018, continuously through September 16, 2022, with exception to several months off during COVID.

2. Plaintiff, ANDREW ALLAN BARKER (Hereinafter “BARKER”) is an individual and at all time material herein was and is a resident of the City of Lancaster, in the County of Los Angeles, California, and was continuously employed by Defendants continuously from approximately September 3, 2021 through December 1, 2022.

3. Plaintiff, JOSE LUIS SANCHEZ (Hereinafter “SANCHEZ”) is an individual and at all time material herein was and is a resident of the City of Lancaster, in the County of Los Angeles, California, and was continuously employed by Defendants continuously from approximately October 3, 2020, through December 1, 2022. (PENNINGTON, BARKER, and SANCHEZ are hereinafter collectively referred to as “Plaintiffs”).

4. Defendant, A1 HD Towing, LLC, a California limited liability company, (Hereinafter “A1”), is a privately-owned towing company. A1’s principal office is located at 42556 8th Street East, Lancaster, CA 93536 with California Secretary of State entity number C4663881. A1 employed Plaintiffs but failed to comply with the California Labor Code and other employment laws.

5. A1 sets forth its Background & History on its website as follows, “Our story begins in 2002 in Wilmington, California where the company operated as Pineda's Towing, servicing local heavy tow needs. The company started off with one wrecker and as the business developed, operations expanded. Once the foundation in Wilmington was built, Pineda’s Towing offered services beyond heavy duty towing. In 2005, A1 Towing was founded in Lancaster, California. A1 Towing was registered as a Sole Proprietor and operated with one tow truck. Since then, the company operates with over ten tow trucks, ten operators and offers light, medium, and heavy towing services. Towing has been our bread and butter for over 20 years, and we love servicing our community.”

1 6. Defendant, JOSE FRANCISCO PINEDA, JR., an individual (Hereinafter "PINEDA")
2 is a member of A1 and believed to be the sole owner operator of A1. PINEDA is also Plaintiffs'
3 employer based on alter ego liability and since he controlled Plaintiffs' wages, hours and working
4 conditions. (PINEDA and A1 are hereinafter collectively referred to as "Defendants").

5 7. Plaintiff does not know the true names, identities and capacities of the defendants sued
6 herein as DOES 1 through 20, Inclusive, and each of them, and who therefore sues them by such
7 fictitious names. When the true names, identities and capacities of such other defendants have been
8 ascertained, permission of the court will be requested to amend this complaint to insert therein the true
9 names, identities and capacities of said defendants.

10 8. All times mentioned, Defendants, and each of them, were the employees, agents,
11 servants and representatives of each of the remaining defendants and, at all times herein mentioned,
12 were acting within the course and scope of such employment, agency, service and representation and
13 all things alleged herein were done with the consent, permission, ratification and direction of each of
14 the other Defendants.

15 9. Plaintiff is informed and believe, and based thereon allege, that each Defendant sued in
16 this action acts and acted, in all respects pertinent to this action, as the agent of the other Defendants,
17 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and that the acts of
18 each Defendant are legally attributable to the other Defendants.

19 10. Plaintiff is informed and believe, and based thereon allege, that each Defendant sued in
20 this action, including each Defendant sued by the fictitious names DOES 1 through 20, inclusive, is
21 directly or indirectly responsible in some manner for the occurrences, controversies and damages
22 alleged herein, in various capacities, including but not limited to serving as joint employer, joint
23 tortfeasor, single enterprise, alter ego, or agents of the other Defendants. Each Defendant approved,
24 participated in, controlled, or ratified the acts of all other Defendants.

25 **JURISDICTION AND VENUE**

26 11. This Court has personal jurisdiction over each of the Defendants because they are
27 residents of and/or doing business in the County of Orange, State of California.

28 12. Under California Code of Civil Procedure Section 395(a), venue is proper in this county

1 because the Defendants, reside and/or do business in California.

2 13. The amount in controversy in this matter exceeds the sum of Twenty-Five Thousand
3 Dollars (\$25,000.00), exclusive of interest, costs, and fees.

4 14. Plaintiffs have exhausted all administrative requirements for proceeding with civil
5 penalties under the Private Attorney General Act, Labor Code Section 2698 et seq. by timely filing an
6 administrative complaint with the California Labor & Workforce Development Agency on or around
7 December 21, 2022, of the specific provisions of the Labor Code alleged to have been violated,
8 including the facts and theories to support the alleged violations. A true and correct copy of the
9 December 21, 2022, letter to the Labor Workforce Development Agency is attached hereto as **Exhibit**
10 **“A”** and fully incorporated herein by reference.

11 **GENERAL ALLEGATIONS**

12 15. Plaintiffs were each employed by Defendants as tow truck drivers at various times
13 during the statute of limitations period.

14 16. Plaintiffs were dedicated employees who worked loyally and tirelessly for A1 for 1 to 5
15 years while being subjected various California Labor Code violations.

16 17. Mr. Pennington was the only tow truck driver for A1 when he was first hired. For
17 approximately the first 4 years of Mr. Pennington’s employment, he worked on call 24 hours a day, 7
18 days a week. However, he was not paid for all hours worked.

19 18. A1 assigned Plaintiffs towing jobs through an application by the name of TowBook.
20 The app was on a tablet used by Plaintiffs. When a job was assigned to Plaintiffs, they would receive a
21 notification on the tablet and were required to accept and be en route within 10 to 15 minutes.

22 19. Plaintiffs were required to be available to begin responding to a call within A1’s
23 requisite time frame. Plaintiffs were precluded from participating in many social and personal
24 activities due to A1’s on call restrictions.

25 20. After approximately four years of working for A1, Mr. Pennington’s schedule changed
26 to 8 hours per day, 5 days per week with no on call hours. However, in reality, Mr. Pennington was
27 working overtime and not being paid for same. If he worked beyond his scheduled hours during this
28 time, he was only paid commission, not an hourly rate.

1 requirements.

2 27. Plaintiffs were at all times material employed by Defendants. However, during this time
3 Defendants failed to pay Plaintiffs for all overtime hours worked in accordance with applicable Labor
4 Code and Wage Order provisions. Specifically, Plaintiffs worked certain overtime hours without any
5 payment at all, inclusive of minimum wage.

6 28. As a result, Defendants are liable to Plaintiffs for the liquidated damages plus interest
7 pursuant to Labor Code § 1194.2, in an amount according to proof at trial.

8 29. Defendants are also liable for attorney's fees, interest, and costs of suit, pursuant to
9 Labor Code § and 1194.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PAY ALL OVERTIME WAGES EARNED**

12 **[PLAINTIFFS AGAINST ALL DEFENDANTS]**

13 (Labor Code §§ 510, 1194, 1198, Wage Order 4-2001 and 16-2001, §3(A))

14 30. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 29, inclusive, as
15 though set forth fully herein.

16 31. Plaintiffs worked in California and/or under California law.

17 32. At all relevant times herein, California Labor Code § 510 and IWC Wage Order 4-2001
18 and 16-2001 required employers, like Defendants, to pay non-exempt employees overtime premium(s)
19 for hours worked in excess of 8 (or in excess of 12) in a given workday, 40 in a given workweek, or on
20 the seventh day worked in a single workweek. Pursuant to California Labor Code § 1198, it is unlawful
21 to employ persons for hours longer than the hours set by the Industrial Welfare Commission ("IWC"),
22 or under conditions prohibited by the applicable wage orders of the IWC.

23 33. Plaintiffs were non-exempt employees entitled to be paid overtime compensation for all
24 overtime hours worked.

25 34. Plaintiffs worked in excess of eight hours per day and in excess of 40 hours per week,
26 and Defendants unlawfully failed to pay the proper overtime compensation required in violation of
27 IWC Wage Order Nos. 4 and 16, and the California Labor Code §§ 510 and 1198, throughout the
28 Period and continuing to the present. Pursuant to California Labor Code § 1194, the Plaintiffs are

entitled to recover the unpaid overtime compensation.

35. Plaintiffs also request liquidated damages for any hour of work for which no payment was made by Defendants pursuant to Labor Code § 1194.2.

36. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiffs sustained damages, including loss of earnings for hours of overtime worked on behalf of Defendants in an amount to be established at trial, plus interest, attorneys' fees and costs pursuant to Labor Code § 1194.

37. Defendants' failure to pay overtime was done willfully, in bad faith, in knowing violation of the California Labor Code and IWC Wage Order 4-2001 and 16-2001, and with malice.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

[PLAINTIFFS AGAINST ALL DEFENDANTS]

(Labor Code §§ 226.7 and 512, IWC Wage Order 4-2001 and 16-2001 § 11)

38. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 37, inclusive, as though set forth fully herein.

39. As alleged herein, Defendants have maintained a policy and/or practice whereby Plaintiffs were denied meal breaks required by California law. Specifically, Defendants have systematically failed and/or refused to provide Plaintiffs with uninterrupted, off-duty meal break of at least 30 consecutive minutes in duration, as guaranteed to them as employees under California Labor Code sections 226.7 and 512, and Wage Order 4-2001 and 16-2001.

40. Wage Order 4-2001 and 16-2001 require an employer to pay an employee an additional hour of compensation for every shift that a mandated meal period is not provided. California Labor Code section 226.7, subdivision (b), likewise requires an employer to pay an employee an additional hour of compensation for every shift that a meal period required by the California Wage Orders is not provided.

41. At all relevant times herein, Defendants have failed and/or refused to provide Plaintiffs with the additional compensation for missed, late, or interrupted meal periods required by California Labor Code section 226.7 and Wage Order 4-2001 and 16-2001.

42. Based on Defendants' conduct, as alleged herein, Defendants are liable to Plaintiffs for unpaid premium wages for missed, late, or interrupted meal periods, pursuant to California Labor Code section 226.7 and Wage Order 4-2001 and 16-2001.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

[PLAINTIFFS AGAINST ALL DEFENDANTS]

(Labor Code §§ 226.7 and 512, IWC Wage Order 4-2001 and 16-2001 § 11)

43. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 42, inclusive, as though set forth fully herein.

44. As alleged herein, Defendants have maintained a policy and/or practice whereby Plaintiffs were denied rest breaks required by California law. Specifically, Defendants have systematically failed and/or refused to provide Plaintiffs with all uninterrupted, off-duty reset break of at least 10 consecutive minutes in duration, as guaranteed to them as employees under California Labor Code sections 226.7 and 512, and Wage Order 4-2001 and 16-2001.

45. Wage Order 4-2001 and 16-2001, require an employer to pay an employee an additional hour of compensation for every shift in which said employee was not authorized or permitted to take a mandated rest period. California Labor Code section 226.7, subdivision (b), likewise requires an employer to pay an employee an additional hour of compensation for every shift that a rest period mandated by the California Wage Orders is not provided.

46. At all relevant times herein, Defendants have failed and/or refused to provide Plaintiffs with a premium hour of pay for each missed, late, or interrupted rest period as required by California Labor Code section 226.7, and Wage Order 4-2001 and 16-2001.

47. Based on Defendants' conduct, as alleged herein, Defendants are liable to Plaintiffs for unpaid premium wages for each missed, late, or interrupted rest periods, pursuant to California Labor Code section 226.7 and Wage Order 4-2001 and 16-2001.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**

3 **[PLAINTIFF AGAINST ALL DEFENDANTS]**

4 (California Labor Code §§ 226 & 226.3)

5 48. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 47, inclusive, as
6 though set forth fully herein.

7 49. Labor Code § 226(a) requires employers, at the time of each payment of wages, to
8 provide each employee with an accurate wage statement itemizing, among other things, the total hours
9 worked by the employee, the applicable hourly rate, the gross and net wages earned by the employee in
10 the pay period, and the name and address of the legal entity that is the employer.

11 50. Labor Code § 226(e) provides that an employee suffering injury as a result of a
12 knowing and intentional failure by an employer to comply with Labor Code § 226(a) is entitled to
13 recover the greater of his or her actual damages or a penalty of \$50 for the initial pay period in which a
14 violation occurs and \$100 per employee for each violation in subsequent pay periods (up to a
15 maximum of \$4,000), in addition to attorneys' fees and costs.

16 51. Plaintiffs are informed, believe and allege thereon, that throughout the duration of
17 Plaintiffs' employment with Defendants, Defendants knowingly and intentionally failed to provide
18 accurate itemized wage statements to her in accordance with Labor Code § 226(a) since Plaintiffs'
19 wage statements failed to reflect the number of hours worked and correct amount earned.

20 52. On information and belief, all of Defendants' employees were and continue to be
21 discouraged from accessing their wage statements and are being provided inaccurate wage statements.

22 53. As a result of Defendants' acts and omissions in violation of Labor Code § 226,
23 Defendants are liable to Plaintiffs for \$50 for the initial pay period when a violation occurred and \$100
24 for each subsequent violation up to \$4,000, and reasonable attorneys' fees and costs of this suit
25 pursuant to Labor Code § 226(e). Defendants are also liable for penalties pursuant to Labor Code §
26 226.3.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES UPON DISCHARGE, WAITING TIME PENALTIES**

3 **[PLAINTIFFS AGAINST ALL DEFENDANTS]**

4 (Labor Code § 203, IWC Wage Order 4-2001 and 16-2001 §3(A))

5 54. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 53, inclusive, as
6 though set forth fully herein.

7 55. Sections 201 and 202 of the California Labor Code require employers to promptly pay
8 all wages owing to an employee at the conclusion of employment.

9 56. Plaintiffs are no longer working for Defendants. When Plaintiffs' employment was
10 terminated by Defendants, Plaintiffs did not receive all compensation due and owing as required
11 pursuant to Labor Code § 203, which provides that an employee's wages shall continue as a penalty
12 until paid, for a period of up to thirty (30) days from the time they were due.

13 57. Specifically, Defendants did not pay Plaintiffs all minimum wages, regular wages, or
14 overtime wages owed after discharge.

15 58. Plaintiffs have not been paid all wages earned for more than thirty (30) days.
16 Defendants' failure to pay Plaintiffs all wages owed was willful.

17 59. Plaintiffs are therefore entitled to thirty (30) days of waiting time penalties against
18 Defendants in an amount to be determined at trial. Plaintiffs also request recovery of reasonable
19 attorney's fees pursuant to Labor Code § 218.5.

20 **SEVENTH CAUSE OF ACTION**

21 **CIVIL PENALTIES**

22 **[PLAINTIFFS AGAINST ALL DEFENDANTS]**

23 (Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 et seq.)

24 60. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 59, inclusive,
25 as though set forth fully herein.

26 61. At all times herein mentioned, Defendants were subject to the Labor Code of the State
27 of California and the applicable Industrial Welfare Commission Orders.

28 62. California Labor Code § 2699(a) specifically provides for a private right of action to

1 recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any
2 provision of this code that provides for a civil penalty to be assessed and collected by the Labor and
3 Workforce Development Agency or any of its departments, divisions, commissions, boards,
4 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
5 civil action brought by an aggrieved employee on behalf of himself or herself and other current or
6 former employees pursuant to the procedures specified in Section 2699.3.”

7 63. Plaintiffs have exhausted their administrative remedies pursuant to California Labor
8 Code § 2699.3. On December 21, 2022, they gave written notice by online filing to the Labor and
9 Workforce Development Agency and by certified mail to Defendants of the specific provisions of
10 the Labor Code that Defendants have violated against Plaintiffs and current and former aggrieved
11 employees, including the facts and theories to support the violations. Plaintiffs also paid the filing
12 fee. Plaintiffs’ PAGA case number is LWDA-CM- 925590-22.

13 64. More than 65 days has elapsed since Plaintiffs provided notice, but the Labor and
14 Workforce Development Agency has not indicated that it intends to investigate Defendants’ Labor
15 Code violations discussed in the notice. Accordingly, Plaintiffs may commence a civil action to
16 recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code
17 described in this Complaint. These penalties include, but are not limited to, penalties under
18 California Labor Code §§ 201, 202, 203, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194,
19 1194.2, 1198, 1198.5, 1197.1, and 2699(f)(2).

20 65. In addition, Plaintiffs seek penalties for Defendants’ violation of California Labor
21 Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity,
22 employing labor who willfully fails to maintain accurate and complete records required by California
23 Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order §
24 7(A)(3), every employer shall keep time records showing when the employee begins and ends each
25 work period. Meal periods, and total hours worked daily shall also be recorded. Additionally,
26 pursuant to the applicable IWC Order § 7(A)(5), every employer shall keep total hours worked in the
27 payroll period and applicable rates of pay.
28

66. During the time period of employment for Plaintiffs and the Aggrieved Employees, Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to maintain accurate records showing meal periods, and accurate records showing when employees begin and end each work period. Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiffs and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiffs and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiffs and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. Because of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

67. Based on the conduct described in this Complaint, Plaintiff is entitled to an award of civil penalties on behalf of himself, the State of California, and similarly Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is an amount to be shown according to proof at trial. These penalties are in addition to all other remedies permitted by law.

68. In addition, Plaintiffs seek an award of reasonable attorney's fees and costs pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."

EIGHTH CAUSE OF ACTION

CONSTRUCTIVE TERMINATION OF EMPLOYMENT

[PLAINTIFFS AGAINST ALL DEFENDANTS]

(C.A.C.I. 2432)

69. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 68, inclusive, as

1 though set forth fully herein.

2 70. Defendants forced Plaintiffs to resign for reasons that violate public policy.

3 71. It is a violation of public policy for an employer to require an employee to work more
4 than forty hours a week for less than minimum wage, without all paid overtime, with inaccurate or no
5 wage statements, and without meal and rest breaks.

6 72. Plaintiff was employed by Defendants.

7 73. Plaintiff was subjected to working conditions that violated public policy in that they
8 were required to work more than forty hours a week for less than minimum wage, without all paid
9 overtime, with inaccurate or no wage statements, and without meal and rest breaks. In addition,
10 PENNINGTON was reassigned to an older less safe tow truck approximately one month before his
11 employment ended.

12 74. Defendants intentionally created or knowingly permitted these working conditions that
13 are in violation of the Labor Code.

14 75. These working conditions were so intolerable that a reasonable person in Plaintiffs'
15 position would have had no reasonable alternative except to resign.

16 76. Plaintiffs did in fact resign because of the intolerable working conditions created by
17 Defendants.

18 77. Plaintiffs were harmed and the working conditions were a substantial factor in causing
19 Plaintiffs' harm.

20 78. As a result, Defendants are liable for all past economic loss, future economic loss, past
21 non-economic loss, future non-economic loss, and punitive damages.

22 **WHEREFORE, Plaintiff PRAY FOR JUDGMENT AGAINST Defendants AS FOLLOWS:**

23 **On the First Cause of Action:**

- 24 1. For unpaid minimum wages and liquidated damages in an amount equal to same
25 pursuant to Labor Code §§ 1194 and 1194.2, subject to proof at trial;
- 26 2. For prejudgment interest on all damages awarded under Labor Code §§ 1194 and
27 1194.2;
- 28 3. For reasonable attorney's fees pursuant to Labor Code § 1194;

4. For costs of suit pursuant to Labor Code § 1194; and
5. For such other and further relief as the Court may deem proper.

On the Second Cause of Action:

1. For all unpaid overtime wages and liquidated damages pursuant to Labor Code §§ 1194 and 1194.2, subject to proof at trial;
2. For prejudgment interest at the maximum legal rate pursuant to Labor Code § 1194;
3. For reasonable attorneys' fees pursuant to Labor Code § 1194;
4. For costs of suit pursuant to Labor Code § 1194; and
5. For such other and further relief as the Court may deem proper.

On the Third Cause of Action:

1. For all unpaid premium wages due and owing as a result of each meal period violation pursuant to Labor Code 226.7(c), subject to proof at trial;
2. For reasonable attorneys' fees pursuant to Labor Code § 218.5;
3. For prejudgment interest at the maximum legal rate;
4. For costs of suit;
5. For such other and further relief as the Court may deem proper.

On the Fourth Cause of Action:

1. For all unpaid premium wages due and owing as a result of each rest period violation pursuant to Labor Code 226.7(c), subject to proof at trial;
2. For reasonable attorneys' fees pursuant to Labor Code § 218.5;
3. For prejudgment interest at the maximum legal rate;
4. For costs of suit;
5. For such other and further relief as the Court may deem proper.

1 **On the Fifth Cause of Action:**

- 2 1. For damages, including the full amount of unpaid wages and continuation of wages
3 allowable under Labor Code § 203 subject to proof at trial;
4 2. For reasonable attorneys' fees pursuant to Labor Code § 218.5.
5 3. For such other and further relief as the Court may deem proper.
6

7 **On the Sixth Cause of Action:**

- 8 1. For statutory penalties under Labor Code § 226(e), according to proof at trial;
9 2. For prejudgment interest at the maximum legal rate;
10 3. For reasonable attorneys' fees, pursuant to Labor Code § 226(e)(1);
11 4. For costs of suit pursuant to Labor Code § 226(e)(1); and
12 5. For such other and further relief as the Court may deem proper.
13

14 **On the Seventh Cause of Action:**

- 15 1. That the Court declare, adjudge and decree that Defendants violated the California
16 Labor Code by failing to provide pay all minimum wages earned, failing to pay all
17 overtime wages earned, failing to provide all required meal periods, failing to
18 maintain accurate records of meal periods, failing to authorize and permit rest periods,
19 failing to maintain accurate records of all hours worked, failing to pay final wages at
20 termination, and failing to furnish accurate wage statements;
21 2. For all actual, consequential and incidental losses and damages, according to proof;
22 3. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all other
23 applicable Labor Code provisions;
24 4. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
25 Labor Code § 2699;
26 5. For such other and further relief as the Court may deem equitable and appropriate.
27
28

1 **On the Eighth Cause of Action:**

- 2 1. For all past economic loss, future economic loss, past non-economic loss, future non-
- 3 economic loss, subject to proof at trial;
- 4 2. Punitive damages; and
- 5 3. For such other and further relief as the Court may deem proper.

6 Dated: May 31, 2023

FINNEGAN & DIBA, A LAW CORPORATION

8 By: 

9 AMIR T. ALAVI, ESQ.,
10 Attorneys for Plaintiffs,
11 CHRISTOPHER PENNINGTON, ANDREW
12 ALLAN BARKER, & JOSE LUIS SANCHEZ

13
14 **DEMAND FOR JURY TRIAL**

15
16 Plaintiff, by and through counsel, hereby demand a jury trial on all causes of action and claims
17 to which they have a right to jury trial.

18
19 Dated: May 31, 2023

FINNEGAN & DIBA, A LAW CORPORATION

21 By: 

22 AMIR T. ALAVI, ESQ.,
23 Attorneys for Plaintiffs,
24 CHRISTOPHER PENNINGTON, ANDREW
25 ALLAN BARKER, & JOSE LUIS SANCHEZ

EXHIBIT “A”



FINNEGAN & DIBA

A LAW CORPORATION 3660 Wilshire Blvd., Suite 800, Los Angeles, CA 90010 / Tel: 213-480-0292 / Fax: 213-480-0805 / Email: info@fdlegal.com

December 21, 2022

– Via Certified U.S. Mail –
[Return Receipt Requested]

A1 HD Towing
42556 8th Street East
Lancaster, CA 93535

A1 HD Towing
42263 50th Street West, #818
Quartz Hill, CA 93536

Attn: Mr. Jose Francisco Pineda
Mr. Jose Pineda, Jr.
Ms. Stacey Urbina

**RE: CHRISTOPHER PENNINGTON, JOSE SANCHEZ & ANDREW BARKER V. A1
HD TOWING, LLC, JOSE F. PINEDA & JOSE PINEDA, JR.
L.W.D.A. CASE NO.: PENDING
NOTICE OF INTENT TO SEEK CIVIL PENALTIES PURSUANT TO LABOR
CODE § 2698, ET SEQ.**

To Whom It May Concern:

Please be advised Finnegan & Diba, ALC has been retained by Mr. Pennington, Mr. Barker, and Mr. Sanchez (Hereinafter “Clients”) concerning a lawsuit against their former employer, A1 HD Towing, LLC, Jose Francisco Pineda, and Jose Pineda, Jr. (Hereinafter “Employer”). I am writing this letter to inform you of Clients’s intent to seek recovery of civil penalties pursuant to the provisions of the California Labor Code Sections 2698, 2699, 2699.3, and 2699.5, also known as the Labor Code Private Attorneys General Act of 2004 (PAGA).

The purpose of this letter is to inform you of the factual basis supporting Clients’ allegations of Employer’s violations of specific sections of the California Labor Code. The following is a summary of Clients’ allegations against Employer and pertinent Labor Code sections:

Clients worked for Employer as non-exempt tow truck drivers. Client has been continuously employed by Employer throughout the duration of his employment.

Clients contend they were not paid all wages earned for services rendered for Employer’s benefit. Specifically, Clients were not paid all wages earned, inclusive of overtime pay. As a result, Employer failed to keep accurate records of Clients’ hours worked and income earned and failed to provide accurate wage statements. On information and belief, Employer treated all employees similarly situated as Clients in the same manner.

Clients further contend that they were not given all uninterrupted 30-minute meal periods or uninterrupted 10-minute rest breaks in accordance with California Labor Code and Wage Order

requirements. Clients also contend that Employer's other workers also were not given uninterrupted 30-minute meal periods or uninterrupted 10-minute rest breaks. Neither Clients nor Employer's other drivers were paid premium wages for missed breaks. Clients also contend they were not paid all wages due upon termination, were not reimbursed for business expenses incurred, not provided paid sick leave, and their employment was terminated in retaliation for one employee, Mr. Pennington, beginning the process of taking legal action against Employer.

The result is that Employer is liable for civil penalties arising out of their intentional and systematic failure to comply with various California Labor Code sections. Employers' above-described conduct results in violations of the following labor codes:

Failure to Pay All Wages Earned – Labor Code §§ 203, 204, 1194, & 1197: Clients allege Employer intentionally failed to pay wages when due. Specifically, Employer failed to pay all wages earned as mandated by Labor Code § 204 since Employer was not paying Clients all regular and overtime wages earned or missed break premium wages each pay period. As a result of Employer's failure to pay Client all wages earned, Employer violated Labor Code § 204. As a further result of Employer's failure to pay all wages earned upon discharge of employee, Employer is liable for all penalties, statutory and civil, for violation of Labor Code § 203, which Employer has failed to do to date.

Failure to Pay Overtime Wages – Labor Code §§ 510, 1194, 1198: Clients allege Employer intentionally failed to pay overtime wages due for all work performed in excess of eight (8) hours in one (1) workday and all work performed in excess of forty (40) hours in one workweek in violation of Labor Code §§ 510, 1194, 1197, and the applicable wage order.

Failure to Provide Mandated Meal Breaks or Pay Premium Wages - Labor Code §§ 512 & 226.7: Clients allege Employer intentionally failed to provide Clients and Employer's other employees with statutorily mandated meal breaks and failed to pay one additional hour of pay at the regular rate of compensation for each workday that the meal period was not provided. Client maintains that Employer is liable for civil penalties for violations of Labor Code §§ 512 and 226.7, in addition to the unpaid premium wages.

Failure to Provide Mandated Rest Breaks or Pay Premium Wages - Labor Code §§ 512 & 226.7: Clients allege Employer intentionally failed to provide Clients and Employer's other employees with statutorily mandated rest breaks and failed to pay one additional hour of pay at the regular rate of compensation for each workday that the rest period was not provided. As a result, Employer is liable for civil penalties for violation of Labor Code §§ 512 and 226.7, in addition to the unpaid premium wages.

Failure to Provide Mandated Paid Sick Days – Labor Code § 246: Clients allege Employer intentionally failed to provide Clients with paid sick time off while employed with Employer. Clients maintain Employer is liable for civil penalties for violations of Labor Code § 246 pursuant to Labor Code § 248.5.

Failure to Pay All Wages Earned No Later than the Next Payroll Period – Labor Code § 204, 510, 1194: Clients allege Employer intentionally failed to pay Clients and all other employees all wages when due. Specifically, Employer failed to pay Clients all overtime wages earned and failed to pay missed break premium wages when earned as mandated by Labor

Code §§ 204, 512, 226.7, and 1194. As a result of Employer's failure to pay all wages earned in accordance with Labor Code §§ 204, 512, 226.7, and 1194, Employer is liable for civil penalties for each failure during each pay period to compensate its employees in accordance with California law.

Failure to Pay All Wages Due Upon Discharge – Labor Code §§ 201, 202, & 203:

Employer violated Labor Code § 201 and 202 since it did not pay Clients and other employees all wages due after the end of employment. Specifically, Employer owed Clients and other employees unpaid wages, and unpaid premium wages for failing to provide meal and rest breaks. As result of Employer's failure to pay all wages earned upon discharge of Clients and its employees, Employer is liable for all civil penalties for violation of Labor Code §§ 201, 202, and 203.

Failure to Provide Accurate Wage Statements - Labor Code §§ 226(a) & 226.3:

Clients allege Employer intentionally failed to provide accurate wage statements throughout the duration of Clients' employ in violation of Labor Code § 226(a). On account of Employer's failure to provide accurate wage statements to Clients or any of its employees, Employer is liable for civil penalties pursuant to Labor Code §§ 226.3, 2699(f) and 2699.5.

Failure to Reimburse Employees' for Business Expenses Incurred – Labor Code § 2802:

Clients allege Employer intentionally failed to reimburse Clients and Employer's other employees for necessary expenditures incurred by Clients in direct consequence of the discharge of their duties throughout the duration of Clients' employ in violation of Labor Code § 2802. On account of Employer's failure to provide accurate wage statements to Clients or any of its employees, Employer is liable for civil penalties pursuant to Labor Code §§ 2802, 2699(f) and 2699.5.

Failure to Maintain Accurate and Adequate Records - Labor Code § 1174 & 1174.5:

As a result of failing to account for all wages earned and owed to Clients on Employer's wage statements, inclusive of minimum wages, regular wages, overtime wages and missed break premiums, Employer's records are all inaccurate. Since the records will not reflect all wages earned by Clients and Employer's other employees and because this failure to maintain accurate records is the result of intentional conduct by Employer, Employer is liable for civil penalties, pursuant to Labor Code §§ 2699(f), 2699.5, and 1174.5.

Clients anticipate filing a civil action concerning their wage and hour claims and seeking recovery of associated civil penalties as warranted by the California Labor Code, including but not limited to Labor Code § 2698, et seq. This letter is being sent to you inform you of my Clients' allegations and intent to collect civil penalties associated with Employers' violations of the California Labor Code as required by Labor Code § 2698, et seq.

Sincerely,



Amir T. Alavi, Esq.

cc: Mr. Pennington, Mr. Barker, & Mr. Sanchez (email only)

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Mr Jose Francisco Pineda,
Ms. Stacey Urbina
A1 HD Towing
4255 6th Street East
Lancaster, CA 93535



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