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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

03/27/2023
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN FRANCISCO**

CGC-23-605440

13 STATE OF CALIFORNIA ex rel.
14 ALEX CASTILLO MASIS, as Private
15 Attorney General,

16 Plaintiff,

17 v.

18 URBAN PACIFIC PROPERTIES, INC.,
19 DBA PACIFIC UNION
20 DEVELOPMENT; and DOES 1-25,
21 inclusive,

22 Defendants.

Case No.

Assigned for All Purposes to:

**COMPLAINT FOR CIVIL PENALTIES
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

Trial Date: None

Complaint filed:

23 COMES NOW Plaintiff STATE OF CALIFORNIA ex rel. ALEX CASTILLO MASIS as
24 Private Attorney General ("Plaintiff"), who asserts claims against URBAN PACIFIC
25 PROPERTIES, INC., DBA PACIFIC UNION DEVELOPMENT, and DOES 1-25, inclusive
26 (collectively "Defendants" or "Employer") as follows:

27 **INTRODUCTION**

28 1. Plaintiff brings this action under the Labor Code Private Attorneys General Act of
2004 ("PAGA"), Labor Code sections 2698, *et seq.*, on behalf of himself, approximately more
than 100 similarly situated current and former aggrieved employees employed by Employer in
California, and the People of the State of California (hereinafter collectively "Employees"),

employed between January 18, 2022, and the conclusion of the forthcoming action (“Statutory Period”).

2. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code, permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Employees bring this civil action to recover civil penalties for the violations identified below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil penalties specifically set forth within the text of the California Labor Code. Those civil penalties are sought for violations committed against Employees of Employers.

3. Plaintiff has filed an exhaustion letter with the California Labor and Workforce Development Agency (“LWDA”) providing notice of his intent to bring a private attorneys general action for recovery of penalties under the PAGA. The LWDA has not investigated within the time set forth by statute and Plaintiff is now authorized to bring the present action.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, §10.

5. Venue is proper in this Court because this action arises from work performed in San Francisco County.

PARTIES

6. For all times relevant herein, ALEX CASTILLO MASIS was an adult individual residing in the State of California. Mr. Castillo Masis is not suing in his individual capacity; he is proceeding herein solely under the PAGA, on behalf of the State of California for all aggrieved employees, including himself and other aggrieved employees.

7. For all times relevant herein, Plaintiff is informed and believes, and on that basis alleges, that Defendant URBAN PACIFIC PROPERTIES, INC., DBA PACIFIC UNION DEVELOPMENT was and is a corporation with its principal place of business in San Francisco County, California.

8. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of its agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the business and affairs of Defendants.

9. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and therefore sues said defendants (the “Doe Defendants”) by such fictitious names. Plaintiff will amend this Complaint to insert the true names and capacities of the Doe Defendants at such time as the identities of the Doe Defendants are ascertained.

10. Plaintiff is informed and believes, and based thereon alleges, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of Defendants as alleged herein.

11. Plaintiff is further informed and believe, and thereon allege, that at all times herein material, each Defendant was completely dominated and controlled by its co-Defendant(s) and each was the alter ego of the other. Whenever and wherever reference is made in this Complaint to any conduct by Defendants, or any of them, such allegations and references shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is made to individuals who are not named as defendants in this Complaint, but were employees and/or agents of Defendants, such individuals at all relevant times acted on behalf of Defendants named in this Complaint within the scope of their respective employment or agency with Defendants.

COMMON FACTS

12. Mr. Alex Castillo Masis was employed by Urban Pacific Properties Inc. dba Pacific Union Development and their related entities and agents (“Defendants”) from November 09, 2020, to May 13, 2022. Throughout his time of employment, Mr. Castillo Masis held the position of

1 commercial maintenance supervisor for Opera Plaza, On-call staff for Wharf Plaza Apartments,
2 and maintenance technician for Mission Plaza at various times.

3 13. As a commercial maintenance supervisor for Opera Plaza, Mr. Castillo Masis was
4 on-call every day. He was called for as-needed emergencies. He was not required to repair the
5 issues but was expected to wait for contractors to come fix them which could sometimes take
6 hours. If he was called to assist on an emergency during his normal work schedule, he called a
7 coworker to cover his shift while he was unavailable. Mr. Castillo Masis was not paid for these
8 additional emergency calls because, as was explained to him by Defendants, he was paid on a
9 salary basis.

10 14. Likewise, there was no timekeeping system in place for Mr. Castillo Masis
11 because, as was explained to him by Defendants, he was paid on a salary basis. He was not given
12 any form of timekeeping sheet to keep track of work times or emergency calls. His schedule was
13 set to begin at 8:30 AM, but if he arrived to work earlier the director of property management Ms.
14 Kacey Callinan would call his personal phone and ask him to report to her office.

15 15. Mr. Castillo Masis was not paid overtime. He asked Ms. Callinan and her assistant
16 Ms. Brenda, and they both explained to him that because he was a salaried employee, they could
17 not and would not pay him overtime. Defendants also treated other non-exempt salaried
18 Employees similarly, failing to track their time, pay overtime, and to comply with other
19 requirements applicable to non-exempt employees.

20 16. On top of the heavy workload Mr. Castillo Masis had while working at Opera
21 Plaza, he never had time to take rest or meal periods. Ms. Callinan explained to Mr. Castillo Masis
22 that he would have two fifteen-minute rest periods throughout the day and one thirty-minute meal
23 period. Mr. Castillo Masis did not get the opportunity to ever take rest periods or a full
24 uninterrupted meal period because he was constantly called on a radio to report for assistance. The
25 only time he had a meal period was on Fridays when was required by the company to eat lunch
26 with Ms. Callinan in her office. His meal period was not free of duty because Ms. Callinan
27 continued to talk about work and expected Mr. Castillo Masis to be productive during his meal
28 periods. Mr. Castillo Masis complained to Ms. Brenda about the lack of breaks and always being

1 called on the radio when he was attempting to take breaks. Defendants also treated other non-
2 exempt Employees similarly, failing to provide compliant meal-and-rest periods and failing to pay
3 mandatory premium wages.

4 17. Mr. Castillo Masis was provided an apartment to live in in exchange for working
5 on-call once a week, every three weeks in the same building. Defendants failed to account for
6 these additional hours/earnings in Mr. Castillo Masis's wage statements.

7 18. Ms. Callinan informed Mr. Castillo Masis that beginning April 01, 2022, he was
8 going to be moved and trained to work as a maintenance technician for Mission Plaza. In this
9 position, his duties would be to complete work orders, prepare vacant units, diagnose, prepare
10 electrical components, plumbing, HVAC, appliances, maintain equipment, and perform janitorial
11 duties throughout the property. Mr. Castillo Masis never received the training he was promised to
12 safely perform the duties expected in this position. Once in this position, Mr. Castillo Masis'
13 supervisor Mr. Carlos Becerra expected him to do unsupervised electrical work and installing
14 heaters, light fixtures, and repairing refrigerators and stoves, something he had never done before
15 and did not have a license to do. Previously, electrical work was not a task he was asked to
16 complete because the company was aware he did not have the training or experience to do it. In
17 his prior position at Opera Plaza, Mr. Castillo Masis never had to do more than switching out a
18 light bulb. If there was any electrical work to be done, Mr. Becerra was the only one called to
19 handle it.

20 19. Mr. Castillo Masis raised the issue of safety for his expectations as a maintenance
21 technician. Ms. Callinan and Mr. Becerra were aware he had no electrical training or experience.
22 Mr. Castillo Masis complained about safety issues because he was not qualified to work on
23 electrical components. On one occasion, Mr. Castillo Masis made a wrong connection for an
24 electrical system on a heater Mr. Becerra asked him to work on. Mr. Becerra asked Mr. Castillo
25 Masis to record a quick video of him explaining how to do it in five minutes. Mr. Castillo Masis
26 tried to follow the tutorial but there were fumes coming out of the heater, so he panicked and
27 turned it off.

28

20. Mr. Castillo Masis told Mr. Becerra he would like to learn how to perform this task properly and safely. Instead of providing the requested training, Mr. Becerra reported Mr. Castillo Masis' behavior as insubordination. Mr. Castillo Masis explained to Ms. Callinan that Mr. Becerra taught him to do the job too quickly and while doing the electrical work unsupervised he almost caused a fire. His worries were ignored again. Ms. Callinan reminded him that he had to continue following Mr. Becerra's orders.

21. On May 13, 2022, Mr. Castillo Masis was terminated for raising safety issues and indicating that he would not perform unsafe electrical work without the required training in violation of occupational health and safety standards.

FIRST COUNT

Failure to Provide Compliant Meal Periods; Failure to Pay Premium Wages

(By Plaintiff against All Defendants)

22. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

23. Pursuant to California Labor Code § 512, no employer shall employ an employee for a work period of more than five hours without providing a meal break of not less than thirty minutes in which the employee is relieved of all of his or her duties. An employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve 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.

24. Pursuant to the IWC Wage Orders applicable to Employees, in order for an “on duty” meal period to be permissible, the nature of the work of the employee must prevent an employee from being relieved of all duties relating to his or her work for the employer and the employee must consent in writing to the “on duty” meal period. Employees did not consent in writing to an “on duty” meal period. Further, the nature of the work of Employees was not such that they are prevented from being relieved of all duties. Employees must be free to leave the

1 premises during meal-and-rest breaks; otherwise, the time is considered “on duty” and must be
2 paid accordingly.

3 25. Throughout the Statutory Period, Defendants failed to provide Employees with
4 compliant off-duty meal breaks. Rather than providing off-duty meal breaks, Defendants provided
5 Employees with on-duty meal breaks in violation of California law. Defendants required
6 Employees to remain available to work during breaks, as-needed.

7 26. As a result of the foregoing, Employer violated California law and is subject to
8 civil penalties.

9 **SECOND COUNT**

10 **Failure to Provide Compliant Rest Periods; Failure to Pay Premium Wages**

11 **(By Plaintiff against All Defendants)**

12 27. Plaintiff incorporates by reference and realleges each and every allegation
13 contained above, as though fully set forth herein.

14 28. Pursuant to the applicable Industrial Welfare Commission Wage Order, employers
15 must provide non-exempt employees a ten (10) minute duty-free rest period for every four (4)
16 hours worked or major fraction thereof. Duty-free rest periods must be paid. As with meal
17 periods, as stated by the California Department of Industrial Relations, employers cannot require
18 that employees stay on the work premises during rest periods. An employer who fails to provide a
19 duty-free rest period must pay the employee an additional one (1) hour of regular pay for each day
20 in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd. (c).

21 29. Throughout the Statutory Period, Defendants failed to provide Employees with
22 compliant off-duty rest periods for the reasons discussed above. Defendants provided Employees
23 with on-duty rest breaks in violation of California law. Defendants also required Employees to
24 remain available to work during breaks, as-needed.

25 30. Defendants are subject to all civil penalties and other remedies under the PAGA.

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1 **THIRD COUNT**

2 **Failure to Pay Minimum Wages Owed**

3 **(By Plaintiff against All Defendants)**

4 31. Plaintiff incorporates by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 32. Section 1197 provides that “[t]he minimum wage for employees fixed by the
7 commission or by any applicable state or local law, is the minimum wage to be paid to employees,
8 and the payment of a lower wage than the minimum so fixed is unlawful.” “[T]he minimum wage
9 for all industries shall not be less than the amounts set forth in this subdivision” Cal. Lab.
10 Code, § 1182.12, subd. (b).

11 33. Pursuant to Section 1197.1, “(a) Any employer or other person acting either
12 individually or as an officer, agent, or employee of another person, who pays or causes to be paid
13 to any employee a wage less than the minimum fixed by an applicable state or local law, or by an
14 order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
15 damages payable to the employee, and any applicable penalties imposed pursuant to Section 203
16 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
17 for each underpaid employee for each pay period for which the employee is underpaid. This
18 amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated
19 damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section
20 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
21 (\$250) for each underpaid employee for each pay period for which the employee is underpaid
22 regardless of whether the initial violation is intentionally committed. This amount shall be in
23 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
24 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.”

25 34. Throughout the Statutory Period, Defendants failed to pay Employees at least
26 minimum wage for all time worked, including time during which they are required to remain on-
27 duty during meal periods, which must be paid at a rate of not less than minimum wage pursuant to
28 California law. Defendants paid zero dollars to Employees for hours worked during their meal

1 periods and other times that were not recorded or captured by Defendants. Consequently,
2 Defendants violated the foregoing minimum wage laws.

3 35. Defendants are subject to all civil penalties and other remedies under the PAGA.

4 **FOURTH COUNT**

5 **Failure to Pay Overtime Wages Owed**

6 **(By Plaintiff against All Defendants)**

7 36. Plaintiff incorporates by reference and realleges each and every allegation
8 contained above, as though fully set forth herein.

9 37. “The maximum hours of work and the standard conditions of labor fixed by the
10 commission shall be the maximum hours of work and the standard conditions of labor for
11 employees. The employment of any employee for longer hours than those fixed by the order or
12 under conditions of labor prohibited by the order is unlawful.” Cal. Lab. Code, § 1198.

13 38. Pursuant to Industrial Welfare Commission Wage Order 1, “[...] employees shall
14 not be employed more than eight (8) hours in any workday or more than 40 in a
15 workweek unless the employee receives one and one half (1 1/2) times such employee’s
16 regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours
17 of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or
18 more than six (6) days in any workweek is permissible provided the employee is compensated
19 for such overtime at not less than: (a) One and one-half (1 1/2) times the employee’s regular
20 rate of pay for all hours worked in excess of eight (8) hours up to and including twelve
21 (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th)
22 consecutive day of work in a workweek; and (b) Double the employee’s regular rate of pay for all
23 hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8)
24 hours on the seventh (7th) consecutive day of work in a workweek. (c) The overtime rate of
25 compensation required to be paid to a nonexempt full-time salaried employee shall be computed
26 by using the employee’s regular hourly salary as one fortieth (1/40) of the employee’s weekly
27 salary.

1 39. “Any employer or other person acting on behalf of an employer who violates, or
2 causes to be violated, a section of this chapter or any provision regulating hours and days of work
3 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
4 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
5 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
6 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
7 employee for each pay period for which the employee was underpaid in addition to an amount
8 sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

9 40. Employees regularly worked more than 8 hours a day, above 40 hours in the
10 workweek and not compensated for overtime. Time was improperly not counted as hours worked.
11 Defendants paid zero dollars to Employees for hours worked where overtime should have been
12 paid. Consequently, Defendants violated the foregoing overtime laws.

13 41. Defendants are subject to all civil penalties and other remedies under the PAGA.

14 **FIFTH COUNT**

15 **Inaccurate Wage Statements**

16 **(By Plaintiff against All Defendants)**

17 42. Plaintiff incorporates by reference and realleges each and every allegation
18 contained above, as though fully set forth herein.

19 43. California Labor Code §226(a) sets forth reporting requirements for employers
20 when they pay wages: “An employer, semimonthly or at the time of each payment of wages, shall
21 furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying
22 the employee’s wages, or separately if wages are paid by personal check or cash, an accurate
23 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
24 employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any
25 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that
26 all deductions made on written orders of the employee may be aggregated and shown as one item,
27 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
28 name of the employee and only the last four digits of his or her social security number or an

1 employee identification number other than a social security number, (8) the name and address of
2 the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
3 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services
4 of the employer, and (9) all applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate by the employee....”

6 44. Throughout the Statutory Period, and on Employer’s final payment of wages to
7 Employees at or near the time of their discharge or resignation, Employer failed, and continues to
8 fail, to furnish Employees, complete and accurate wage statements upon each payment of wages in
9 violation of California Labor Code §226(a). Employer is subject to civil penalties as provided by
10 law.

11 45. Throughout the Statutory Period, Employer failed to furnish Employees with
12 accurate itemized statements at the time of each payment of wages showing the correct gross
13 wages earned, correct total hours worked, correct net wages earned, and the corresponding correct
14 number of hours worked at each applicable hourly rate. Rather than providing statements of hours
15 worked and a correct payment of wages based thereon, Employer failed to capture and pay
16 Employees for all time, and also failed to capture and pay premium pay for noncompliant meal-
17 and-rest periods. Consequently, Employer failed to provide Employees accurate itemized wages
18 statements as required by Section 226.

19 46. Defendants are subject to all civil penalties and other remedies under the PAGA.

20 **SIXTH COUNT**

21 **Failure to Timely Pay All Wages**

22 **(By Plaintiff against All Defendants)**

23 47. Plaintiff incorporates by reference and realleges each and every allegation
24 contained above, as though fully set forth herein.

25 48. Generally, “[a]ll wages, other than those mentioned in Section 201, 201.3, 202,
26 204.1, or 204.2, earned by any person in any employment are due and payable twice during each
27 calendar month, on days designated in advance by the employer as the regular paydays. Labor
28 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for

1 between the 16th and the 26th day of the month during which the labor was performed, and labor
2 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
3 between the 1st and 10th day of the following month.” Cal. Lab. Code, § 204, subd. (a).

4 49. Rather than timely paying Employees all wages due within the periods set forth
5 above, throughout the Statutory Period, Employer failed to timely pay Employees for all wages
6 earned as required by law.

7 50. Defendants are subject to civil penalties as provided by law.

8 **SEVENTH COUNT**

9 **Failure to Comply with Recordkeeping Requirements**

10 **(By Plaintiff against All Defendants)**

11 51. Plaintiff incorporates by reference and realleges each and every allegation
12 contained above, as though fully set forth herein.

13 52. Pursuant to Labor Code section 1174, employers are mandated to “[k]eep, at a
14 central location in the state or at the plants or establishments at which employees are employed,
15 payroll records showing the hours worked daily by and the wages paid to, and the number of
16 piece-rate units earned by and any applicable piece rate paid to, employees employed at the
17 respective plants or establishments. These records shall be kept in accordance with rules
18 established for this purpose by the commission, but in any case shall be kept on file for not less
19 than three years.”

20 53. Pursuant to Sections 1198 and the applicable IWC Wage Order, Employer was also
21 required to keep accurate records of Employees’ hours worked, and to make those records
22 available for inspection upon Employees’ request. The applicable IWC Wage Order provides that
23 “An employee's records shall be available for inspection by the employee upon reasonable
24 request.”

25 54. Throughout the Statutory Period, Employer failed to keep accurate records showing
26 the hours worked daily by Employees.

27 Employer is subject to additional civil penalties for its failure to keep accurate records of
28 Employees’ hours worked.

1 **EIGHTH COUNT**

2 **Failure to Pay All Wages Due at Separation**

3 **(By Plaintiff against All Defendants)**

4 55. Plaintiff incorporates by reference and realleges each and every allegation
5 contained above, as though fully set forth herein.

6 56. “If an employer discharges an employee, the wages earned and unpaid at the time
7 of discharge are due and payable immediately.” Cal. Lab. Code, § 201, subd. (a). “If an employer
8 willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3,
9 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the
10 wages of the employee shall continue as a penalty from the due date thereof at the same rate until
11 paid or until an action therefor is commenced; but the wages shall not continue for more than 30
12 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or
13 who refuses to receive the payment when fully tendered to him or her, including any penalty then
14 accrued under this section, is not entitled to any benefit under this section for the time during
15 which he or she so avoids payment.” Cal. Lab. Code, § 203, subd. (a).

16 57. Throughout the Statutory Period, Employer failed to pay Employees all wages
17 earned. These wages were owed and due to Employees at the time of their termination or within
18 72 hours of their resignation. Employer did not provide full payment of these wages to Employees
19 at these times. Employer’s failure to timely pay these wages at the prescribed times, and failure to
20 pay Employees’ continued wages for the 30-day period thereafter, constitute a violation of
21 Sections 201, 202, and 203, for which Employer is subject to additional civil penalties.

22 **NINTH COUNT**

23 **Failure to Establish, Implement, and Maintain Effective Injury Prevention Program**

24 **(By Plaintiff against All Defendants)**

25 58. Plaintiff incorporates by reference and realleges each and every allegation
26 contained above, as though fully set forth herein.

27 59. “Every employer shall establish, implement, and maintain an effective injury
28 prevention program. The program shall be written, except as provided in subdivision (e), and shall

1 include, but not be limited to, the following elements: (1) Identification of the person or persons
2 responsible for implementing the program. (2) The employer's system for identifying and
3 evaluating workplace hazards, including scheduled periodic inspections to identify unsafe
4 conditions and work practices. (3) The employer's methods and procedures for correcting unsafe
5 or unhealthy conditions and work practices in a timely manner. (4) An occupational health and
6 safety training program designed to instruct employees in general safe and healthy work practices
7 and to provide specific instruction with respect to hazards specific to each employee's job
8 assignment. (5) The employer's system for communicating with employees on occupational health
9 and safety matters, including provisions designed to encourage employees to inform the employer
10 of hazards at the worksite without fear of reprisal. (6) The employer's system for ensuring that
11 employees comply with safe and healthy work practices, which may include disciplinary action."
12 Lab. Code, 6401.7, subd. (a). "The employer shall correct unsafe and unhealthy conditions and
13 work practices in a timely manner based on the severity of the hazard." Lab. Code, 6401.7, subd.
14 (b).

15 60. "The employer shall train all employees when the training program is first
16 established, all new employees, and all employees given a new job assignment, and shall train
17 employees whenever new substances, processes, procedures, or equipment are introduced to the
18 workplace and represent a new hazard, and whenever the employer receives notification of a new
19 or previously unrecognized hazard." Lab. Code, 6401.7, subd. (c). "The employer shall keep
20 appropriate records of steps taken to implement and maintain the program." Lab. Code, 6401.7,
21 subd. (d). The standards board shall adopt a standard setting forth the employer's duties under this
22 section...." Lab. Code, 6401.7, subd. (e)(1).

23 61. To substantially comply with Section 6401.7, the employer must provide adequate
24 "meetings, training programs, posting, written communications, a system of anonymous
25 notification by employees about hazards, labor/management safety and health committees, or any
26 other means that ensures communication with employees." Cal. Code Regs., tit. 8, § 3203, subd.
27 (a)(3).

28

1 62. “Records of the steps taken to implement and maintain the Program shall include:
2 (1) Records of scheduled and periodic inspections required by subsection (a)(4) [of § 3203] to
3 identify unsafe conditions and work practices, including person(s) conducting the inspection, the
4 unsafe conditions and work practices that have been identified and action taken to correct the
5 identified unsafe conditions and work practices. These records shall be maintained for at least one
6 (1) year; and ... (2) Documentation of safety and health training required by subsection (a)(7) for
7 each employee, including employee name or other identifier, training dates, type(s) of training,
8 and training providers. This documentation shall be maintained for at least one (1) year.” Cal.
9 Code Regs., tit. 8, § 3203, subd. (b).

10 63. Throughout the Statutory Period, Employer subjected all Employees, including Mr.
11 Castillo Masis, to working conditions that exposed them to hazards from the lack of a legally
12 mandated injury prevention program. Employer was subject to all of the foregoing requirements
13 with regard to all of its operations. Employer failed to establish, implement, and maintain an
14 effective injury prevention program. Employer failed to perform periodic inspections to identify
15 unsafe conditions and work practices, and failed to provide occupational health and safety training
16 designed to instruct Employees in general safe and healthy work practices and to provide specific
17 instruction with respect to hazards specific to each Employee’s job assignment; Employer failed to
18 provide such training to Employees, including Mr. Castillo Masis.

19 64. Employer also failed to keep appropriate records of steps taken to implement and
20 maintain its program and comply with regulations set by the standards board. Employer failed to
21 provide adequate meetings, training programs, posting, written communications, a system of
22 anonymous notification by employees about hazards, labor/management safety and health
23 committees, or any other means that ensures communication with Employees, including Mr.
24 Castillo Masis, regarding health and safety conditions and workplace injury reporting.

25 65. Employer also failed to keep records of steps taken to implement and maintain a
26 compliant program, including adequate records of scheduled and periodic inspections to identify
27 unsafe conditions and work practices, including person(s) conducting the inspection, the unsafe
28 conditions and work practices that have been identified, and action taken to correct the identified

1 unsafe conditions and work practices, and documentation of required safety and health training for
2 each of the Employees, including each employee's name or other identifier, training dates, type(s)
3 of training, and training providers.

4 66. Throughout the Statutory Period, the Employer also failed to comply with Title 8,
5 Section 3395 of the California Code of Regulations, which required the Employer to address the
6 risk of heat illness and incorporate additional breaks for Employees to account for high
7 temperatures on the job into its illness and injury prevention program and practices, which the
8 Employer failed to do.

9 67. Employer is subject to civil penalties as provided by law.

10 **TENTH COUNT**

11 **Requiring Unqualified Person to Perform Electrical Work**

12 **(By Plaintiff against All Defendants)**

13 68. Plaintiff incorporates by reference and realleges each and every allegation
14 contained above, as though fully set forth herein.

15 69. "Every employer and every employee shall comply with occupational safety and
16 health standards, with Section 25910 of the Health and Safety Code, and with all rules,
17 regulations, and orders pursuant to this division which are applicable to his own actions and
18 conduct." Lab. Code 6407.

19 70. As required by occupational safety and health standards, "[o]nly qualified persons
20 shall work on electrical equipment or systems." Cal. Code Regs., tit. 8, § 2320.1(a). In violation
21 of the foregoing, Employer required Employees including Mr. Castillo Masis to work on electrical
22 equipment and/or systems without proper training or experience.

23 71. Employer is subject to civil penalties as provided by law.

24 **ELEVENTH COUNT**

25 **Permitting Unsafe Work and Failure to Provide Safe Workplace, Practices, and Processes**

26 **(By Plaintiff against All Defendants)**

27 72. Plaintiff incorporates by reference and realleges each and every allegation
28 contained above, as though fully set forth herein.

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2 73. By committing the acts and omissions described in the preceding sections
3 throughout Employees' employment and throughout the past year, Employer also violated Labor
4 Code, §§ 6400, 6401, 6402, 6403, 6404 by requiring and permitting unsafe work, and failing to
5 provide safe workplaces, practices, and processes to its Employees, including Mr. Castillo Masis.

6 Employer is subject to additional civil penalties as provided by law. _

7 **TWELFTH COUNT**

8 **Retaliation**

9 **(By Plaintiff against All Defendants)**

10 74. Plaintiff incorporates by reference and realleges each and every allegation
11 contained above, as though fully set forth herein.

12 75. Defendant violated Labor Code section 6310 by committing the foregoing, and
13 retaliating against Mr. Castillo Masis for making a bona fide complaint to Defendants of unsafe
14 working conditions, or work practices, in his employment or place of employment. Defendants
15 furthermore violated Labor Code sections 1102.5 and 6311 by committing the foregoing, and
16 retaliating against Mr. Castillo Masis for refusing to perform work in the performance of which
17 the Labor Code, occupational safety or health standards, and safety orders of the Division or
18 standards board would be violated. These violations created a real and apparent hazard to Mr.
19 Castillo Masis.

20 76. Defendants is subject to civil penalties for the foregoing acts of retaliation.

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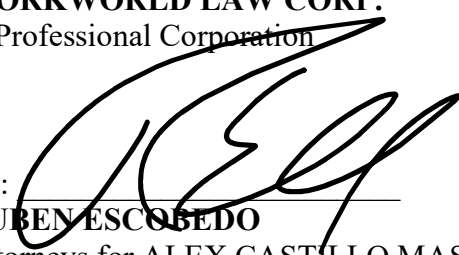
PRAYER

WHEREFORE, Plaintiff and Employees pray for judgment against Defendants, as follows:

1. For civil penalties pursuant to Labor Code sections 2698, *et seq.* in an amount to be ascertained at trial exceeding \$25,000.
2. For reasonable costs and attorneys' fees; and
3. For such other and further relief as the Court deems proper.

DATED: March 27, 2023

WORKWORLD LAW CORP.
A Professional Corporation

By: 
RUBEN ESCOBEDO
Attorneys for ALEX CASTILLO MASIS
as Private Attorney General