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Clerk of the Superior Court
By Jimmy Siharath, Deputy Clerk

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Attorneys for Plaintiff,
GUADALUPE VALDEZ on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

GUADALUPE VALDEZ, an individual, on
behalf of herself, all aggrieved employees, and
the State of California as a Private Attorneys
General,

Plaintiff,

vs.

PACIFIC COAST CLEANING, INC. a
California Corporation and DOES 1-50,
inclusive, and ELITE RECRUITING LLC, a
California limited liability company and DOES
1-50, inclusive,

Defendants.

Case No.: 37-2023-00014489-CU-OE-CTL

REPRESENTATIVE ACTION

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 *et seq.***

Plaintiff GUADALUPE VALDEZ brings this PAGA representative action complaint on
behalf of herself, all aggrieved employees, and the State of California as a Private Attorneys
General, and alleges as follows:

NATURE OF THE ACTION

1. Plaintiff GUADALUPE VALDEZ worked as an employee for Defendants PACIFIC
COAST CLEANING, INC. & ELITE RECRUITING LLC, and Does 1-50 (collectively

1 “Defendants”). Defendants owns and operates a full service cleaning company around San Diego
2 County, California, where Plaintiff worked as a cleaning crew member. Plaintiff GUADALUPE
3 VALDEZ worked for Defendants as an hourly, non-exempt employee until October 2022. Plaintiff
4 brings this action pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor
5 Code §2698 *et seq.*, on a representative basis. All current and former hourly, nonexempt employees
6 of Defendants within one year of serving notice on the LWDA to the present are aggrieved
7 employees.

8 2. Defendants failed to comply with California Labor Code requirements due to erroneous,
9 willful and intentional employment practices and policies. Plaintiff brings this representative
10 action on behalf of herself, all other similarly situated aggrieved employees, and the State of
11 California, based upon the claims articulated below. Plaintiff provided notice of her claims
12 pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as
13 illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The
14 LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice
15 period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil
16 penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

17 3. Defendants have had a consistent policy and/or practice of: (1) failing to pay for all hours
18 worked, including overtime hours worked; (2) failing to provide rest breaks; (3) failing to provide
19 uninterrupted meal breaks; (4) failing to reimburse for required business expenses; (5) failing to
20 pay wages due upon termination and (6) failing to provide accurate itemized wage statements and
21 violating record keeping requirements. Defendants are therefore liable for civil penalties under the
22 Cal. Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et*
23 *seq.*, as described more fully herein.

24 THE PARTIES

25 4. Plaintiff GUADALUPE VALDEZ is a resident of the State of California and worked for
26 Defendants as an hourly, non-exempt employee until October 2022.

5. Defendant PACIFIC COAST CLEANING, INC. is a California corporation authorized to do business and doing business in California with the capacity to sue and to be sued, and doing business, in the county of San Diego, State of California.

6. Defendant ELITE RECRUITING LLC is a California limited liability company authorized to do business and doing business in California with the capacity to sue and to be sued, and doing business, in the county of San Diego, State of California.

7. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues Defendants by such fictitious names, Plaintiff will amend this complaint when their true names and capabilities are ascertained.

8. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees of the representative class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants are legally attributable to the other Defendants.

JURISDICTION AND VENUE

9. Venue is proper in this judicial district because Defendants conduct business in this county and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees in this case that arose in this county.

10. The statutory penalties sought by Plaintiff exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars (\$25,000).

1 11. The California Superior Court has jurisdiction in this matter because Plaintiff is a
2 resident of California and Defendants are qualified to do business in California and regularly
3 conduct business in California. Further, there is no federal question at issue as the claims herein
4 are based solely on California law.

5 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

6 12. During the relevant time-period, Defendants committed various violations of the
7 California Labor Code as alleged below in more detail. Defendants enforce multiple policies that
8 violate state law, which are intended to increase profits to the detriment of aggrieved employees.

9 13. This representative action represents over one hundred current and former aggrieved
10 employees.

11 14. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
12 to the present, Defendants engaged in unlawful employment practices that resulted in violations of
13 numerous Labor Code sections, as set forth more fully below.

14 15. Plaintiff and all current and former employees within one year of filing this action to
15 the present are aggrieved employees within the meaning of Labor Code 2699, *et seq.* (See Labor
16 code §2699(c).)

17 16. Defendants, and each of them, have committed the following violations of the
18 California Labor Code:

19 **Failure to Pay For All Hours Worked, Including Overtime Hours Worked**

20 (Cal. Labor Code §§204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194, 1197,
21 1197.1, 1198, 2698 *et seq.*, Wage Order)

22 17. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
23 incorporate said paragraphs herein by reference.

24 18. The Wage Orders define “hours worked” as “the time during which an employee is
25 subject to the control of an including all the time the employee is suffered or permitted to work,
26 whether or not required to do so.” Defendants have been engaged in many unlawful employment
27 practices which resulted in underpayment for hours worked each pay period as described below:
28

1 19. Time Shaving. Plaintiff and aggrieved employees clock in and out using an app
2 downloaded on their personal devices. They are required to upload a photo of themselves when
3 they clock in and out in addition to various times during their shifts. However, at the end of each
4 shift, Plaintiff and Aggrieved Employees would be instructed to record specific times that they
5 took unpaid meal periods, which frequently were not aligned with the actual times. Often, this
6 resulted in underpaid hours worked as not all hours worked were reflected in recorded time.
7 Plaintiff and aggrieved employees were also required to perform tasks before clocking in and after
8 clocking out. The California Supreme Court has rejected the *de minimis* argument frequently
9 echoed by employers, confirming that employees are entitled to payment for all hours (and
10 minutes) worked. Indeed, California law will permit a “rounding policy only ‘if the rounding
11 policy is fair and neutral on its face and ‘it is used in such a manner that it will not result, over a
12 period of time, in failure to compensate the employees properly for all the time they have actually
13 worked.’” (*Troester v. Starbucks Corporation*, (2018) 5 Cal. 5th 829, 846, citing *See’s Candy*, 210
14 Cal.App.4th at p. 907.) The policy utilized by Defendants are neither fair nor neutral, as it
15 consistently shaved time from Plaintiff and aggrieved employees’ hours worked, resulting in a
16 failure to compensate Plaintiff and aggrieved employees for all hours worked.

17 20. Work Performed During Unpaid Meal Periods. As more fully set forth below,
18 Defendants failed to permit Plaintiff and others to take timely, uninterrupted, off-duty meal breaks
19 of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code
20 §§226.7 and 512. Plaintiff and aggrieved employees meal breaks were often interrupted resulting
21 in underpaid hours worked.

22 21. Failure to Pay Wages Required Minimum Wage. Defendants failed to pay Plaintiff and
23 aggrieved employees for all hours worked as a result of Defendants’ practices described above.
24 Based on Defendants’ unlawful conduct described above, Defendants’ failure to pay for all hours
25 worked, including overtime, resulted in a payment of less than the minimum wage for those hours
26 worked in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 4-2001 4(B). Defendants
27 are liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*
28

1 22. Failure to Pay All Wages Owed Twice Per Month. Defendants were required to pay
2 Plaintiff and aggrieved employees all wages earned twice during each calendar month pursuant to
3 Labor Code §204(a). Defendants failed to pay all wages earned to employees as a result of the
4 unlawful employment policies and practices discussed herein. As a result of these practices,
5 Plaintiff and aggrieved employees were underpaid for hours worked, including overtime and
6 penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.
7 Due to this failure, Defendants are liable under Labor Code §210 for failure to pay wages as
8 required by law.

9 **Failure to Provide Rest Breaks**

10 (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

11 23. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
12 incorporate said paragraphs herein by reference.

13 24. Defendants have failed to maintain a compliant rest period policy and practice that
14 provides its employees with off-duty rest periods as required by California law. Plaintiff reports
15 that she and her coworkers often had their rest breaks interrupted and they were not relieved of all
16 duties.

17 25. Uninterrupted rest periods were not consistently provided or not scheduled before and
18 after a meal period for shifts greater than six hours, as prescribed by California law because
19 Defendants: (1) did not account for all hours worked that were unaccounted for on their timecard;
20 (2) did not adequately inform and train employees about their rights to rest breaks and premium
21 payments for non-compliant rest breaks; (3) did not adequately inform and train employees about
22 when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because
23 Defendants did not staff enough people to schedule all timely and uninterrupted ten-minute rest
24 breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt
25 employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

26 26. Defendants consistently required Plaintiff and Aggrieved Employees to forego rest
27 breaks altogether and instead would permit employees to take a one-hour unpaid lunch in the place
28 of a thirty minute lunch and two paid rest periods as required under California law. Defendants did

not authorize or permit all of its hourly employees to take at least a ten-minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. When breaks were missed or unlawfully interrupted Defendants failed to pay the 1-hour penalty, as required. Because Defendants violated the Wage Order, Defendants are liable under Labor Code §1198. As a result of these violations, Defendants are liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*)

27. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

28. During Plaintiff's employment, Defendants failed to maintain a compliant meal period policy and practice. Defendants failed to provide all of its hourly employees with their right to take an uninterrupted, off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n 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..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an 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." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

29. Plaintiff and aggrieved employees experienced frequent meal period violations. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Defendants: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Defendants did not staff enough people to schedule all timely and uninterrupted thirty-minute meal

1 periods; and/or (5) because management at various levels, affecting all hourly, non-exempt
2 employees, refused to offer, permit, or enforce a lawfully compliant meal period policy.

3 30. Meal periods were often provided late however Defendants would instruct employees
4 to record specific times so that timecards would not show meal period violations despite them
5 having occurred. Plaintiff and aggrieved employees were not paid a premium payment, paid as an
6 hour's wage when meal periods were not given to them in compliance with California law.

7 **Failure to Reimburse for Required Business Expenses**

8 (Cal. Labor Code §§1198, 2802, 2699 *et seq*)

9 31. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
10 incorporate said paragraphs herein by reference.

11 32. Labor Code §2802 requires employers to indemnify employees for necessary
12 expenditures or losses incurred by employees in direct consequence of discharge of duties.

13 33. Plaintiff and aggrieved employees were required to download a timekeeping app on
14 their personal cell phones and use their phones throughout the day to take images of themselves
15 and upload them to the app.

16 34. Defendants required Plaintiff and employees to utilize their personal cell phones for
17 work purposes but failed to reimburse Plaintiff and employees for this use as required by the Labor
18 Code. Accordingly, Defendants are liable for civil penalties under PAGA §2699 *et seq*.

19 **Failure to Pay Wages Due Upon Termination**

20 (Cal. Labor Code §§ 201, 202, 203, 256 and 2698 *et seq.*)

21 35. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
22 incorporate said paragraphs herein by reference.

23 36. An employee who is discharged must be paid all of his or her wages, including accrued
24 vacation and rest break penalty wages, immediately at the time of termination. (Labor Code
25 Sections 201 and 227.3.) As set forth above, Defendants knowingly and willfully failed to pay all
26 compensation due and owing to Plaintiff at the time employment terminated. Defendants willfully
27 failed to pay employees who are no longer employed by it all compensation due upon termination
28 of employment as required by Cal. Lab. Code §§201 and 202. Plaintiff and similarly situated

1 individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms
2 of §203. Moreover, Defendants are liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et*
3 *seq.*

4 **Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping**
5 **Requirements**

6 (Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*)

7 37. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
8 incorporate said paragraphs herein by reference.

9 38. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
10 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
11 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and
12 aggrieved employees, and the records maintained by Defendants, failed to include the correct total
13 hours worked, wages earned and owed, and meal and rest period penalty payments, among other
14 deficiencies. Additionally, wage statements issued by Elite Recruiting LLC wage statements do
15 not contain the full address of the employer, missing the name of the city.

16 39. Finally, Defendants have violated Labor Code §432.5 for forcing Plaintiff and
17 aggrieved employees to sign employment related contracts and documents that contained unlawful
18 terms of employment.

19 **FIRST CAUSE OF ACTION**

20 **Against Defendants for Violation of the Private Attorneys General Act (“PAGA”)**

21 **(California Labor Code §2698 *et seq.*)**

22 40. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
23 incorporate said paragraphs herein by reference.

24 41. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by Defendants
25 during the applicable statutory period and suffered one or more of the Labor Code violations set
26 forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and
27 former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable
28 attorneys’ fees and costs.

1 42. Plaintiff seeks to recover the PAGA civil penalties through a representative action
2 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
3 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

4 43. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
5 Code provisions:

- 6 a. Failure to Pay for All Hours Worked, Including Overtime Hours Worked (Cal.
7 Labor Code §§204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194,
8 1197, 1197.1, 1198, 2698 *et seq.*, Wage Order);
- 9 b. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198,
10 2698 *et seq.*);
- 11 c. Failure to Provide Uninterrupted Meal Breaks and Second Meal Breaks (Cal. Labor
12 Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*)
- 13 d. Failure to Reimburse for Required Business Expenses (Cal. Labor Code §§1198,
14 2802, 2699 *et seq.*).
- 15 e. Failure to Pay Wages Due Upon Termination (Cal. Lab. Code §§201, 202, 203, 256
16 and 2698 *et seq.*);
- 17 f. Failure to Provide Accurate Itemized Wage Statements and Violation of Record
18 Keeping Requirements (Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*).

19 44. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil
20 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
21 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
22 employee for each subsequent violation of Labor Code §226(a).

23 45. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil
24 penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations
25 for each underpaid employee for each pay period for which the employee was underpaid, and one
26 hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period
27 for which the employee was underpaid.
28

46. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

47. Plaintiff and the other current and former employees of Defendants are aggrieved employees. They were or are employed by Defendants, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of herself and all other current and former aggrieved employees.

48. At the time of each violation, Defendants employed one or more employees.

49. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at trial, pre-judgment interest, costs and attorneys' fees.

50. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and Workforce Development Agency (“LWDA”) and served by certified mail upon Defendants, Plaintiff through counsel notified the LWDA and Defendants of the specific Labor Code provisions that Defendants have violated. The LWDA did not respond to Plaintiff’s Notice within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code §2699.3, Plaintiff may now pursue her PAGA claims in this action on behalf of aggrieved employees and the State of California.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for judgement against Defendants as follows:

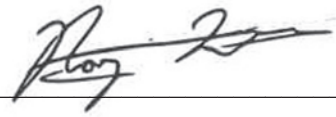
1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;
2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;

- 1 3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable
2 law;
3 4. Pre-judgement and post-judgement interest as provided by law; and
4 5. Such other and further relief that the Court may deem just and proper.
5

6 DATED: April 7, 2023

KOUL LAW FIRM

LAW OFFICES OF SAHAG MAJARIAN II

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11 BY: Nazo Koulloukian, Esq.

12 Attorneys for Plaintiff GUADALUPE VALDEZ,
13 and all aggrieved employees
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EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

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3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

February 1, 2023

Via E-filing:

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

Via Certified U.S. Mail:

Pacific Coast Cleaning, Inc.
500 Fesler Street, Suite 102
El Cajon, CA 92020

Elite Recruiting LLC
1105 E. Commonwealth Ave, Ste. C
Fullerton, CA 92831

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimants: Guadalupe Valdez
Employer: Pacific Coast Cleaning, Inc. & Elite Recruiting LLC

Dear Sir or Madam:

Claimant Guadalupe Valdez has retained Nazo Koulloukian, Esq. of the Koul Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former co-employers, Pacific Coast Cleaning, Inc. & Elite Recruiting LLC (hereafter collectively referred to as “Employer”). Claimant is an aggrieved employee who worked for Employer until October 2022.

Claimant brings this action against Employer pursuant to Labor Code Section 2810.3. This PAGA Notice letter shall also serve as notice, pursuant to subdivision 6 (d) of Section 2810.3, that Claimant, on behalf of herself and similarly situated employees, will file a civil action against both of the Employers in accordance with Labor Code Section 2810.3, subdivision 6 (b-f), which provide:

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

(1) The payment of wages.

(2) Failure to secure valid workers' compensation coverage as required by Section 3700.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and are therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit claimant to seek civil penalties under the Private Attorney General Act ("PAGA"), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency ("LWDA") and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, Wage Order)

The Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an including all the time the employee is suffered or permitted to work, whether or not required to do so." Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period as described below:

Time Shaving

Employees clock in and out using an app downloaded on their personal devices. They are required to upload a photo of themselves when they clock in and out in addition to various times during their shifts. However, at the end of each shift, Claimant and Aggrieved Employees would be instructed to record specific times that they took unpaid meal periods, which frequently were not aligned with the actual times. Often, this resulted in underpaid hours worked as not all hours worked were reflected in recorded time. Employees were also required to perform tasks before clocking in and after clocking out.

The California Supreme Court has rejected the *de minimis* argument frequently echoed by employers, confirming that employees are entitled to payment for all hours (and minutes) worked. Indeed, California law will permit a "rounding policy only 'if the rounding policy is fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.'" (*Troester v. Starbucks Corporation*, (2018) 5 Cal. 5th 829, 846, citing *See's Candy*, 210 Cal.App.4th at p. 907.) The policy utilized by Employer is neither fair nor neutral, as it consistently shaved time from claimant and aggrieved employees' hours worked, resulting in a failure to compensate Claimant and aggrieved employees for all hours worked.

Work Performed During Unpaid Meal Periods

As more fully set forth below, Employer failed to permit Claimant and others to take timely, uninterrupted, off-duty meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employees meal breaks were often interrupted resulting in underpaid hours worked.

Failure to Pay Wages- Required Minimum Wage

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer’s practices described above. Based on Employer’s unlawful conduct described above, Employer’s failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for those hours worked in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 4-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employer is liable under Labor Code §210 for failure to pay wages as required by law.

Failure to Provide Rest Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law. Claimant reports that she and her coworkers often had their rest breaks interrupted and they were not relieved of all duties.

Uninterrupted rest periods were not consistently provided or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

Employer consistently required Claimant and Aggrieved Employees to forego rest breaks altogether and instead would permit employees to take a one-hour unpaid lunch in the place of a thirty minute lunch and two paid rest periods as required under California law. Employer did not

authorize or permit all of its hourly employees to take at least a ten-minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. When breaks were missed or unlawfully interrupted Employer failed to pay the 1-hour penalty, as required. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 et seq.

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Employer failed to provide all of its hourly employees with their right to take an uninterrupted, off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n 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..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an 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." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Claimant and aggrieved employees experienced frequent meal period violations. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy.

Meal periods were often provided late however Employer would instruct employees to record specific times so that timecards would not show meal period violations despite them having occurred. Employees were not paid a premium payment, paid as an hour's wage when meal periods were not given to them in compliance with California law.

Failure to Reimburse for Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties.

Claimant and aggrieved employees were required to download a timekeeping app on their personal cell phones and use their phones throughout the day to take images of themselves and upload them to the app.

Employer required Claimant and employees to utilize their personal cell phones for work purposes but failed to reimburse Claimant and employees for this use as required by the Labor Code. Accordingly, Employer is liable for civil penalties under PAGA §2699 *et seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including accrued vacation and rest break penalty wages, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated. Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimant and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et seq.*

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*)

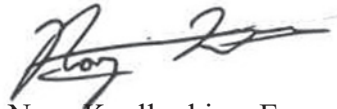
Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided to Claimant and aggrieved employees, and the records maintained by Employer, failed to include the correct total hours worked, wages earned and owed, and meal and rest period penalty payments, among other deficiencies. Additionally, wage statements issued by Elite Recruiting LLC wage statements do not contain the full address of the employer, missing the name of the city.

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment related contracts and documents that contained unlawful terms of employment.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a long horizontal flourish extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant