

DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

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

Attorneys for Plaintiff David Jacquez, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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

DAVID JACQUEZ, on behalf of himself and
all “aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

KSI HOLDINGS, LLC, a Delaware limited
liability company, MCMURRAY STERN,
LLC, a Delaware limited liability company,
and DOES 1 through 10, inclusive,

Defendants.

CASE NO: **23NWCV01244**

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 204, 226(a), 226.7, 510, 1194,
1198, AND 2802 AND PURSUANT TO
LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 210,
226.3, AND 558**

1 Plaintiff DAVID JACQUEZ (“Plaintiff”), on behalf of himself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of KSI
3 HOLDINGS, LLC, a Delaware limited liability company, MCMURRAY STERN, LLC, a Delaware
4 limited liability company, and/or any subsidiaries or affiliated companies (hereinafter referred to as
5 “Defendants”), as follows:

6 **I.**

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
9 Plaintiff and other California employees who currently work or formerly worked for Defendants
10 (“Aggrieved Employees”).

11 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
12 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
13 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
14 consistent policies of:

15 a. Failing to pay all wages due to Plaintiff and other non-exempt Aggrieved
16 Employees, in violation of Labor Code §§ 510, 558, and 1194. Plaintiff and non-exempt
17 Aggrieved Employees were assigned to projects that were subject to a prevailing wage—this
18 prevailing wage, however, was not paid to Plaintiff and other non-exempt Aggrieved
19 Employees. This failure to pay all wages due, including applicable prevailing wages, violates
20 Labor Code §§ 510, 558, and 1194;

21 b. Failing to timely pay all wages due and owing during employment to Plaintiff
22 and Aggrieved Employees, in violation of Labor Code §§ 204 and 210. Defendants paid
23 Plaintiff and other Aggrieved Employees on a weekly basis, but failed to issue them all their
24 wages within seven calendar days of the conclusion of the payroll period, as required by Labor
25 Code § 204(d); some of their wages were typically issued twelve or more days after the
26 conclusion of the pay period. This subjects Defendants to penalties as authorized by Labor
27 Code § 210;

1 c. Failing to pay premium wages to Plaintiff and non-exempt Aggrieved
2 Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage
3 Order No. 16-2001. Plaintiff and other non-exempt Aggrieved Employees were routinely
4 unable to take a 10-minute rest period for every four (4) hours of work or major fraction
5 thereof, but were not paid correct premium wages of one hour's pay for each missed rest
6 period. When they were able to take a rest period, they were not off-duty and were subject to
7 Defendants' control. This violates Labor Code § 226.7 and IWC Wage Order No. 16-2001;

8 d. Failing to reimburse Plaintiff and other Aggrieved Employees for necessary
9 business expenses incurred in direct consequence of the discharge of their duties, in violation
10 of Labor Code §§ 1198 and 2802 and IWC Wage Order No. 16-2001, including, but not
11 limited to, the use of their personal tools required to perform their job. Labor Code § 2802
12 states that an employer must indemnify its employees for all necessary expenditures or losses
13 incurred by the employee in direct consequence of the discharge of their duties. IWC Wage
14 Order No. 16-2001, § 8(B) states that when an "employer requires the use of tools or
15 equipment or they are necessary for the performance of a job, such tools and equipment shall
16 be provided and maintained by the employer, except that an employee whose wages are at
17 least two (2) times the minimum wage" Plaintiff and other Aggrieved Employees did not
18 earn at least two times the minimum wage. Defendants' failure to reimburse Plaintiff and other
19 Aggrieved Employees with all business expenses incurred and/or provide all tools and
20 equipment has violated Labor Code §§ 1198 and 2802 and IWC Wage Order No. 16-2001;

21 e. Failing to provide Plaintiff and Aggrieved Employees with wage statements
22 that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiff
23 and Aggrieved Employees were not paid all wages due, as stated above. As such, the wage
24 statements provided by Defendants failed to accurately state all gross wages earned, in
25 violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor
26 Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and
27 226.3, and all applicable hourly rates in effect during the pay period and the corresponding
28 number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(9) and

226.3. Independent of, and in addition to, the above allegations, the wage statements issued to Plaintiff and other non-exempt Aggrieved Employees failed to set forth all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code §§ 226(a)(9) and 226.3, because they failed to set forth any applicable prevailing wage rates and the corresponding number of hours worked at those rates by Plaintiff and other non-exempt Aggrieved Employees; and

f. Failing to pay Plaintiff and certain Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, Plaintiff and Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and certain Aggrieved Employees no longer employed by Defendants.

3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code § 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395. The Labor Code violations alleged against Defendants herein arose in Los Angeles County, California.

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1 **II.**

2 **PARTIES**

3 **A. Plaintiff**

4 5. Plaintiff DAVID JACQUEZ was employed by Defendants through January 2023 as a
5 non-exempt employee in Los Angeles County, California.

6 **B. Defendants**

7 6. Defendant KSI HOLDINGS, LLC is a Delaware limited liability company that
8 employed Plaintiff and Aggrieved Employees throughout the State of California, including Los
9 Angeles County, California.

10 7. Defendant MCMURRAY STERN, LLC is a Delaware limited liability company that
11 employed Plaintiff and Aggrieved Employees throughout the State of California, including Los
12 Angeles County, California.

13 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
15 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
16 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
17 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
18 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
19 designated hereinafter as DOES when such identities become known.

20 9. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
21 acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint
22 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants is
23 legally attributable to the other Defendants.

24 10. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
25 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
26 provisions of the California Labor Code as alleged herein.

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1 III.

2 CAUSES OF ACTION

3 FIRST CAUSE OF ACTION

4 PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
5 CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
6 LABOR CODE §§ 201, 202, 204, 226(a), 226.7, 510, 1194, 1198, AND 2802 AND PURSUANT
7 TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 210, 226.3, AND
8 558

9 11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint as though fully set
10 forth herein.

11 12. As a result of the acts alleged above, including the Labor Code violations set forth in
12 paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

13 13. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
14 civil penalties subject to the following formula:

- 15 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
16 each subsequent violation of Labor Code §§ 201, 202, 204, 226(a), 226.7, 510,
17 1194, 1198, and 2802; and
18 b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor
19 Code §§ 210, 226.3, and 558.

20 14. Civil penalties recovered will be allocated 75% to the Labor and Workforce
21 Development Agency, and 25% to the affected employees.

22 15. On February 13, 2023, Plaintiff sent a letter, by online submission to the LWDA and
23 by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the
24 violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor
25 Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)
26 calendar days of February 13, 2023. Plaintiff may therefore commence this action to seek civil
27 penalties pursuant to Labor Code § 2698 *et seq.*
28

Wherefore, Plaintiff and the Aggrieved Employees he seeks to represent request relief as described below.

IV.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;
3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and
4. Such other and further relief as this Court may deem just and proper.

Dated: April 25, 2023

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: Daniel F. Gaines
DANIEL F. GAINES
Attorneys for Plaintiff