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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

Scott Carney, Romein Martinez and Donovin Last,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

Geo Drilling Fluids, Inc., a California Corporation,
California Resources Corporation, a Delaware
Corporation, Irani Engineering, Inc., a California
Corporation, and Does 1 through 10,

Defendants.

Case No. BCV-15-101729
CLASS ACTION

**Second Amended Complaint and Demand
for Jury Trial**

- 1. Failure to Pay Compensation Due**
- 2. Failure to Provide Meal periods**
- 3. Failure to Provide Rest periods**
- 4. Failure to Furnish Itemized Wage Statements**
- 5. Failure to Pay Wages Timely upon Termination**
- 6. Violation of Cal. Business & Professions Code Section 17203**
- 7. Recovery of Penalties pursuant to Cal. Labor Code Section 2699**
- 8. Wrongful Termination in Violation of Public Policy**

1 Plaintiffs Scott Carney, Romein Martinez and Donovan Last (“Plaintiffs”), individually, on
2 behalf of all other persons similarly situated and as representative of other class members, allege:

- 3 1. This case arises out of Defendants’ failure to comply with the California Labor Code and
4 applicable Wage Order in the treatment of its employees including, *inter alia*, the failure to pay
5 wages for regular and overtime hours, failure to provide lawful meal and rest periods, failure to
6 pay meal period and rest period wages failure to pay waiting time wages, and failure to provide
7 lawful itemized wage statements.
- 8 2. Plaintiffs Scott Carney and Romein Martinez are residents of California. Plaintiff Donovan Last
9 is a resident of Oklahoma. All Plaintiffs were primarily employed in Kern County by Defendants
10 as non-exempt employees.

11 **DEFENDANTS**

- 12 3. Defendant Geo Drilling Fluids, Inc. (“Geo”) is a California corporation located at 1431 Union
13 Avenue, Bakersfield, CA 93305, California.
- 14 4. Defendant California Resources Corporation (“CRC”) is a Delaware corporation with offices
15 located at 10889 Wilshire Blvd., Los Angeles, CA 90024. CRC was the primary operator of
16 wells at which Plaintiffs worked during the applicable limitations periods. CRC at times supplied
17 its own company men to control the daily work at the drill sites including work performed by
18 Plaintiffs and other class members.
- 19 5. Defendant Irani Engineering, Inc. (“Irani”) is a California corporation located at 2625 Fair Oaks
20 Blvd., Ste. 10, Sacramento, CA 95864. Irani was a primary manager of wells at which Carney
21 worked during the applicable limitations periods. Irani supplied company men to control the
22 daily work at the drill sites including work performed by Plaintiffs and class members.
- 23 6. Plaintiff Carney was hired by Geo who provided Plaintiff Carney and other class members to
24 work as mud engineers for CRC during relevant class periods defined in this Amended
25 Complaint.
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- 1 7. Plaintiff Martinez was hired by M-I, L.L.C. (“M-I”) who provided Plaintiff Martinez and other
2 class members to work as mud engineers for CRC during relevant class periods defined in this
3 Amended Complaint.
- 4 8. M-I recruited Plaintiff Last to work at CRC drilling rigs in the California and provided Plaintiff
5 Last and other class members to work as mud engineers for CRC in California during relevant
6 class periods defined in this Complaint. Plaintiff Last was worked at CRC drilling rigs in the
7 State of California through M-I in 2019 and 2020.
- 8 9. Geo, M-I, CRC and Irani acted as co-employers and/or joint employers of Plaintiffs and other
9 class members. Among other things:
- 10 a. Although Geo and M-I were the parties that initially hired Plaintiffs and other class
11 members, CRC and/or Irani had the power to request specific mud engineers and could
12 discipline, terminate, and/or transfer them from their positions working at the drill sites.
- 13 b. CRC and/or Irani trained Plaintiffs and other class members at the job sites regarding
14 safety and other issues.
- 15 c. Although Geo and M-I determined Plaintiffs’ and other class members’ salary, Geo, M-I
16 and CRC and/or Irani determined Plaintiffs’ and other class members’ daily rate of pay.
- 17 d. Geo and CRC and/or Irani set Plaintiffs’ and other class members’ hours and/or work
18 schedules.
- 19 e. Although Geo and M-I gave Plaintiffs and other class members directions about when
20 and where to report to a particular drill site, CRC and/or Irani instructed Plaintiffs and
21 other class members when and/or where to work once they arrived at the drill site.
- 22 f. Geo, M-I, CRC and/or Irani each had the power to cause Plaintiffs and other class
23 members to work and/or to prevent Plaintiffs and other class members from working.
- 24 g. CRC and/or Irani had the power to instruct Plaintiffs and other class members when and
25 whether to take meal and rest periods.
- 26 h. The scope and plan for work at each drilling operation were predetermined insofar as is
27 foreseeable by CRC and/or Irani’s drilling engineers in advance of any work being
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1 performed at the site. Included in this plan were decisions about how the mud was to be
2 maintained by the mud engineers. This plan is supervised and enforced by CRC and/or
3 Irani's drill site managers, also known as "company men."

- 4 i. CRC and/or Irani's company men directed Plaintiffs and other class members about what
5 to do or what not to do as to virtually every aspect of their jobs.
- 6 j. CRC and/or Irani's company men determined where Plaintiffs and other class members
7 parked their work trailers.
- 8 k. CRC and/or Irani's company men told Plaintiffs and other class members when to order
9 more water and when to coordinate water trucks on the drill site.
- 10 l. CRC and/or Irani's company men determined where on the drill site Plaintiffs and other
11 class members should be and when they should be there.
- 12 m. CRC and/or Irani's company men could and did instruct Plaintiffs and other class
13 members when to run extra analyses on the mud.
- 14 n. CRC and/or Irani's company men could and did determine how long Plaintiffs and other
15 class members were required to stay at the pit, including but not limited to, during a loss
16 of circulation event.
- 17 o. CRC and/or Irani's company men could and did determine which and how much material
18 Plaintiffs and other class members could use in a loss of circulation event.
- 19 p. CRC and/or Irani's company men could and did review mud reports provided by
20 Plaintiffs and other class members and could and did approve or disapprove of Plaintiffs
21 and other class members' plan of action in maintaining the mud.
- 22 q. CRC and/or Irani's company men could and did remove Plaintiffs and other class
23 members off the site.
- 24 r. CRC and/or Irani's company men could and did request particular mud engineers to work
25 with.
- 26 s. CRC and/or Irani's company men could and did determine when and/or if Plaintiffs and
27 other class members could eat.
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10. Plaintiffs do not presently know the true names and capacities of the defendants named as Does 1 through 10 and therefore sue such defendants by these fictitious names. Plaintiffs believe that the Doe Defendants are persons or entities who are involved in the acts set forth below, either as independent contractors, suppliers, agents, servants or employees of the known defendants, or through entering into a conspiracy and agreement with the known Defendants to perform these acts, for financial gain and profit, in violation of Plaintiffs' and class members' rights. Plaintiffs will request leave of Court to amend this Complaint to set forth their true names, identities and capacities when Plaintiffs ascertain them.
11. Each of the Defendants has been or is the principal, officer, director, agent, employee, representative and/or co-conspirator of each of the other defendants and in such capacity or capacities participated in the acts or conduct alleged herein and incurred liability therefor. At an unknown time, some or the Defendants entered into a conspiracy with other of the Defendants to commit the wrongful acts described herein. These wrongful acts were committed in furtherance of such conspiracy. Defendants aided and abetted each other in committing the wrongful acts alleged herein. Each of the Defendants acted for personal gain or in furtherance of their own financial advantage in effecting the acts alleged herein.
12. The named Defendants and the Doe defendants are hereinafter referred to collectively as "Defendants."
13. Defendant Geo classified Plaintiff Carney and other class members as exempt employees rather than non-exempt employees.
14. M-I classified Plaintiffs Martinez and Last and other class members as exempt employees or independent contractors rather than non-exempt employees.
15. Defendants CRC and Irani illegally treated Plaintiffs and class members as independent contractors rather than non-exempt employees.
16. Plaintiffs and other class members typically worked 12 hours or more per shift and were required to be at the drill site 24 hours per day and seven days per week for at least two weeks straight every four-week period. Plaintiffs and other class members were not exempt from the payment

1 of overtime and, as just described, worked more than eight hours per day and more than 40 hours
2 per week. Defendants did not properly compensate Plaintiffs and other class members for the
3 overtime hours they worked at the correct rates. Rather, as stated above, Defendants intentionally
4 misclassified Plaintiffs and other class members as independent contractors in order to avoid
5 obligations imposed upon employers under California law.

6 17. Plaintiffs and other class members did not exercise personal discretion in the completion of their
7 job duties but rather followed established standard procedures and guidelines and/or worked
8 under the supervision of and at the behest of the drill site managers in executing work intended
9 to conform to the pre-ordained plans of drilling engineers. The work carried out by Plaintiffs and
10 other class members was primarily mechanical.

11 18. Plaintiffs and other class members' analyses of the mud were recorded in reports provided to the
12 drill site manager, who then controlled and determined whether and to what degree Plaintiffs and
13 other class members should follow standardized formulas in treating the mud.

14 19. Although conducting mud analyses was an important part of Plaintiffs' and other class members'
15 work, they generally spent more time addressing loss of circulation events. In these situations,
16 Defendants required Plaintiffs and other class members to stay at the pit and follow the drill site
17 manager's instructions. Depending on the circumstances, Plaintiffs and other class members
18 were required to work shifts longer than the 12-hour scheduled shifts.

19 20. Plaintiffs and other class members also performed multiple other mechanical tasks at the
20 direction of the drill site manager including but not limited to ordering and coordinating the
21 delivery of mud agents and lost circulation materials.

22 21. In addition to failing to provide Plaintiffs and other class members with all the wages due them,
23 Defendants also failed to provide proper meal and rest breaks. Specifically, Plaintiffs and other
24 class members were not provided with the legally required meal and/or rest periods.

25 **CLASS ACTION ALLEGATIONS**

26 22. Plaintiffs brings the first six causes of action for themselves and on behalf of a class and sub-
27 class initially defined as follows:
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Plaintiff Class. All persons who, at any time from December 21, 2011 to the date established by the Class Certification Order ("Class Period") worked at any of the drill sites operated by California Resources Corporation, including the California operations of California Resources Production Corporation (formerly known as Vintage Production California LLC), California Resources Petroleum, LLC (formerly known as Vintage Petroleum LLC) OXY USA, Inc. and Occidental Petroleum Corporation) and all other former California operations of Occidental Petroleum Corporation and its affiliates ("CRC") in California in job positions titled "Drilling Fluid Specialist" (mud man, Levels I-IV and mud man Senior), mud engineer," "mud man," "mud man Trainee", "mud man consultant," and/or equivalent job titles who was employed by CRC or who was provided by Geo Drilling Fluids, Inc. or M-I, LLC to CRC to provide drilling fluids related services and who have not released CRC from the claims in this action for all periods during the period described above.

Termination Pay Subclass. All members of the Plaintiff Class who, at any time from December 21, 2012 to the date established by the Class Certification Order, voluntarily or involuntarily stopped providing services to CRC.

23. The term "class" or "class members" includes the Plaintiffs and all class members.
24. During all, or a portion of the class period, Plaintiffs and each member of the class were employed by Defendants in California.
25. Plaintiffs seek all compensation and relief due Plaintiffs and the class members during the class period based upon the information and belief that Defendants are continuing, and will continue, their unlawful and unfair practices as described herein.
26. **Numerosity.** The number of class members is so numerous that joinder of all members is impractical. The names and addresses of the class members are identifiable through documents maintained by the Defendants, and the class members may be notified of the pendency of this action by published and/or mailed notice. Plaintiffs believe there are more than 100 class members.
27. **Existence and Predominance of Common Questions of Law and Fact.** Common questions of law and fact exist as to all members of the class. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, among other things:
 - a. Whether Defendants CRC and Irani misclassified Plaintiffs and other class members as independent contractors.

- b. Whether Defendants misclassified Plaintiffs and other class members as exempt.
- c. Whether Defendants paid Plaintiffs and other class members for all hours worked.
- d. Whether Defendants owe Plaintiffs and other class members properly calculated overtime pay for work over eight hours per day and/or over 40 hours per week.
- e. Whether Defendants failed to provide Plaintiffs and other class members the legally required meal periods
- f. Whether Defendants required Plaintiffs and class members to work during meal periods.
- g. Whether Defendants owe Plaintiffs and the class members properly calculated meal period premiums.
- h. Whether Defendants failed to provide Plaintiffs and other class members the legally required rest periods.
- i. Whether Defendants owe Plaintiffs and the class members properly calculated rest period premiums for those days when rest breaks were not provided.
- j. Whether Defendants' conduct was willful or reckless.
- k. Whether Defendants violated Labor Code Section 226 by failing to timely furnish Plaintiffs and other class members with accurate wage statements.
- l. Whether Defendants failed to timely pay all wages due to Plaintiffs and other class members upon the termination of their employment.
- m. Whether Defendants engaged in unfair competition in violation of California Business & Professions Code Section 17200, *et seq.*
- n. The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

28. **Typicality.** Plaintiffs' class claims are typical of the claims of the class members. Plaintiffs and all class members sustained injuries and damages arising out of Defendants' common course of conduct in violation of the law as alleged herein. Plaintiffs are entitled to the same relief under the class action causes of action as other class members.

- 1 29. **Adequacy.** Plaintiffs will adequately and fairly protect the interest of the members of the class.
2 Plaintiffs were employed by the Defendants at times during the class period and each is an
3 adequate representative for the class because Plaintiffs have no interests adverse to the interests
4 of the other class members. Plaintiffs have retained legal counsel with substantial experience in
5 civil litigation, employment law and class action litigation. Plaintiffs and Plaintiffs' counsel will
6 fairly and adequately protect the interests of members of the class.
- 7 30. **Superiority.** A class action is superior to other available means of fair and efficient adjudication
8 of the claims of the class members, since joinder of all class members is impractical. class action
9 treatment will allow a large number of similarly situated persons to prosecute their common
10 claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of
11 effort and expense that numerous individual actions would cause to such Plaintiffs or to the court
12 system. Further, the damages of many individual class members may be relatively small, and the
13 burden and expenses of individual litigation would make it difficult or impossible for individual
14 members of the class to seek and obtain relief, while a class action will serve an important public
15 interest. Furthermore, questions of law and fact common to the class members predominate over
16 questions affecting only individual members, and a class action is superior to other available
17 methods for fair and efficient adjudication of the controversy. Individual litigation would present
18 the potential for inconsistent or contradictory judgments. By contrast, the class action device will
19 result in substantial benefits to the litigants and the Court by allowing the Court to resolve
20 numerous individual claims based upon a single set of proof in a case.

21 **Claim for Relief No. 1**
22 **Against All Defendants**
23 **Failure to Pay Wages for Hours Worked**

- 24 31. Plaintiffs reallege the preceding paragraphs.

25 **Failure to Pay at Least Minimum Wage for Each Hour Worked**

- 26 32. Labor Code Section 1182.12 in relevant part provides:

27 Notwithstanding any other provision of this part, on and after January 1, 2007, the
28 minimum wage for all industries shall be not less than seven dollars and fifty cents

1 (\$7.50) per hour, and on and after January 1, 2008, the minimum wage for all industries
2 shall be not less than eight dollars (\$8.00) per hour.

3 33. Labor Code Section 1197 in relevant part provides:

4 The minimum wage for employees fixed by the commission is the minimum wage to be
5 paid to employees, and the payment of a less wage than the minimum so fixed is
6 unlawful.

7 34. Paragraph 4 of the applicable Wage Order provides in relevant part:

8 (A) Every employer shall pay to each employee wages not less than nine dollars (\$9.00)
9 per hour for all hours worked, effective July 1, 2014, and not less than ten dollars
10 (\$10.00) per hour for all hours worked, effective January 1, 2016.

11 (B) Every employer shall pay to each employee, on the established payday for the period
12 involved, not less than the applicable minimum wage for all hours worked in the payroll
13 period, whether the remuneration is measured by time, piece, commission, or otherwise.

14 35. Defendants failed to pay Plaintiffs and the class members the applicable minimum wage for all
15 hours worked, for overtime hours, for missed meal period wages, missed rest period wages, and
16 for other compensation due them under California law.

17 36. Under California law, "hours worked" is the time during which an employee is subject to the
18 control of an employer, and includes all the time the employee is suffered or permitted to work,
19 whether or not required to do so.

20 37. As described above, Plaintiffs and the class members frequently were required to remain in close
21 proximity to their worksite and to respond immediately when called back to work, even when
22 they were sleeping. Accordingly, Plaintiffs and other class members were entitled to be paid at
23 least the minimum wage for all non-overtime hours worked for Defendants, including when
24 sleeping or "on call." In violation of Section 1197 and Paragraph 4 of the applicable Wage
25 Order, Defendants did not pay class members at least the minimum wages and/or regular time
26 wages for all hours worked.

27 38. Labor Code Section 1194.2 in relevant part provides:

28 In any action under Section 1193.6 or Section 1194 to recover wages because of the
payment of a wage less than the minimum wage fixed by an order of the commission, an
employee shall be entitled to recover liquidated damages in an amount equal to the wages
unlawfully unpaid and interest thereon. Nothing in this subdivision shall be construed to
authorize the recovery of liquidated damages for failure to pay overtime compensation.

39. Plaintiffs and the class members are also entitled to liquidated damages pursuant to Labor Code Section 1194.2, interest, and reasonable attorneys' fees and costs.

Failure to provide One Day's Rest in Seven

40. California Labor Code Section 551 provides:

41. Every person employed in any occupation of labor is entitled to one day's rest in seven.

42. California Labor Code Section 554 provides:

(a) Sections 551 and 552 shall not apply to any cases of emergency nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of trains. This chapter, with the exception of Section 558, shall not apply to any person employed in an agricultural occupation, as defined in Order No. 14-80 (operative January 1, 1998) of the Industrial Welfare Commission. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, if in each calendar month the employee receives days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this chapter relating to collective bargaining agreements, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

(b) In addition to the exceptions specified in subdivision (a), the Chief of the Division of Labor Standards Enforcement may, when in his or her judgment hardship will result, exempt any employer or employees from the provisions of Sections 551 and 552.

43. Defendants violated Section 551 by failing to provide Plaintiffs and other class members one day's rest in seven.

Defendants caused class members to work more than six days in seven

44. Once employed at a drilling site, Plaintiffs and other class members were on duty for a minimum of 12 hours per day and 14 days in a row.

45. California Labor Code Section 552 provides:

46. No employer of labor shall cause his employees to work more than six days in seven.

47. Defendants violated Section 552 by causing Plaintiffs and class members to work more than six days in seven.

Failure to pay Overtime Wages

1 48. Labor Code Section 510 provides in relevant part:

2
3 (a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
4 one workday and any work in excess of 40 hours in any one workweek and the first eight
5 hours worked on the seventh day of work in any one workweek shall be compensated at
6 the rate of no less than one and one-half times the regular rate of pay for an employee.
7 Any work in excess of 12 hours in one day shall be compensated at the rate of no less
8 than twice the regular rate of pay for an employee. In addition, any work in excess of
9 eight hours on any seventh day of a workweek shall be compensated at the rate of no less
10 than twice the regular rate of pay of an employee.

11 49. Paragraph 3 of the applicable Wage Order provides in relevant part:

12 3. HOURS AND DAYS OF WORK

13 (A) Daily Overtime - General Provisions

14 (1) The following overtime provisions are applicable to employees 18 years of age or
15 over and to employees 16 or 17 years of age who are not required by law to attend school
16 and are not otherwise prohibited by law from engaging in the subject work. Such
17 employees shall not be employed more than eight (8) hours in any workday or more than
18 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times
19 such employee's regular rate of pay for all hours worked over 40 hours in the workweek.
20 Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in
21 any workday or more than six (6) days in any workweek is permissible provided the
22 employee is compensated for such overtime at not less than:

23 (a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours worked
24 in excess of eight (8) hours up to and including 12 hours in any workday, and for the first
25 eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

26 (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours
27 in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th)
28 consecutive day of work in a workweek.

(c) The overtime rate of compensation to be paid to a nonexempt full-time salaried
employee shall be computed by 4 using one-fortieth (1/40) of the employee's weekly
salary as the employee's regular hourly rate of pay...

50. Plaintiffs and class members worked in excess of eight hours in a day and/or in excess of 40
hours in a week and/or seven or more consecutive days. Defendants failed to correctly
compensate Plaintiffs and class members for all overtime worked at the correct rates in violation
of California Labor Code Section 510 and Paragraph 3 of the applicable Wage Order.

51. Labor Code Section 1194 in relevant part provides:

1 Notwithstanding any agreement to work for a lesser wage, any employee receiving less
2 than the legal minimum wage or the legal overtime compensation applicable to the
3 employee is entitled to recover in a civil action the unpaid balance of the full amount of
4 this minimum wage or overtime compensation, including interest thereon, reasonable
5 attorney's fees, and costs of suit.

6
7
8 52. Labor Code Section 218.6 in relevant part provides:

9
10 In any action brought for the nonpayment of wages, the court shall award interest on all
11 due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289
12 of the Civil Code, which shall accrue from the date that the wages were due and payable
13 as provided in Part 1 (commencing with Section 200) of Division 2.

14 53. Plaintiffs have incurred and are entitled to attorneys' fees and costs for pursuing this claim.

15
16 **Claim for Relief No. 2**
17 **Against All Defendants**
18 **Failure to Pay Compensation Due Pursuant to**
19 **Labor Code Section 226.7 for Meal Period Wages**

20 54. Plaintiffs reallege the preceding paragraphs.

21 55. Labor Code Section 512 provides in relevant part:

22 (a) An employer may not employ an employee for a work period of more than five hours
23 per day without providing the employee with a meal period of not less than 30 minutes,
24 except that if the total work period per day of the employee is no more than six hours, the
25 meal period may be waived by mutual consent of both the employer and employee. An
26 employer may not employ an employee for a work period of more than 10 hours per day
27 without providing the employee with a second meal period of not less than 30 minutes,
28 except that if the total hours worked is no more than 12 hours, the second meal period
may be waived by mutual consent of the employer and the employee only if the first meal
period was not waived.

56. Labor Code Section 226.7 provides:

(a) No employer shall require any employee to work during any meal or rest period
mandated by an applicable order of the Industrial Welfare Commission.

(b) If an employer fails to provide an employee a meal period or rest period in accordance
with an applicable order of the Industrial Welfare Commission, the employer shall pay
the employee one additional hour of pay at the employee's regular rate of compensation
for each work day that the meal or rest period is not provided.

57. Paragraph 10 of the applicable Wage Order provides in relevant part:

10. MEAL PERIODS

(A) No employer shall employ any person for a work period of more than five (5) hours
without a meal period of not less than 30 minutes, except that when a work period of not
more than six (6) hours will complete the day's work the meal period may be waived by

mutual consent of employer and employee. (See Labor Code Section 512.)

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived. (See Labor Code Section 512.)

(C) In all places of employment the employer shall provide an adequate supply of potable water, soap, or other suitable cleansing agent and single use towels for hand washing.

(D) Unless the 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. An on duty meal period shall be permitted only when the nature of the work prevents employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to and complies with Labor Code Section 512.

(E) Collective Bargaining Agreements. Subsections (A), (B), and (D) of Section 10, Meal periods, shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(F) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. In cases where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the meal period provisions, the collective bargaining agreement will prevail.

58. Defendants failed to provide Plaintiffs and other class members with legally required timely, duty free meal periods for numerous days worked. Defendants generally scheduled the daily workload of Plaintiffs and other class members without consideration for meal periods. Defendants failed to relieve Plaintiffs and other class members of all duties, relinquish control over their activities and permit them a reasonable opportunity to take duty free, uninterrupted 30-minute meal periods. Due to their assigned job duties and the need to continually monitor drilling fluids and/or address loss of circulation situations, Plaintiffs and other class members had no choice but to frequently forego their meal periods. Defendants had knowledge of Plaintiffs' and other class members' inability to take proper meal periods.
59. Defendants willfully required Plaintiffs and other class members to work during meal periods and failed to compensate Plaintiffs and other class members for work performed during meal periods.

1 60. Additionally, class members often worked in excess of 10 hours per workday and therefore had a
2 right to take additional meal period(s) on those workdays, but Defendants did not provide them
3 with all such meal period(s).

4 61. Similarly, class members often worked in excess of 15 hours per workday and therefore had a
5 right to take a third meal period on those work days but Defendants did not provide them with all
6 such meal period(s).

7 62. Defendants did not pay Plaintiffs and other class members for one additional hour of pay at their
8 regular rate of pay for each for each workday that all legally required meal periods were not
9 provided.

10 **Claim for Relief No. 3**
11 **Against all Defendants**
12 **Failure to Pay Compensation Due Pursuant to**
13 **Labor Code Section 226.7 for Rest Period Wages**

13 63. Plaintiffs reallege the preceding paragraphs.

14 64. Labor Code Section 226.7 provides:

15 (a) No employer shall require any employee to work during any meal or rest period
16 mandated by an applicable order of the Industrial Welfare Commission.

17 (b) If an employer fails to provide an employee a meal period or rest period in accordance
18 with an applicable order of the Industrial Welfare Commission, the employer shall pay
19 the employee one additional hour of pay at the employee's regular rate of compensation
20 for each work day that the meal or rest period is not provided.

21 65. Paragraph 11 of the applicable Wage Order provides in relevant part:

22 **11. REST PERIODS**

23 (A) Every employer shall authorize and permit all employees to take rest periods, which
24 insofar as practicable shall be in the middle of each work period. Nothing in this
25 provision shall prevent an employer from staggering rest periods to avoid interruption in
26 the flow of work and to maintain continuous operations, or from scheduling rest periods
27 to coincide with breaks in the flow of work that occur in the course of the workday. The
28 authorized rest period time shall be based on the total hours worked daily at the rate of
ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof.
Rest periods shall take place at employer designated areas, which may include or be
limited to the employees' immediate work area.

B) Rest periods need not be authorized in limited circumstances when the disruption of
continuous operations would jeopardize the product or process of the work. However, the

1 employer shall make up the missed rest period within the same workday or compensate
2 the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay
3 within the same pay period.

4 (C) A rest period need not be authorized for employees whose total daily work time is
5 less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as
6 hours worked for which there shall be no deduction from wage.

7 (D) If an employer fails to provide an employee a rest period in accordance with the
8 applicable provisions of this order, the employer shall pay the employee one (1) hour of
9 pay at the employee's regular rate of compensation for each workday that the rest period
10 is not provided. In cases where a valid collective bargaining agreement provides final and
11 binding mechanism for resolving disputes regarding enforcement of the rest period
12 provisions, the collective bargaining agreement will prevail.

13 (E) This section shall not apply to any employee covered by a valid collective bargaining
14 agreement if the collective bargaining agreement provides equivalent protection.

15 66. Defendants did not provide Plaintiffs and other class members with all timely, duty-free rest
16 periods to which they were entitled. Defendants generally scheduled the daily workloads of
17 Plaintiffs and other class members without consideration for rest periods. Plaintiffs and other
18 class members were often unable to take rest breaks due to their excessive workload, and
19 Defendants were aware of such fact.

20 67. Defendants failed to pay Plaintiffs and other class members for one additional hour of pay at
21 their regular rate of pay for each for each workday that all legally required rest periods were not
22 provided.

23 **Claim for Relief No. 4**
24 **Against all Defendants**
25 **Wage Statement and Record-Keeping Violations**

26 68. Plaintiffs reallege the preceding paragraphs.

27 69. Labor Code Section 226 provides in relevant part:

28 (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
each of his or her employees, either as a detachable part of the check, draft, or voucher
paying the employee's wages, or separately when wages are paid by personal check or
cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total
hours worked by the employee, except for any employee whose compensation is solely
based on a salary and who is exempt from payment of overtime under subdivision (a) of
Section 515 or any applicable order of the Industrial Welfare Commission, (3) the
number of piece-rate units earned and any applicable piece rate if the employee is paid on
a piece-rate basis, (4) all deductions, provided that all deductions made on written orders

of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows the information required by this subdivision.

...

(e)(1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2)(A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information. . . .

70. California Labor Code Section 1174 provides in relevant part:

Every person employing labor in this state shall:

. . . (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

71. Paragraph 6 of the applicable Wage Order provides in relevant part:

6. RECORDS

(A) Every employer who has control over wages, hours, or working conditions shall keep accurate information with respect to each employee, including the following: (1) The employee’s full name, home address, occupation, and social security number. The employee’s date of birth, if under 18 years of age, and designation as a minor. Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. (2) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. (3) Total hours worked during the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request. When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer who has control over wages, hours, or working conditions shall semimonthly or at the time of each payment of wages furnish each employee an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item. (See Labor Code Section 226.) This information shall be furnished either separately or as a detachable part of the check, draft, or voucher paying the employee’s wages.

(C) All required records shall be in the English language and in ink or other indelible form, dated properly, showing month, day and year. The employer who has control over

wages, hours, or working conditions shall also keep said records on file at the place of employment or at a central location for at least three years. An employee's records shall be available for inspection by the employee upon reasonable request.

(D) Employers performing work on public works projects should refer to Labor Code Section 1776 for additional payroll reporting requirements.

72. Labor Code Section 1174.5 provides:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

73. Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to maintain and furnish Plaintiffs and other class members with accurate and complete wage statements regarding their regular rates of pay, rates of overtime pay, total gross wages earned, meal period premiums, rest period premiums, and total net wages earned, *inter alia*, in violation of Labor Code Sections 226 and/or 1174.

74. Defendants' failure to furnish Plaintiffs and other class members with complete and accurate itemized wage statements resulted in actual injury because such failures led to, among other things, the non-payment of all their regular and overtime wages and meal and rest period premiums and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

75. Plaintiffs and other class members are entitled to damages and/or penalties pursuant to Labor Code Section 226.

**Claim for Relief No. 5
Against All Defendants
Failure to Pay Waiting Time Wages Pursuant to Labor Code Section 203**

76. Plaintiffs reallege the preceding paragraphs.

77. Labor Code Section 201 in relevant part provides:

(a) If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. . . .

78. Labor Code Section 202 in relevant part provides:

(a) If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting...

79. Labor Code Section 203 provides in relevant part:

(a) If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. . .

(b) Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

80. The employment of Plaintiffs and certain class members with Defendants terminated.

81. When the employment of Plaintiffs and certain class members terminated, Defendants violated Labor Code Sections 201 or 202 by willfully failing to pay the wages earned and unpaid that were due them, including wages due for regular hours worked, wages for overtime hours worked, and meal period wages and/or rest period wages in the time required by Sections 201 or 202.

82. Labor Code Section 218.5 provides in relevant part:

(a) In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action. . . .

83. Plaintiffs have incurred attorneys' fees and costs in pursuing this claim.

Claim for Relief No. 6

Against all Defendants

Violation of California Business and Professions Code Section 17200, *et seq.*

84. Plaintiffs reallege the preceding paragraphs.

85. Business & Professions Code Section 17200 provides:

As used in this chapter, unfair competition shall mean and include any ***unlawful, unfair*** or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

- 1 86. Defendants' violations of the California Labor Code and Wage Order provisions set forth above
2 constitute unlawful business acts and/or practices. Such violations constitute "unlawful business
3 acts or practices" under Section 17200. The acts alleged herein are also acts or practices that are
4 "unfair."
5
- 6 87. Business & Professions Code Section 17203 provides:
7
8 Any person who engages, has engaged, or proposes to engage in unfair competition may
9 be enjoined in any court of competent jurisdiction. The court may make such orders or
10 judgments, including the appointment of a receiver, as may be necessary to prevent the
11 use or employment by any person of any practice which constitutes unfair competition, as
12 defined in this chapter, or as may be necessary to restore to any person in interest any
13 money or property, real or personal, which may have been acquired by means of such
14 unfair competition.
15
- 16 88. Defendants have been unjustly enriched as a result of Defendants' unlawful and/or unfair
17 business acts and/or practices.
18
- 19 89. Plaintiffs and the class members are entitled to restitution of money and/or property by which
20 Defendants were unjustly enriched.
21
- 22 90. Plaintiffs and class members are further entitled to a declaration that the above-described
23 business practices are unfair, unlawful and/or fraudulent and injunctive relief restraining
24 Defendants, and each of them, from engaging in any of the above-described unfair, unlawful
25 and/or fraudulent business practices in the future.
26
- 27 91. Plaintiffs and the class members have no plain, speedy, and/or adequate remedy at law to redress
28 the injuries that they have suffered as a consequence of Defendants' unfair, unlawful and/or
fraudulent business practices.
92. If Defendants are not enjoined from the conduct alleged herein, they will continue to violate their legal obligations.
93. Plaintiffs are entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure Section 1021.5.

Claim for Relief No. 7
By Plaintiff Carney Against all Defendants
Recovery of Civil Penalties under the California Private Attorney General Act,
Labor Code Section 2698, et seq.

94. Plaintiff Carney realleges the preceding paragraphs.

95. Pursuant to Labor Code Sections 2698, et seq., the Private Attorney General Act of 2004 (“PAGA”), Plaintiff is entitled to recover civil penalties on behalf of himself and other persons who are or were employed by the alleged violator and against whom one or more of the alleged violations was committed (“class members”). Plaintiff is pursuing civil penalties for violations of the Labor Code sections set forth above.

96. One or more of the alleged violations set forth above was committed against Plaintiff, and Plaintiff is and was an “aggrieved employee” under the definition contained in Labor Code Section 2699(c), which provides, in relevant part:

(c) For purposes of this part, ‘aggrieved employee’ means any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

97. As alleged above, Defendants have committed Labor Code violations against Plaintiff and other class members.

98. Plaintiff seeks to recover all civil penalties recoverable under PAGA against Defendants, including penalties pursuant to Labor Code Sections 210, 226.3, 256, 558, 1197.1, 1174.5, and 2699(f).

99. Plaintiff’s attorney gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and certain Defendants identifying violations set forth above on November 18, 2015. (See Exhibit 1 hereto.)

100. Labor Code Section 2699(g) provides that any “employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.” Plaintiff has incurred attorney’s fees and costs in pursuing this claim.

Claim for Relief No. 8
Wrongful Termination in Violation of Public Policy
(By Carney Against Geo Drilling Fluids, Inc.)

101. Plaintiff Carney realleges all of the preceding paragraphs.

- 1 102. Plaintiff Carney complained to Defendants' Drill Site managers and other supervisory employees
2 about Defendants' wrongful conduct, including, but not limited to Defendants' insistence that he
3 work unpaid hours in excess of those hours for which he was scheduled.
- 4 103. When Plaintiff Carney complained, Defendants retaliated against him by terminating his
5 employment.
- 6 104. Defendants' retaliatory conduct was against the public policy of the State of California as
7 evidenced by the enactment of the Labor Code provisions and the applicable Wages Order
8 provisions referenced above.
- 9 105. As a proximate cause of Defendants' wrongful acts, Plaintiff Carney has suffered and continues
10 to suffer damages, including lost wages, benefits, and certain other incidental, consequential
11 expenses and losses, and general damages for pain and suffering and emotional distress in an
12 amount to be determined.
- 13 106. The individuals committing the wrongful acts alleged were the employees of Defendants.
14 Defendants (A) had advance knowledge of the unfitness of the employee(s) and employed the
15 employee(s) with a conscious disregard of the rights or safety of others, (B) authorized or ratified
16 the wrongful conduct alleged herein, and/or (C) were personally guilty of oppression, fraud or
17 malice based on the acts alleged herein in that the advance knowledge and conscious disregard,
18 authorization, ratification or act of oppression, fraud, or malice was on the part of an officer,
19 director or managing agent of Defendant.
- 20 107. Defendants' conduct was (A) an intentional misrepresentation, deceit, or concealment of a
21 material fact known to Defendants with the intention of thereby depriving Plaintiff Carney of
22 property or legal rights or otherwise causing injury, (B) was intended by Defendants to cause
23 injury to Plaintiff Carney or was despicable conduct that was carried on by Defendants with a
24 willful and conscious disregard of the rights or safety of others, and/or (C) was despicable
25 conduct that subjected Plaintiff Carney to cruel and unjust hardship in conscious disregard of
26 Plaintiff Carney's rights so as to justify an award of punitive damages against the Defendants.
27
28

1 WHEREFORE, Plaintiffs demand a jury trial and request that judgment be entered against all
2 Defendants as follows:

- 3 1. Certification of this action as a class action and the appointment of Plaintiffs as the
4 representatives of the class and Plaintiffs' counsel as Lead Counsel for the class;
- 5 2. An award to Plaintiffs and members of the class of damages for the amount of unpaid wages
6 including minimum wages, regular time wages, overtime wages, and meal and rest period
7 premiums in addition to interest subject to proof;
- 8 3. An award to Plaintiffs and members of the class of any waiting time penalties due pursuant to
9 Labor Code Section 203;
- 10 4. An award to Plaintiffs and members of the class of any itemized wage statement penalties
11 pursuant to Labor Code Section 226;
- 12 5. An award to Plaintiffs and members of the class of restitution pursuant to Business &
13 Professions Code Sections 17200, *et seq.*;
- 14 6. An award of any and all civil penalties awardable pursuant to PAGA;
- 15 7. An award of pre- and post-judgment interest on all monetary relief prayed for above, as may be
16 permitted by law;
- 17 8. An award of reasonable attorneys' fees;
- 18 9. An award of costs of suit;
- 19 10. A declaratory judgment that the practices complained of herein are unlawful under the Labor
20 Code and/or the Unfair Competition Law and injunctive relief requiring termination or
21 modification of the unlawful practices challenged in this Complaint;
- 22 11. Compensatory damages according to proof;
- 23 12. Punitive damages according to proof;
- 24 13. All such other relief as this Court shall deem just and proper.

1 Dated: May 18, 2020

THE DION-KINDEM LAW FIRM

2
3
4 BY:

A handwritten signature in black ink, appearing to read "Peter R. Dion-Kindem", is written over a light yellow rectangular background.

PETER R. DION-KINDEM, P.C.

PETER R. DION-KINDEM

Attorney for Plaintiffs Scott Carney, Romein
Martinez and Donovan Last

Exhibit 1

BLANCHARD LAW GROUP

A Professional Corporation

Telephone (213) 599-8255

Facsimile (213) 402-3949

November 18, 2015

Via Certified Mail

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

California Resources Corporation
10889 Wilshire Blvd.
Los Angeles, CA 90024.

James E. Clifford
Agent for Service of Process for:
Geo Drilling Fluids, Inc.
1431 Union Ave.
Bakersfield, CA 93305

Driltek, Inc.
901 Tower Way, Ste. 102
Bakersfield, CA 93309.

Irani Engineering, Inc.
2625 Fair Oaks Blvd. Ste 10
Sacramento, CA 95864

Re: Notice of California Labor Code violations

To Whom It May Concern:

We, The Blanchard Law Group, APC, The Dion-Kindem Law Firm, and The Holmes Law Group, APC, represent Scott Carney. Pursuant to the provisions of Labor Code Sections 2699, *et seq.*, please be advised that during the course of Mr. Carney's employment, Geo Drilling Fluids, Inc. violated the provisions of the California Labor Code as set forth in Addendum 1 hereto.

Sincerely,

THE BLANCHARD LAW GROUP, APC



LONNIE C. BLANCHARD III

ADDENDUM 1

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I. THE EMPLOYER PARTIES.

A. Geo Drilling Fluids, Inc.

Geo Drilling Fluids, Inc. (“Geo”) is a California corporation located at 1431 Union Ave. Bakersfield, CA 93305, California.

B. California Resources Corporation

California Resources Corporation (“CRC”) is a Delaware corporation with offices located at 10889 Wilshire Blvd. Los Angeles, CA 90024. CRC was the primary operator of wells at which Carney worked during the PAGA period. Upon information and belief CRC at times supplied its own Company men to control the daily work at the drill sites including work performed by Carney and other Aggrieved Employees.

C. Driltek, Inc.

Driltek, Inc. (“Driltek”) is a California corporation located at 901 Tower Way, Ste. 102, Bakersfield, CA 93309. Driltek was a primary manager of wells at which Carney worked during the PAGA period. Upon information and belief, Driltek supplied Company men to control the daily work at the drill sites, including work performed by Carney and other Aggrieved Employees.

D. Irani Engineering, Inc

Irani Engineering, Inc. (“Irani”) is a California corporation located at 2625 Fair Oaks Blvd. Ste 10, Sacramento, CA 95864. Irani Engineering was a primary manager of wells at which Carney worked during the PAGA period. Upon information and belief, it supplied Company men to control the daily work at the drill sites including work performed by Carney and other Aggrieved Employees.

E. Joint Employers.

Industrial Welfare Commission, Wage Order 4-2001, Section 2 (G) defines an employer as follows: “[A]ny person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.”

“[T]he ‘joint employer’ concept recognizes that the business entities involved are in fact separate but that they *share* or co-determine those matters governing the essential terms and conditions of employment [citations omitted].” *EEOC v. Pacific Maritime Assn.*, (2003) 351 F.3d 1270, 1276-1277. (Emphasis in the original).

“Where the dispute regards whether a [party] is a joint employer, the relevant factors include whether the [party] (1) had the power to hire and fire employees, (2) supervised and controlled employee work schedules or conditions of employment, (3) determined the rate and method of payment, and (4) maintained employment records. *Chao v. Westside Drywall, Inc.*, (2010) 709 F.Supp.2d 1037, 1061 (citing *Bonnette v. California Health & Welfare Agency*

(1983) 704 F.2d 1465, 1470). “These factors are neither exclusive nor exhaustive, rather, a court should consider all factors ‘relevant to the particular situation’ in evaluating the ‘economic reality’ of an alleged joint employment relationship.” *Id.*

- Although Geo was the party that initially hired Carney and other Aggrieved Employees, CRC, Driltek, and/or Irani had the power to request specific, mud engineers and could discipline, terminate, and/or transfer them from their positions working at the drill site.
- CRC, Driltek, and/or Irani trained Carney and other Aggrieved Employees at the job site regarding safety and other issues.
- Although Geo determined Carney’s and other Aggrieved Employees’ salary, Geo and CRC, Driltek, and/or Irani determined Carney’s and other Aggrieved Employees’ daily rate of pay.
- Geo and CRC, Driltek, and/or Irani set Carney and other Aggrieved Employees’ hours and/or work schedules.
- Although Geo gave Carney and other Aggrieved Employees directions about when and where to report to a particular drilling location, CRC, Driltek, and/or Irani instructed Carney and other Aggrieved Employees when and/or where to work once they arrived at the drilling location.
- Geo, CRC, Driltek, and/or Irani each had the power to cause Carney and other Aggrieved Employees to work and/or to prevent Carney and other Aggrieved Employees from working.
- CRC, Driltek, and/or Irani had the power to instruct Carney and other Aggrieved Employees when and whether to take meal and rest periods.
- The scope and plan for work at each drilling operation were predetermined insofar as is foreseeable by CRC, Driltek, and/or Irani’s drilling engineers in advance of any work being performed on the site. Included in this plan were decisions about how the mud was to be maintained by the mud engineers. This plan is supervised and enforced by CRC, Driltek, and/or Irani’s drill site managers, also known as “company men.”
- CRC, Driltek, and/or Irani’s company men directed Carney and other Aggrieved Employees about what to do or what not to do as to virtually every aspect of their jobs.
- CRC, Driltek, and/or Irani’s company men determined where Carney and other Aggrieved Employees parked their work trailers.
- CRC, Driltek, and/or Irani’s company men told Carney and other Aggrieved Employees when to order more water and when to coordinate water trucks on the drill site.

- CRC, Driltek, and/or Irani's company men determined where on the drilling site Carney and other Aggrieved Employees should be and when they should be there.
- CRC, Driltek, and/or Irani's company men could and did instruct Carney and other Aggrieved Employees when to run extra analyses on the mud.
- CRC, Driltek, and/or Irani's company men could and did determine how long Carney and other Aggrieved Employees were required to stay at the pit, including but not limited to, during a lost circulation event.
- CRC, Driltek, and/or Irani's company men could and did determine which and how much materials Carney and other Aggrieved Employees could use in a loss of circulation event.
- CRC, Driltek, and/or Irani's company men could and did review mud reports provided by Carney and other Aggrieved Employees and could and did approve or disapprove of Carney and other Aggrieved Employees' plan of action in maintaining the mud according to Linn's and/or Berry's wishes.
- CRC, Driltek, and/or Irani's company men could and did remove Carney and other Aggrieved Employees off the site.
- CRC, Driltek, and/or Irani's company men could and did request particular mud engineers to work with.
- CRC, Driltek, and/or Irani's company men could and did determine when Carney and other Aggrieved Employees would eat and where they would eat and whether they would eat together.

California Labor Code Section 558 in relevant part provides:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages...(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

For the reasons stated above, Geo, CRC, Driltek, and Irani are the joint employers of Scott Carney and the Aggrieved Employees. Hereinafter, they will collectively be referred to as the "Defendants."

Defendants violated, or caused to be violated provisions of the Labor Code and/or provisions regulating hours and days of work in an order of the Industrial Welfare Commission.

II. THE EMPLOYEE PARTIES.

A. Scott Carney.

Scott Carney (“Carney”) is a resident of California. On or around October 19, 2009, Defendants hired Carney to work as a mud engineer. Defendants wrongfully treated Carney and other mud engineers as “exempt” despite the fact that they were in reality employees who were not exempt from the payment of overtime under California and federal law. Carney primarily performed services based out of Geo’s Bakersfield offices in Kern County, California. On or around December 15, 2014 Defendants terminated Carney’s employment.

B. Aggrieved Employees.

Pursuant to Labor Code Sections 2698, *et seq.*, the Private Attorney General Act of 2004 (“PAGA”), Carney is entitled to recover civil penalties on behalf of himself and other persons who are or were employed by the alleged violator and against whom one or more of the alleged violations was committed.

One or more of the alleged violations set forth below was committed against Carney, and Carney is therefore an “aggrieved employee” under Labor Code Section 2699(c), which provides in relevant part:

(c) For purposes of this part, “aggrieved employee” means any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

For the purposes of this matter, the Aggrieved Employees include, but are not limited to, Carney and all non-exempt employees, including misclassified employees, who are or have been employed by the Defendants as mud engineers and/or drilling fluid specialists in California.

III. DEFENDANTS’ MISCLASSIFICATION OF CARNEY AND AGGRIEVED EMPLOYEES AS EXEMPT EMPLOYEES.

Defendants employed Carney as a mud engineer. Carney typically worked 12 hours or more per shift and was required to be at the drill site 24 hours per day and seven days per week for at least two weeks straight every four week period. Carney was not exempt from the payment of overtime and worked more than eight hours in a day and more than 40 hours in a week. Defendants did not properly compensate Carney and other Aggrieved Employees for the overtime hours they worked at the correct rates. Rather, Defendants intentionally misclassified Carney and Aggrieved Employees as exempt in order to avoid obligations imposed upon employers under California law.

Carney and other Aggrieved Employees did not exercise personal discretion in the completion of their job duties but rather followed established standard procedures and guidelines and/or worked under the supervision of and at the behest of the drill site manager in executing

work intended to conform to the pre-ordained plans of drilling engineers. The work carried out by Carney and other Aggrieved Employees was primarily mechanical.

Carney and other Aggrieved Employees' analyses of the mud were recorded in reports provided to the drill site manager, who then controlled and determined whether and to what degree Carney and/or other Aggrieved Employees should follow standardized formulas in treating the mud.

Although conducting mud analyses was an important part of Carney and other Aggrieved Employees' work, they generally spent more time addressing loss of circulation events. In these situations, Defendants required Carney and/or other Aggrieved Employees to stay at the pit and follow the drill site manager's instructions. Depending on the circumstances, Carney and/or other Aggrieved Employees were required to work shifts longer than the 12-hour scheduled shifts.

Carney and other Aggrieved Employees also performed multiple other mechanical tasks at the direction of the drill site manager including but not limited to ordering and coordinating the delivery of mud agents, and lost circulation materials.

In addition to failing to provide Carney and other Aggrieved Employees with all the wages due them, Defendants also failed to provide proper meal and rest breaks. Specifically, Carney and Aggrieved Employees were not provided with the legally required meal and/or rest periods.

IV. DEFENDANTS' LABOR LAW VIOLATIONS.

Among the other California Labor law violations that were committed and are currently being committed by Defendants are the following:

A. Defendants failed to pay Carney and other Aggrieved Employees for all wages earned.

1. Applicable Law.

California Labor Code Section 1182.12 in relevant part provides:

Notwithstanding any other provision of this part, on and after January 1, 2007, the minimum wage for all industries shall be not less than seven dollars and fifty cents (\$7.50) per hour, and on and after January 1, 2008, the minimum wage for all industries shall be not less than eight dollars (\$8.00) per hour and on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour.

California Labor Code Section 1197 in relevant part provides:

The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

Paragraph 4 of the applicable Wage Order provides in relevant part:

(A) Every employer shall pay to each employee wages not less than seven dollars and fifty cents (\$7.50) per hour for all hours worked, effective January 1, 2007, and not less than eight dollars (\$8.00) per hour for all hours worked, effective January 1, 2008 and not less than not less than nine dollars (\$9.00) per hour **for all hours worked**, effective July 1, 2014...

...

(B) Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage **for all hours worked** in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise. (Emphasis added.)

2. Facts.

Defendants failed to pay Carney and other Aggrieved Employees the applicable minimum wage for all hours worked, for overtime hours, for missed meal period wages, missed rest period wages, and for other compensation due them under California law.

B. Defendants failed to provide Carney and other Aggrieved Employees one day's rest in seven.

1. Applicable Law.

California Labor Code Section 551 provides:

Every person employed in any occupation of labor is entitled to one day's rest in seven.

California Labor Code Section 554 provides:

(a) Sections 551 and 552 shall not apply to any cases of emergency nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of trains. This chapter, with the exception of Section 558, shall not apply to any person employed in an agricultural occupation, as defined in Order No. 14-80 (operative January 1, 1998) of the Industrial Welfare Commission. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, if in each calendar month the employee receives days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this chapter relating to collective bargaining agreements, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

(b) In addition to the exceptions specified in subdivision (a), the Chief of the Division of Labor Standards Enforcement may, when in his or her judgment

hardship will result, exempt any employer or employees from the provisions of Sections 551 and 552.

2. Facts.

Defendants violated Section 551 by failing to provide Carney and other Aggrieved Employees one days rest in seven.

Once employed at a drilling site, Carney and other Aggrieved Employees were on duty for a minimum of 12-hours per day and 14 days in a row

C. Defendants caused Carney and other Aggrieved Employees to work more than six days in seven.

1. Applicable Law.

California Labor Code Section 552 provides:

No employer of labor shall cause his employees to work more than six days in seven.

California Labor Code Section 554 provides:

(a) Sections 551 and 552 shall not apply to any cases of emergency nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of trains. This chapter, with the exception of Section 558, shall not apply to any person employed in an agricultural occupation, as defined in Order No. 14-80 (operative January 1, 1998) of the Industrial Welfare Commission. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, if in each calendar month the employee receives days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this chapter relating to collective bargaining agreements, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

(b) In addition to the exceptions specified in subdivision (a), the Chief of the Division of Labor Standards Enforcement may, when in his or her judgment hardship will result, exempt any employer or employees from the provisions of Sections 551 and 552.

2. Facts.

Defendants violated Section 552 by causing Carney and other Aggrieved Employees to work more than six days in seven.

Once employed at a drilling site, Carney and other Aggrieved Employees were on duty for a minimum of 12-hours per day and 14 days in a row.

D. Defendants failed to compensate Carney and other Aggrieved Employees for all overtime hours worked at the correct rates.

1. Applicable Law.

California Labor Code Section 510 provides in relevant part:

(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Paragraph 3(A) of the applicable Wage Order provides in relevant part:

3. HOURS AND DAYS OF WORK

(A) Daily Overtime General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 1/2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

2. Facts.

During Carney's and other Aggrieved Employees' employment with Defendants, they worked more than eight hours in a day and/or more than 40 hours in a week, and/or more than seven consecutive days but were not paid the overtime wages due to them.

E. Defendants violated Defendants' meal period obligations.

1. Applicable Law.

California Labor Code Section 512 provides in relevant part:

(a) An 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, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both Defendants and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of Defendants and the employee only if the first meal period was not waived.

California Labor Code Section 226.7 provides:

- (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- (b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, Defendants shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

Paragraph 10 of the applicable Wage Order provides in relevant part:

10. MEAL PERIODS

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. (See Labor Code Section 512.)
- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived. (See Labor Code Section 512.)

(C) In all places of employment the employer shall provide an adequate supply of potable water, soap, or other suitable cleansing agent and single use towels for hand washing.

(D) Unless the 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. An “on duty” meal period shall be permitted only when the nature of the work prevents employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to and complies with Labor Code Section 512.

(E) Collective Bargaining Agreements. Subsections (A), (B), and (D) of Section 10, Meal Periods, shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(F) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided. In cases where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the meal period provisions, the collective bargaining agreement will prevail.

Under California law, an employer must authorize and permit each non-exempt employee a meal period after no more than 5 hours of work and a second meal period after no more than 10 hours of work. *See*, Lab.C. § 512; IWC Wage Order No. 4, § 11(A); *Brinker v. Superior Court* (2012) 53 Cal.4th 1004, 1049 (“Under the wage order, as under the statute [Section 512(a)], an Defendants’ obligation is to provide a first meal period after no more than five hours of work and a second meal period after no more than 10 hours of work.”)

An employer satisfies this obligation only where “it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30–minute break, and does not impede or discourage them from doing so.” *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 [139 Cal.Rptr.3d 315, 343, 273 P.3d 513, 536-37].

A purported “meal period” which does not satisfy these criteria, or which is not provided at the required time in the employee’s workday, does not constitute a meal period as defined by California law. *Brinker* 53 Cal.4th at 1035-1037, 1049.

An employee not provided a meal period, or provided a purported “meal period” that does not conform to the specific requirements of California law, has been deprived of a meal period and is entitled to one hour of pay for each workday the meal period is not provided. *See*, Lab.C. § 226.7(b); IWC Wage Order No. 4, § 11(B); *Brinker* 53 Cal.4th at 1035-1040.

Furthermore, if an employee may not leave the workplace, the meal period *counts as time worked* for overtime purposes, even if the employee is relieved of all work duties during mealtime. See *Bono Geos, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968, 977; *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 586.

2. Facts.

Defendants failed to provide Carney and other Aggrieved Employees with the required duty-free meal periods in a timely manner. Furthermore, Carney and other Aggrieved Employees regularly worked in excess of 10 hours per workday and therefore had a right to take a second meal period on those workdays and on such occasions Defendants also often failed to provide Carney and other Aggrieved Employees with the required second, duty-free meal periods.

Defendants failed to pay Carney and other Aggrieved Employees the compensation due them pursuant to Labor Code Section 226.7 and the applicable Wage Order.

F. Defendants violated Defendants' rest period obligations.

1. Applicable Law.

Labor Code Section 226.7 provides:

- (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- (b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, Defendants shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

Paragraph 12 of the applicable Wage Order provides in relevant part:

11. REST PERIODS

- (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof. Rest periods shall take place at employer-designated areas, which may include or be limited to the employees' immediate work area.
- (B) Rest periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the product or process of the work. However, the employer shall make up the missed rest period within the

same workday or compensate the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay within the same pay period.

(C) A rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(D) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided. In cases where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the rest period provisions, the collective bargaining agreement will prevail.

(E) This section shall not apply to any employee covered by a valid collective bargaining agreement if the collective bargaining agreement provides equivalent protection.

Under California law, an employer must authorize and permit each non-exempt employee a 10-minute rest period for each 4 hours of work or major fraction thereof. *See*, IWC Wage Order No. 9, § 12(A); *Brinker* 53 Cal.4th at 1028-1030. Thus, employers must authorize and permit one 10-minute rest period for employees working 3.5 to 6 hours, two 10-minute rest periods for employees working 6-10 hours, three 10-minute rest periods for employees working 10-14 hours, and so on. *See*, *Brinker* 53 Cal.4th at 1029. "Thus, under the initial calculation called for by this part of the wage order, an employee would receive no rest break time for shifts of two hours or less, 10 minutes for shifts lasting more than two hours up to six hours, 20 minutes for shifts lasting more than six hours up to 10 hours, and so on." *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029 [139 Cal.Rptr.3d 315, 334, 273 P.3d 513, 529].

2. Facts.

Even though Carney and other Aggrieved Employees worked shifts greater than three and one-half hours but less than four hours, and worked shifts greater than six hours but less than eight hours, and worked shifts greater than ten hours. Defendants did not provide Carney and other Aggrieved Employees with all legally required rest periods to which they were entitled.

Defendants failed to pay Carney and other Aggrieved Employees the compensation due them pursuant to Labor Code Section 226.7 and the applicable Wage Order.

G. Defendants violated Labor Code Sections 201 and 202.

1. Applicable Law.

California Labor Code Section 201 provides:

If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately...

California Labor Code Section 202 provides:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. .

2. Facts.

Defendants violated Section 201 as to Carney and other Aggrieved Employees who were discharged by willfully failing to timely pay the wages earned and unpaid upon the termination of their employment, including unpaid wages for regular hours worked, unpaid overtime, and/or unpaid meal and/or rest period premiums.

Defendants violated Section 202 as to Aggrieved Employees who quit by willfully failing to timely pay the wages earned and unpaid upon the termination of their employment, including unpaid wages for regular hours worked, unpaid overtime, and/or unpaid meal and/or rest period premiums.

H. Defendants violated Labor Code Section 203.

1. Applicable Law.

California Labor Code Section 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections **201**, 201.3, 201.5, **202**, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment. (Emphasis added).

2. Facts.

Defendants violated Section 203 as to Carney and other Aggrieved Employees by failing to pay the wages owing to them thereunder. Defendants' failure to pay all final wages due was willful within the meaning of Labor Code Section 203.

I. Defendants violated Labor Code Section 226(a).

1. Applicable Law.

California Labor Code Section 226 provides in relevant part:

(a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is Defendants and, if Defendants is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of Defendants, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if Defendants is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by Defendants for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

...

(e)(1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(e)(2)(A) An employee is deemed to suffer injury for purposes of this subdivision if Defendants fails to provide a wage statement.

(e)(2)(B) An employee is deemed to suffer injury for purposes of this subdivision if Defendants fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions Defendants made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of Defendants to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of Defendants and, if Defendants is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of Defendants during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(e)(2)(C) For purposes of this paragraph, “promptly and easily determine” means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(e)(3) For purposes of this subdivision, a “knowing and intentional failure” does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for compliance with this section, the fact finder may consider as a relevant factor whether Defendants, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

2. Facts.

Defendants failed to provide Carney and other Aggrieved Employees with the legally required wage statements because, among other reasons, Defendants illegally treated them as exempt.

J. Defendants violated Labor Code Section 1174 and applicable sections of the applicable Wage Order regarding record keeping.

1. Applicable Law.

California Labor Code Section 1174 provides in relevant part:

Every person employing labor in this state shall:

. . . (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not

less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

California Labor Code Section 1174.5 provides:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Paragraph 7 of the applicable Wage Order provides in relevant part:

7. Records

(A) Every employer shall keep accurate information with respect to each employee including the following:

. . . (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of Defendants, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by Defendants for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

2. Facts.

Defendants' policies and/or practices of failing to pay regular and overtime wages calculated at the proper rate of pay, failing to pay meal period premiums, and failing to include all required and accurate information on the wage statements have caused Carney and the other Aggrieved Employees to suffer and they will continue to suffer actual economic harm from the violations set forth above in that they have been, and will continue to be, precluded from

accurately monitoring the wages to which they are entitled, have been required to retain counsel and other experts or consultants to evaluate and calculate unpaid wages, and have suffered delays in receiving the wages and interest that are due and owing to them.

By willfully failing to maintain the records required by California Labor Code Section 1174(c), or accurate and complete records required by Section 1174(d), Defendants are also liable for a civil penalty of \$500 for each violation.

V. DEFENDANTS ARE LIABLE FOR PENALTIES PURSUANT TO THE PAGA.

By virtue of Defendants' violations, Defendants are liable for penalties pursuant to Labor Code Sections 210, 256, 558, 1174.5, 1197.1, 226, 226.3, and 2699, *inter alia*.

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☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

- ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DrilTek, Inc.
901 Tower Way, Ste 102
Bakersfield, CA 93309

2. Article Number

(Transfer from service label)

7014 3490 0001 7834 4991

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

- ☐ Yes
☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

- ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Drani Engineering, Inc.
2625 Fair Oaks Blvd.
Suite 10
Sacramento, CA 95864

2. Article Number

(Transfer from service label)

7014 3490 0001 7834 4977

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☒ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

- ☐ Yes
☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

- ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Labor & Workforce Dev. Agency
Attn. PAGA Admin
455 Golden Gate Avenue,
9th Floor
San Francisco, CA 94102

2. Article Number

(Transfer from service label)

7014 3490 0001 7834 7039

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

RECEIVED

DEPT. OF INDUSTRIAL RELATIONS

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

NOV 23 2015

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

James E. Clifford
Agent for Service of Process
Geo Drilling Fluids, Inc.
1431 Union Ave.
Bakersfield, CA 93305

2. Article Number

(Transfer from service label)

7014 3490 0001 7834 4984

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

*Deborah Cullen

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Deborah Cullen

11-23-15

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

1 **PROOF OF SERVICE**

2 I am over the age of 18 and not a party to the within action. My business address is 2945
3 Townsgate Road, Suite 200, Westlake Village, CA 91361. On March 11, 2021, I served the following
4 document(s) described as:

5 **Second Amended Complaint**

6 on interested parties in this action an original or true copy thereof enclosed in a sealed envelope
7 addressed as follows:

8 Call & Jensen
9 A Professional Corporation
10 Morgan Podruski
11 Ellen Cohen
12 John Egley
13 610 Newport Center Drive, Suite 700
14 Newport Beach, CA 92660

Attorneys for Defendants
Telephone: 949.717.3000
Facsimile: 949.717.3100
Email: jegley@calljensen.com
mpodruski@calljensen.com
ecohen@calljensen.com

15 Littler Mendelson, P.C.
16 R. Brian Dixon
17 333 Bush Street, 34th Floor
18 San Francisco, CA 94104

Attorneys for Defendant California Resources Corporation
Telephone: (415)433-1940
Facsimile: (415)399-8490
bdixon@littler.com

19 Douglas A. Wickham
20 Littler Mendelson, P.C.
21 633 West 5th Street, 63RD Floor
22 Los Angeles, CA 90071

Attorneys for Defendant California Resources Corporation
Telephone: (213) 443-4300
Facsimile: (213) 443-4299
dwickham@littler.com

23 **(By Mail)** I deposited such envelope with postage thereon fully prepaid in the United States
24 mail at a facility regularly maintained by the United States Postal Service at Los Angeles,
25 California.

26 **(By Overnight Delivery)** I enclosed the DOCUMENTS in an envelope or package provided
27 by an overnight delivery carrier and addressed to the persons at the address(es) identified
28 above. I placed the envelope or package for collection and overnight delivery at an office or a
regularly utilized drop box of the overnight delivery carrier.

xxx **(By Email)** Based on a court order, Rules of Court, or an agreement of the parties to accept
electronic service, I caused the documents to be sent to the person(s) at the email addresses set
forth above.

(By Personal Service)

By personally delivering copies to the person served.
I delivered such envelope by hand to the offices of the addressee pursuant to Code of
Civil Procedure Section 1011.

1 I declare under penalty of perjury under the laws of the State of California that the above is true
2 and correct. Executed on March 11, 2021.

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Kale M. Eaton

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