SHAFIEL A. KARIM (SBN 291725)
LAW OFFICE OF SHAFIEL A. KARIM, P.C.
1154 East Wardlow Road
Long Beach, California 90807
Telephone: (562) 653-6850
Email: shafiel@skarimlaw.com

Attorney for Plaintiff Daniel Villa, an individual, on behalf of himself and all other aggrieved employees, and the State of California, pursuant to the Private Attorney General Act of 2004

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
11/24/2025 9:06 AM
By: Julian Cornejo, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

DANIEL VILLA, an individual, on behalf of himself and all other aggrieved employees and the State of California, pursuant to the Private Attorney General Act of 2004,

Plaintiff,

v.

KIMCO STAFFING SERVICES, INC., a California corporation, MAERSK WAREHOUSING & DISTRIBUTION SERVICES USA LLC, a Delaware limited liability company, DOES 1-25, inclusive,

Defendants.

Case No.: CIVSB2534449

COMPLAINT FOR ENFORCEMENT OF THE CALIFORNIA LABOR CODE UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004

INTRODUCTION

Plaintiff DANIEL VILLA, an individual, on behalf of himself, the aggrieved employees of Defendants KIMCO STAFFING SERVICES, INC., MAERSK WAREHOUSING & DISTRIBUTION SERVICES USA LLC, and DOES 1-25, inclusive (collectively, "Defendants"), and the State of California pursuant to the Private Attorney General Act of 2004 brings this lawsuit against Defendants for the enforcement of the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, et seq.)("PAGA").

PARTIES

1. Plaintiff DANIEL VILLA ("Plaintiff") is an individual resident of the County of San Bernardino, State of California. From on or around July 24, 2024 to on or around January 6, 2025 ("Employment Period"), Plaintiff was employed by Defendants in the County of San Bernardino, State of California.

2. Defendant KIMCO STAFFING SERVICES, INC. ("Kimco") is a California corporation. Kimco jointly employed Plaintiff and the aggrieved employees in the County of San Bernardino, State of California during the Employment. Kimco's agent for service of process is C T Corporation System located at 330 North Brand Boulevard, Suite 700, Glendale, California 91203.

3. Defendant MAERSK WAREHOUSING & DISTRIBUTION SERVICES USA LLC ("Maersk") is a Delaware limited liability company. Maersk jointly employed Plaintiff and the aggrieved employees in the County of San Bernardino, State of California during the Employment. Maersk's agent for service of process is C T Corporation System located at 330 North Brand Boulevard, Suite 700, Glendale, California 91203.

4. Plaintiff is unaware of the true names and capacities of all defendants. Plaintiff sues those unknown defendants by their fictitious names, DOES 1-25, inclusive. Plaintiff will seek leave to amend this Complaint for Enforcement of the California Labor Code Under the Private Attorneys General Act of 2004 ("Complaint") once their true and correct names are ascertained.

5. Upon information and belief, at all relevant times, one or more of each of the named Defendants, or all of them, were in some fashion–by contract or otherwise–the managing agents, predecessors, affiliates, alter egos, assigns, joint venturers, co-venturers, and/or partners of one or more of the remaining and/or unnamed defendants, and was acting within that respective capacity.

6. Upon information and belief, at all relevant times, one or more the remaining named and/or unnamed defendants are the successors of one or more of the remaining named and/or unnamed defendants. Such successors are liable for the transactions, occurrences, series of

LAW OFFICE OF SHAFIEL A. KARIM, P.C.
1154 EAST WARDLOW ROAD
LONG BEACH, CALIFORNIA 90807

transactions, and/or Plaintiff's and/or the aggrieved employees' damages and injuries arising from the same extent of those successors' predecessors.

7. Upon information and belief, at all relevant times, the Defendants were and/or are the alter egos of all defendants in this pending civil action. Defendants each acted for their own benefit and/or the benefit of one or more of the remaining named and/or unnamed defendants. Defendants were acting on behalf of each other in the establishment of, ratification of, and/or execution of the illegal practices and policies described in this Complaint.

8. Upon information and belief, at all relevant times, Defendants had decision-making authority, responsibility, oversight, and influence for the establishment and execution of Defendants' illegal employment practices and policies. Accordingly, the Defendants–individually and all named and/or unnamed defendants collectively–are liable for each of the causes of action alleged in this Complaint.

9. Upon information and belief, at all relevant times, there existed and/or exists a unity of interest and ownership between each DOE defendant and the Defendants, jointly and severally, such that their individuality and separateness ceased to exist. More specifically, the business affairs of the Defendants and all named and/or unnamed defendants could not be segregated, and were and/or are inextricably intertwined, commingled, and combined.

10. Defendants DOES 1-25, inclusive, were and/or are still used as mere shells and conduits for the Defendants' business affairs individually and/or collectively. The recognition of the separate existence of each such DOE defendant would not promote justice because it would permit Defendants to insulate themselves from individual liability as to Plaintiff, the aggrieved employees, and the State of California. Defendants constitute the alter egos of each other, and the fiction of their separate existence must be disregarded at law and equity to avoid fraud and injustice to Plaintiff, the aggrieved employees, and the State of California.

JURISDICTION AND VENUE

11. This Court has original jurisdiction over this pending civil action under Article VI, section of the California Constitution, exercisable under Code of Civil Procedure section 410.10. This Court has subject matter jurisdiction.

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12. This Court has personal jurisdiction over Defendants because they were/are citizens of and/or residents of the State of California during all relevant time periods. This Court's exercise of personal jurisdiction over Defendants comports with traditional notions of fair play and substantial justice.

13. Venue is proper under Code of Civil Procedure section 395 because Defendants' place of business were/are located in this judicial district during all relevant time periods. Venue is also proper because this Court has personal jurisdiction over Defendants.

FACTUAL ALLEGATIONS

14. Kimco and Maersk jointly employed Plaintiff as a Cherry Pick Operator during the Employment Period as a non-exempt employee. Plaintiff was assigned to work at the warehouse located at 8140 Caliente Road, Hesperia, California 92344 ("Hesperia Warehouse"). Plaintiff's reported to Kimco/Maersk Operations Manager, Joseph Avila.

15. Plaintiff's initial rate of pay was $22.50 per hour. But Kimco paid Plaintiff $22.00 per hour. Kimco/Maersk assigned Plaintiff to work Sunday through Thursday from 3:30 p.m. to 11:00 p.m. each workday. Plaintiff was responsible for operating a standing cherry picker forklift and barcode scanner to process and fulfill Amazon.com orders at the Hesperia Warehouse.

16. During the Employment Period, Plaintiff was required to clock-in after he was screened by Kimco/Maersk security upon entering the Hesperia Warehouse. Plaintiff is informed and believes he spent five to 10 minutes each workday in security screening lines before he was able to clock-in each workday. Kimco/Maersk did not pay Plaintiff for the off-the-clock waiting time he spent in the security lines before he was able to clock-in each workday.

17. Similarly, during the Employment Period, Plaintiff was also required to clock-out before he was screened by Kimco/Maersk security again when he exited the Hesperia Warehouse. Plaintiff is informed and believes he spent five to 10 minutes each workday in the security lines after he clocked-out each workday. Kimco/Maersk did not pay Plaintiff for the off-the-clock waiting time he spent in the security lines after he already clocked-out each workday.

18. During the Employment Period, Kimco/Maersk scheduled Plaintiff to work more than eight hours in a workday, 40-hours in a workweek, and occasionally seven consecutive days

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in a workweek. For example, in or around August and September 2024, Plaintiff worked 14 consecutive days but Kimco/Maersk did not pay him overtime pay (i.e., one-and-one-half times his regular rate of pay) for those workdays. Plaintiff also routinely worked more than eight hours in a workday three workdays each workweek from in or around August to September 2024. But Plaintiff was not paid overtime pay for those workdays either. Additionally, Plaintiff worked more than 12-hours in a workday approximately two workdays each workweek from in or around August to September 2024; Kimco/Maersk did not pay Plaintiff double-time on those occasions.

19. During the Employment Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant meal periods. Instead, Kimco/Maersk scheduled all aggrieved employees to take a 30-minute rest period after each six hours of work. Kimco/Maersk also interrupted his meal periods daily with instructions on what to do after the meal period. Worse, Kimco/Maersk prohibited Plaintiff from leaving the Hesperia Warehouse. Yet, Kimco/Maersk did not pay Plaintiff a meal period wage in the form of an additional hour of pay for the workday on those occasions.

20. Furthermore, Kimco/Maersk did not authorize or permit Plaintiff to take a second meal period when he worked 10-hours in a workday. Kimco/Maersk did not pay Plaintiff a meal period wage in the form of an additional hour of pay for the workday on those occasions.

21. During the Employment Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant rest periods. Plaintiff was not authorized or permitted to take an uninterrupted 10-minute duty-free rest period after each four hours of work. Instead, Kimco/Maersk scheduled all aggrieved employees to take a 10-minute rest period after each five hours of work. Kimco/Maersk did not pay Plaintiff a rest period wage in the form of an additional hour of pay for the workday on those occasions.

22. Kimco/Maersk also did not authorize or permit Plaintiff to take restroom breaks. In or around October 2024, Plaintiff notified Mr. Avila that he needed use the restroom before his scheduled rest period. Mr. Avila informed Plaintiff that Kimco/Maersk prohibits restroom use during workhours, that Plaintiff needs to clock-out to use the restroom, and that if Plaintiff actually clocked-out to use the restroom, Plaintiff would be terminated.

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23. Although Kimco/Maersk had an official "zero tolerance" policy against cell phones at work, during the Employment Period, Plaintiff was actually required to use his personal cell phone for work. For instance, Mr. Avila and other Kimco/Maersk supervisors would send Plaintiff a text message to his personal cell phone instructing Plaintiff to report to the Hesperia Warehouse receiving area. Kimco/Maersk did not reimburse Plaintiff for being required to use his personal cell phone for work on those occasions.

24. During the Employment Period, Kimco/Maersk paid Plaintiff weekly every Thursday morning. However, Kimco/Maersk did not provide Plaintiff with any paystub. As a result, Plaintiff was confused about how Kimco/Maersk computed his wages and hours each pay period. Specifically, Plaintiff was confused about Kimco/Maersk calculated Plaintiff's various rates of pay including his regular rate of pay, overtime rate of pay, double-time rate of pay, and meal and rest period wages.

25. In or around late December 2024, Plaintiff injured himself on-the-job at the Hesperia Warehouse. On or around January 6, 2025, Plaintiff returned to work as scheduled. Shortly thereafter, Kimco/Maersk informed Plaintiff that he was terminated and that Kimco/Maersk would not accommodate his injury despite the fact that he was cleared to work that day. To make matters worse, Kimco/Maersk did not pay Plaintiff for the 10 hours of earned but unpaid wages that he accrued as of on or around January 6, 2025. To-date, Kimco/Maersk has not paid Plaintiff all of his earned but unpaid wages, inclusive of all off-the-clock wages, overtime wages, double-time wages, and meal and rest period wages.

26. Finally, on July 14, 2025, through counsel, Plaintiff requested copies of his payroll records and personnel file from Kimco via Certified Mail, Return Receipt Requested. The United States Postal Service delivered Plaintiff's written request for his payroll records and personnel file on July 17, 2025. Kimco's last day to produce Plaintiff's payroll records and personnel file was August 4, 2025 and August 18, 2025, respectively. To-date, Kimco has failed and/or refused to produce any of Plaintiff's payroll records and/or personnel file.

PAGA ALLEGATIONS

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1154 EAST WARDLOW ROAD
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27. Plaintiff is informed and believes that from January 6, 2024 to the present ("PAGA Period") Kimco/Maersk employed approximately 700 aggrieved employees at the Hesperia Warehouse.

28. During the PAGA Period, Plaintiff is informed and believes the aggrieved employees were required to clock-in after they were screened by Kimco/Maersk security upon entering the Hesperia Warehouse. Plaintiff is informed and believes each aggrieved employee spent five to 10 minutes each workday in security screening lines before they were able to clock-in each workday. Upon information and belief, Kimco/Maersk did not pay the aggrieved employees for the off-the-clock waiting time they spent in the security lines before they were able to clock-in each workday.

29. Similarly, during the PAGA Period, Plaintiff is informed and believes the aggrieved employees were also required to clock-out before they were screened by Kimco/Maersk security again when they exited the Hesperia Warehouse. Plaintiff is informed and believes they spent five to 10 minutes each workday in the security lines after they clocked-out each workday. Kimco/Maersk did not pay the aggrieved employees for the off-the-clock waiting time they spent in the security lines after they already clocked-out each workday.

30. During the PAGA Period, Plaintiff is informed and believes the aggrieved employees worked more than eight hours in a workday, 40-hours in a workweek, and occasionally seven consecutive days in a workweek. Upon further information and belief, the aggrieved employees were not paid overtime pay for those workdays. Additionally, Plaintiff is informed and believes the aggrieved employees worked more than 12-hours in a workday; Kimco/Maersk did not pay the aggrieved employees double-time on those occasions.

31. During the PAGA Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant meal periods. Instead, Plaintiff is informed and believes Kimco/Maersk scheduled all aggrieved employees to take a 30-minute rest period after each six hours of work. Plaintiff is also informed and believes Kimco/Maersk interrupted the aggrieved employees' meal periods daily with instructions on what to do after the meal periods. Kimco/Maersk also prohibited the aggrieved employees from leaving the Hesperia Warehouse.

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Upon further information and belief, Kimco/Maersk did not pay the aggrieved employees a meal period wage in the form of an additional hour of pay for the workday on those occasions.

32. During the PAGA Period, Plaintiff is informed and believes Kimco/Maersk did not authorize or permit Plaintiff to take a second meal period when they worked 10-hours in a workday. Upon further information and belief, Kimco/Maersk did not pay the aggrieved employees a meal period wage in the form of an additional hour of pay for the workday on those occasions.

33. During the PAGA Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant rest periods. Instead, Plaintiff is informed and believes Kimco/Maersk scheduled all aggrieved employees to take a 10-minute rest period after each five hours of work. Upon further information and belief, Kimco/Maersk did not pay the aggrieved employees a rest period wage in the form of an additional hour of pay for the workday on those occasions. Plaintiff is also informed and believes that Kimco/Maersk did not authorize or permit the aggrieved employees to take restroom breaks.

34. Although Kimco/Maersk had an official "zero tolerance" policy against cell phones at work, during the PAGA Period, Plaintiff is informed and believes the aggrieved employees were actually required to use their personal cell phone for work. Upon further information and belief, Kimco/Maersk did not reimburse Plaintiff for being required to use his personal cell phone for work on those occasions.

35. Plaintiff is informed and believes Kimco/Maersk had a policy that prohibited the aggrieved employees to take restroom breaks during the PAGA Period. Plaintiff is further informed and believes that Kimco/Maersk would discipline employees up to and including termination for taking restroom breaks during their shifts.

36. Upon information and belief, Kimco/Maersk had a policy requiring all aggrieved employees to use their personal cell phones for work during the PAGA Period. Upon further information and belief, Kimco/Maersk did not reimburse the aggrieved employees for requiring them to use their personal cell phones for work.

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37. Upon information and belief, Kimco/Maersk had a policy and practice of not paying the aggrieved employees all earned but unpaid wages immediately upon termination or within 72-hours of a voluntary resignation without advance notice.

38. Upon information and belief, Kimco/Maersk had a policy and/or practice of not producing payroll records and personnel files upon request by the aggrieved employees during the PAGA Period.

ADMINISTRATIVE EXHAUSTION

39. On September 17, 2025, Plaintiff electronically notified the California Labor Workforce Development Agency ("LWDA") of Defendants' Labor Code violations during the PAGA Period and served the letter to Defendants via Certified Mail, Return Receipt Requested. (Exhibit "A" is a true and correct copy of the September 17, 2025 letter.)

40. The last day for LWDA to notify Plaintiff of its intent to investigate his claims was November 17, 2025. To date, LWDA has not communicated any intent to investigate the claims in the September 17, 2025 letter.

FIRST CAUSE OF ACTION

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

41. Plaintiff repeats and incorporates by reference all previous allegations and further alleges the following:

42. PAGA permits the California Labor Workforce Development Agency ("LWDA") to assess and collect civil penalties under PAGA for violating California's Labor Code. Alternatively, PAGA also permits an aggrieved employee like Plaintiff to recover civil penalties, in a civil action, on behalf of himself, the other aggrieved employees, and the State of California, pursuant to the procedures enumerated in Labor Code section 2699.3.

43. Under PAGA, a civil action that alleges a PAGA cause of action may be brought by an "aggrieved employee." An "aggrieved employee" is any person that was employed by the alleged violator against whom one or more of the alleged violations was committed.

44. Misclassification. Defendants violated Labor Code sections 226.8 by misclassifying Plaintiff and the aggrieved employees as independent contractors instead of employees.

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45. Minimum Wage Violations. Defendants violated Labor Code sections 1182.12, 8 CCR 11070(4), and MW-2023 for requiring Plaintiff and the aggrieved employees to perform off-the-clock work in security screening lines before clocking-in and after clock-out each workday without any compensation during the PAGA Period.

46. Overtime Violations. Defendants violated Labor Code section 510 by not paying Plaintiff and the aggrieved employees one-and-one-half times their respective regular rates of pay when they worked more than eight hours in a workday, 40-hours in a workweek, and/or seven consecutive days in a workweek during the PAGA Period.

47. Double-Time Violations. Defendants violated Labor Code section 510 by not paying Plaintiff and the aggrieved employees twice their respective regular rates of pay when they worked more than 12-hours in a workday during the PAGA Period.

48. Meal Period Violations. Defendants violated Labor Code section 226.7, 512, 1198, 1199, and 8 CCR 11070(11) for not authorizing and/or permitting Plaintiff and the aggrieved employees to take timely, 30-minute uninterrupted duty-free meal periods after each five hours of work during the PAGA Period. Defendants further violated Labor Code sections 226.7, 512 1198, 1199, and 8 CCR 11070(11) by not paying Plaintiff and the aggrieved employees a meal period wage during the PAGA Period.

49. Rest Period Violations. Defendants violated Labor Code section 226.7, 1198, 1199, and 8 CCR 11070(12) for not authorizing and/or permitting Plaintiff and the aggrieved employees to take timely, 10-minute uninterrupted duty-free rest periods after each four hours of work or major fraction thereof during the PAGA Period. Defendants further violated Labor Code sections 226.7, 1198, 1199, and 8 CCR 11070(12) by not paying Plaintiff and the aggrieved employees a rest period wage during the PAGA Period.

50. Failure to Pay Wages Due Upon Separation. Defendants violated Labor Code sections 201-203 because Defendants failed and/or refused to timely pay Plaintiff and the aggrieved employees all of their earned but unpaid wages upon termination and/or voluntary resignation during the PAGA Period.

LAW OFFICE OF SHAFIEL A. KARIM, P.C.
1154 EAST WARDLOW ROAD
LONG BEACH, CALIFORNIA 90807

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1154 EAST WARDLOW ROAD
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51. Failure to Reimburse Necessary Business Expenses. Defendants violated Labor Code sections 2800-2802 because Defendants failed and/or refused to reimburse Plaintiff and the aggrieved employees for all necessary business expenses, including but not limited to necessary business expenses associated with personal cell phone usage for work purposes, that Plaintiff and/or the aggrieved employees incurred on behalf of Defendants during the PAGA Period.

52. Willful Failure to Maintain Records. Defendants violated Labor Code section 1174 because Defendants willfully failed and/or refused to maintain accurate payroll records for Plaintiff and the aggrieved employees during the PAGA Period.

53. Failure to Produce Payroll Records. Defendants violated Labor Code section 226 by failing and/or refusing to timely produce Plaintiff's and/or the aggrieved employees' respective payroll records upon request during the PAGA Period.

54. Failure to Produce Personnel File. Defendants violated Labor Code section 1198.5 by failing and/or refusing to timely produce Plaintiff's and/or the aggrieved employees' respective personnel file upon request during the PAGA Period.

55. Wage Statement Violations. Defendants violated Labor Code section 226 by failing and/or refusing to furnish Plaintiff and the aggrieved employees with accurate and sufficiently itemized wage statements during the PAGA Period. During the PAGA Period, Plaintiff, and upon information and belief, the aggrieved employees were confused by Defendants' inaccurate and insufficiently itemized wage statements.

56. Defendants' myriad Labor Code violations make it liable to Plaintiff and the aggrieved employees for civil penalties under PAGA.

57. Plaintiff complied with PAGA's administrative exhaustion requirements. LWDA did not investigate Plaintiff's claims within the PAGA statutory period. Defendants failed to cure and provide notice within the PAGA statutory period.

58. Defendants are liable to Plaintiff and the aggrieved employees for civil penalties under PAGA for the Labor Code violations alleged in the Complaint.

59. Plaintiff seeks civil penalties in the amounts set forth in each statute allegedly violated in the Complaint, for all statutes that lack a specified penalty, and seeks default penalties under PAGA.

60. Plaintiff also seeks an award of reasonable attorney's fees and costs in connection with his claims for civil penalties under PAGA.

PRAYER FOR RELIEF

61. Plaintiff requests the following:

A. Civil penalties in an amount to be proven at trial;

B. Accrued interest at the maximum legal rate in an amount to be proven at trial;

C. Reasonable attorney's fees and costs;

D. All other remedies this Court deems just and proper.

LAW OFFICE OF SHAFIEL A. KARIM, P.C.

Date: November 18, 2025

Shafiel A. Karim

Attorney for Plaintiff Daniel Villa, an individual, on behalf of himself and all others aggrieved employees and the State of California pursuant to the Private Attorney General Act of 2004

LAW OFFICE OF SHAFIEL A. KARIM, P.C.
1154 EAST WARDLOW ROAD
LONG BEACH, CALIFORNIA 90807

EXHIBIT "A"

LAW OFFICE OF
SHAFIEL A. KARIM, P.C.

SHAFIEL A. KARIM*
D (562) 653-6850

September 17, 2025

Labor & Workforce Development Agency
Attention: PAGA Administrator
151 Clay Street, Suite 801
Oakland, California 94612

VIA ELECTRONIC SUBMISSION

Re: Daniel Villa's Claims Against Employer Under Private Attorney General Act (Cal. Lab. Code §§ 2698, et seq.)

Dear Sir or Madam:

We represent Daniel Villa in connection with his employment law claims against Kimco Staffing Services, Inc. ("Kimco") and Maersk Warehousing & Distribution Services USA LLC ("Maersk") from on or around July 24, 2024 to on or around January 6, 2025 ("Employment Period"). This letter is notice to Labor Workforce Development Agency ("LWDA") of Mr. Villa's claims under Labor Code section 2699.3(a). If LWDA elects not to investigate Mr. Villa's claims, he will seek civil penalties against Kimco on behalf of himself, the aggrieved employees, and the State of California under Labor Code sections 201-203, 226, 226.7, 512, 1182.12, 1194, 1197.1, 1198.5, 1199, 2698, 2802.

Kimco/Maersk blatantly disregarded the Labor Code and IWC Wage Order No. 7-2001. Kimco/Maersk is liable to Mr. Villa, the aggrieved employees, and the State of California under the Private Attorney General Act of 2004 (Cal. Lab. Code §§ 2698, et seq.)("PAGA") for civil penalties unless LWDA enforces the Labor Code. Mr. Villa intends to seek civil penalties, accrued interest, attorney's fees and costs, and all other relief recoverable under PAGA, on behalf of himself, all aggrieved employees, and the State of California.

If Kimco/Maersk has not availed of its right to cure its blatant Labor Code violations "more than three times in a 12-month period for the same violations or violations contained in this notice," this notice is also intended to permit Kimco/Maersk to cure its myriad blatant violations of the Labor Code under Labor Code section 2699.3(c)(2)(A). (See Cal. Lab. Code § 2699.3(c)(2)(B).)

1154 E. WARDLOW RD.
LONG BEACH, CA 90807
T (562) 653-6850 F (562) 285-9990
E SHAFIEL@SKARIMLAW.COM
SKARIMLAW.COM

1. Parties

a. Kimco Staffing Services, Inc.

Kimco is a California corporation with a principal place of business located at 17872 Cowan Irvine, California 92614. KSSI's agent for service of process is C T Corporation System located at 330 North Brand Boulevard, Suite 700, Glendale, California 91203. Upon information and belief, Kimco and Maersk jointly employed approximately 700 aggrieved employees at 8140 Caliente Road, Hesperia, California 92344 during the relevant time period.

b. Maersk Warehousing & Distribution Services USA LLC

Maersk is a Delaware limited liability company with a principal place of business located at 180 Park Avenue, Florham Park, New Jersey, 07932. Upon information and belief, Maersk operates a large warehouse located at 8140 Caliente Road, Hesperia, California 92344. Upon further information and belief Maersk and Kimco jointly employed approximately 700 aggrieved employees at 8140 Caliente Road, Hesperia, California 92344 during the relevant time period.

2. Statement of Facts

a. Individual Allegations

Kimco and Maersk jointly employed Mr. Villa as a Cherry Pick Operator during the Employment Period as a non-exempt employee. Mr. Villa was assigned to work at the warehouse located at 8140 Caliente Road, Hesperia, California 92344 ("Hesperia Warehouse"). Mr. Villa's reported to Kimco/Maersk Operations Manager, Joseph Avila.

Mr. Villa's initial rate of pay was $22.50 per hour. But Kimco paid Mr. Villa $22.00 per hour. Kimco/Maersk assigned Mr. Villa to work Sunday through Thursday from 3:30 p.m. to 11:00 p.m. each workday. Mr. Villa was responsible for operating a standing cherry picker forklift and barcode scanner to process and fulfill Amazon.com orders at the Hesperia Warehouse.

During the Employment Period, Mr. Villa was required to clock-in *after* he was screened by Kimco/Maersk security upon entering the Hesperia Warehouse. Mr. Villa is informed and believes he spent five to 10 minutes each workday in security screening lines *before* he was able to clock-in each workday. Kimco/Maersk did not pay Mr. Villa for the off-the-clock waiting time he spent in the security lines *before* he was able to clock-in each workday.

Similarly, during the Employment Period, Mr. Villa was also required to clock-out *before* he was screened by Kimco/Maersk security again when he exited the Hesperia Warehouse. Mr. Villa is informed and believes he spent five to 10 minutes each workday in the security lines *after* he clocked-out each workday. Kimco/Maersk did not pay Mr. Villa for the off-the-clock waiting time he spent in the security lines *after* he already clocked-out each workday.

During the Employment Period, Kimco/Maersk scheduled Mr. Villa to work more than eight hours in a workday, 40-hours in a workweek, and occasionally seven consecutive days in a workweek. For example, in or around August and September 2024, Mr. Villa worked 14 consecutive days but Kimco/Maersk did not pay him overtime pay (i.e., one-and-one-half times his regular rate of pay) for those workdays. Mr. Villa also routinely worked more than eight hours in a workday three workdays each workweek from in or around August to September 2024. But Mr. Villa was not paid overtime pay for those workdays either. Additionally, Mr. Villa worked more than 12-hours in a workday approximately two workdays each workweek from in or around August to September 2024; Kimco/Maersk did not pay Mr. Villa double-time on those occasions.

During the Employment Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant meal periods. Instead, Kimco/Maersk scheduled all aggrieved employees to take a 30-minute rest period *after each six hours* of work. Kimco/Maersk also interrupted his meal periods daily with instructions on what to do after the meal period. Worse, Kimco/Maersk prohibited Mr. Villa from leaving the Hesperia Warehouse. Yet, Kimco/Maersk did not pay Mr. Villa a meal period wage in the form of an additional hour of pay for the workday on those occasions.

Furthermore, Kimco/Maersk did not authorize or permit Mr. Villa to take a *second* meal period when he worked 10-hours in a workday. Kimco/Maersk did not pay

Mr. Villa a meal period wage in the form of an additional hour of pay for the workday on those occasions.

During the Employment Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant rest periods. Mr. Villa was not authorized or permitted to take an uninterrupted 10-minute duty-free rest period after each four hours of work. Instead, Kimco/Maersk scheduled all aggrieved employees to take a 10-minute rest period *after* each five hours of work. Kimco/Maersk did not pay Mr. Villa a rest period wage in the form of an additional hour of pay for the workday on those occasions.

Kimco/Maersk also did not authorize or permit Mr. Villa to take restroom breaks. In or around October 2024, Mr. Villa notified Mr. Avila that he needed use the restroom before his scheduled rest period. Mr. Avila informed Mr. Villa that Kimco/Maersk prohibits restroom use during workhours, that Mr. Villa needs to clock-out to use the restroom, and that if Mr. Villa actually clocked-out to use the restroom, Mr. Villa would be terminated.

Although Kimco/Maersk had an official "zero tolerance" policy against cell phones at work, during the Employment Period, Mr. Villa was actually *required* to use his personal cell phone *for work*. For instance, Mr. Avila and other Kimco/Maersk supervisors would send Mr. Villa a text message to his personal cell phone instructing Mr. Villa to report to the Hesperia Warehouse receiving area. Kimco/Maersk did not reimburse Mr. Villa for being required to use his personal cell phone for work on those occasions.

During the Employment Period, Kimco/Maersk paid Mr. Villa weekly every Thursday morning. However, Kimco/Maersk did not provide Mr. Villa with any paystub. As a result, Mr. Villa was confused about how Kimco/Maersk computed his wages and hours each pay period. Specifically, Mr. Villa was confused about Kimco/Maersk calculated Mr. Villa's various rates of pay including his regular rate of pay, overtime rate of pay, double-time rate of pay, and meal and rest period wages.

In or around late December 2024, Mr. Villa injured himself on-the-job at the Hesperia Warehouse. On or around January 6, 2025, Mr. Villa returned to work as scheduled. Shortly thereafter, Kimco/Maersk informed Mr. Villa that he was terminated and that Kimco/Maersk would not accommodate his injury despite the fact that he was cleared to work that day. To make matters worse, Kimco/Maersk did not pay Mr. Villa for the 10 hours of earned but unpaid wages that he accrued as of on or around January 6, 2025. To-date, Kimco/Maersk has not paid Mr. Villa all of his earned but unpaid wages, inclusive of all off-the-clock wages, overtime wages, double-time wages, and meal and rest period wages.

Finally, on July 14, 2025, through counsel, Mr. Villa requested copies of his payroll records and personnel file from Kimco via Certified Mail, Return Receipt Requested. The United States Postal Service delivered Mr. Villa's written request for his payroll records and personnel file on July 17, 2025. Kimco's last day to produce Mr. Villa's payroll records and personnel file was August 4, 2025 and August 18, 2025, respectively. To-date, Kimco has failed and/or refused to produce any of Mr. Villa's payroll records and/or personnel file.

b. Aggrieved Employee Allegations

Mr. Villa is informed and believes that from September 15, 2024 to the present ("PAGA Period") Kimco/Maersk employed approximately 700 aggrieved employees at the Hesperia Warehouse.

During the PAGA Period, Mr. Villa is informed and believes the aggrieved employees were required to clock-in *after* they were screened by Kimco/Maersk security upon entering the Hesperia Warehouse. Mr. Villa is informed and believes each aggrieved employee spent five to 10 minutes each workday in security screening lines *before* they were able to clock-in each workday. Upon information and belief, Kimco/Maersk did not pay the aggrieved employees for the off-the-clock waiting time they spent in the security lines *before* they were able to clock-in each workday.

Similarly, during the PAGA Period, Mr. Villa is informed and believes the aggrieved employees were also required to clock-out *before* they were screened by Kimco/Maersk security again when they exited the Hesperia Warehouse. Mr. Villa is informed and believes they spent five to 10 minutes each workday in the security lines *after* they clocked-out each workday. Kimco/Maersk did not pay the aggrieved employees for the off-the-clock waiting time they spent in the security lines *after* they already clocked-out each workday.

During the PAGA Period, Mr. Villa is informed and believes the aggrieved employees worked more than eight hours in a workday, 40-hours in a workweek, and occasionally seven consecutive days in a workweek. Upon further information and belief, the aggrieved employees were not paid overtime pay for those workdays. Additionally, Mr. Villa is informed and believes the aggrieved employees worked more than 12-hours in a workday; Kimco/Maersk did not pay the aggrieved employees double-time on those occasions.

During the PAGA Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant meal periods. Instead, Mr. Villa is informed and believes Kimco/Maersk scheduled all aggrieved employees to take a 30-minute rest period *after each six hours* of work. Mr. Villa is also informed and believes Kimco/Maersk interrupted the aggrieved employees' meal periods daily with instructions on what to do after the meal periods. Kimco/Maersk also prohibited the aggrieved employees from leaving the Hesperia Warehouse. Upon further information and belief, Kimco/Maersk did not pay the aggrieved employees a meal period wage in the form of an additional hour of pay for the workday on those occasions.

During the PAGA Period, Mr. Villa is informed and believes Kimco/Maersk did not authorize or permit Mr. Villa to take a *second* meal period when they worked 10-hours in a workday. Upon further information and belief, Kimco/Maersk did not pay the aggrieved employees a meal period wage in the form of an additional hour of pay for the workday on those occasions.

During the PAGA Period, Kimco/Maersk had a policy that prohibited all aggrieved employees to take compliant rest periods. Instead, Mr. Villa is informed and believes Kimco/Maersk scheduled all aggrieved employees to take a 10-minute rest period *after* each five hours of work. Upon further information and belief, Kimco/Maersk did not pay the aggrieved employees a rest period wage in the form of an additional hour of pay for the workday on those occasions. Mr. Villa is also informed and believes that Kimco/Maersk did not authorize or permit the aggrieved employees to take restroom breaks.

Although Kimco/Maersk had an official "zero tolerance" policy against cell phones at work, during the PAGA Period, Mr. Villa is informed and believes the aggrieved employees were actually *required* to use their personal cell phone *for work*.

Upon further information and belief, Kimco/Maersk did not reimburse Mr. Villa for being required to use his personal cell phone for work on those occasions.

Mr. Villa is informed and believes Kimco/Maersk had a policy that prohibited the aggrieved employees to take restroom breaks during the PAGA Period. Mr. Villa is further informed and believes that Kimco/Maersk would discipline employees up to and including termination for taking restroom breaks during their shifts.

Upon information and belief, Kimco/Maersk had a policy requiring all aggrieved employees to use their personal cell phones for work during the PAGA Period. Upon further information and belief, Kimco/Maersk did not reimburse the aggrieved employees for requiring them to use their personal cell phones for work.

Upon information and belief, Kimco/Maersk had a policy and practice of not paying the aggrieved employees all earned but unpaid wages immediately upon termination or within 72-hours of a voluntary resignation without advance notice.

Upon information and belief, Kimco/Maersk had a policy and/or practice of not producing payroll records and personnel files upon request by the aggrieved employees during the PAGA Period.

3. Joint Employer Liability

An "employer" includes "any person…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 employee." (8 CCR 11070(2)(H).) The term "employer" is broadly construed under federal law and allows for multiple persons to be liable for unpaid wages and penalties. (Cal. DLSE Man. § 37.1.2; *Real v. Driscoll Strawberry Assoc.* (9th Cir. 1979) 603 F.2d 748, 754 (wage claim against joint employer decided under federal wage and hour laws).)

In California, the term "employer" is even more broadly construed because the Labor Code is more protective than federal wage and hour laws. That is because "[t]he language of the IWC's 'employer' definition has the obvious utility of reaching situations in which multiple entities control different aspects of the employment relationship, as when one entity, which hires and pays workers, places them with other entities that supervise the work." (*Martinez v. Coombs* (2010) 49 Cal. 4th 35, 59; see, also *Guerrero v. Superior Court* (2013) 213 Cal. App. 4th 912, 945-47 (employer includes person who merely controls the "power of the purse" and exercises "quality control authority.").) A person is an "employer" if it exercises "control" over the worker. (*Vernon v. State of California* (2004) 116 Cal. App. 4th 114, 126.)

Moreover, Labor Code section 558.1 imposes liability for the employer and "any other person acting on behalf of an employer who violates, or causes to be violated, a section of…[the Labor Code]...." "Such a person is personally liable for overtime, meal period, rest period, and reporting time wages." (Cal. DLSE Man. § 37.1.4.) Additionally, he or she would also be liable to the employee for minimum wage restitution, liquidated damages, and waiting time penalties. (Cal. Lab. Code § 1197.1.) Labor Code section 2810.3 imposes joint liability on a "client employer," which is any person with a workforce of 25 or more workers who were either directly hired or obtained from or provided by one or more labor contractors.

Here, Kimco/Maersk controlled Mr. Villa's wages, hours, and working conditions during the Employment Period. In particular, Kimco/Maersk set Mr. Villa's rates of pay and work schedule each workday and workweek. Kimco/Maersk also controlled Mr. Villa's performance of job duties at the Hesperia Warehouse. Mr. Villa was required to use Kimco/Maersk's cherry picker forklift at the Hesperia Warehouse. Mr. Villa was prohibited from leaving the Hesperia Warehouse and was not authorized or permitted to take meal, rest and/or restroom breaks without Kimco/Maersk's authorization and permission.

4. **Labor Code Violations**

   a. **Failure to Pay At Least Minimum Wages in Violation of Cal. Lab. Code §§ 1182.12 and IWC Wage Order MW-2001**

"The minimum wage for employees…is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful." (Cal. Lab. Code § 1197.) If an employer pays an employee less than the applicable minimum wage, it is liable for civil penalties of $100 "for each underpaid employee for each pay period for which the employee is underpaid" and $250 "for each underpaid employee for each [subsequent] pay period for which the employee is underpaid." (Cal. Lab. Code § 1197.1(a).)

The minimum wage for employers was $13 to $14 per hour in 2021 and $14 to $15 per hour beginning January 1, 2022. Cal. Lab. Code § 1182.12(b)(1). An employer that pays an employee less than the applicable statutory minimum wage is liable for "the full amount of…minimum wage or overtime compensation, including interest…reasonable attorney's fees, and costs of suit." (Cal. Lab. Code § 1194.) Such employees are also entitled to recover liquidated damages "in an amount equal to the wages unlawfully unpaid and interest thereon." (Cal. Lab. Code § 1194.2(a).)

Here, during the PAGA Period, Mr. Villa and the aggrieved employees were required to go through security screening lines (1) *before* they were able to clock-in each workday and (2) *after* they clocked-out each workday without any compensation. (*Huerta v. CSI Electrical Contractors* (2024) 15 Cal. 5th 908, 916 (employee's time spent on employer's premises awaiting employer-mandated exit procedure compensable); *Frlekin v. Apple Inc.* (2020) 8 Cal. 5th 1038, 1046.)

b. Failure to Pay Overtime Pay in Violation of Cal. Lab. Code § 510 and IWC Wage Order No. 7-2001

If an employee works more than eight hours in a workday, 40-hours in a workweek, or seven consecutive days in a workweek, the employee is entitled to overtime compensation in the form of one and one-half times his or his regular rate of pay. (Cal. Lab. Code § 510(a); 8 CCR 11070(3)(A)(1)(a).) If an employee works more than twelve hours in a workday, that employee is entitled to twice their regular rate of pay. (Cal. Lab. Code § 510(a); 8 CCR 11070 (3)(A)(1)(b).)

Here, Mr. Villa and the aggrieved employees worked more than eight hours each workday, 40-hours each workweek, and sometimes seven consecutive days each workweek during the PAGA Period. Additionally, Mr. Villa and the aggrieved employees were required to go through the Kimco/Maersk mandatory entry and exit security screen off-the-clock. That off-the-clock time was in addition to the full-time work performed by Mr. Villa and the aggrieved employees, thus triggering overtime pay. However, Mr. Villa is informed and believes that neither he nor the aggrieved employees were paid the applicable overtime rate of pay for those occasions.

c. Failure to Pay Double-Time Pay in Violation of Cal. Lab. Code § 510 and IWC Wage Order No. 7-2001

If an employee works more than 12-hours in a workday, the employee is entitled to overtime compensation in the form of one and one-half times his or his regular rate of pay. (Cal. Lab. Code § 510(a); 8 CCR 11070 (3)(A)(1)(a).) If an employee works more than twelve hours in a workday, that employee is entitled to twice their regular rate of pay. (Cal. Lab. Code § 510(a); 8 CCR 11070(3)(A)(1)(b).)

Here, Mr. Villa and the aggrieved employees occasionally worked more than 12-hours in a workday during the PAGA Period. Additionally, Mr. Villa and the aggrieved employees were required to go through the Kimco/Maersk mandatory entry and exit security screen off-the-clock. That off-the-clock time was in addition to the full-time and overtime work performed by Mr. Villa and the aggrieved employees, thus triggering double-time pay. However, Mr. Villa is informed and believes that neither he nor the aggrieved employees were paid the applicable double-time rate of pay for those occasions.

d. Failure To Authorize Or Permit Meal Breaks In Violation Of Cal. Lab. Code §§ 226.7, 512 And 1198, And IWC Wage Order No. 7-2001

"The employment of any employee for longer hours than those fixed [by law]…is unlawful." (Cal. Lab. Code § 1198.) "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…." (Cal. Lab. Code § 512(a).) During a meal break, employers must relieve employees of all work. (Cal. Lab. Code § 226.7(b); 8 CCR 11070(11); *Brinker Restaurant Corp v. Superior Court* (2012) 53 Cal. 4th 1004, 1035-36; *In re Dear Mr. Rosenberg*, 1988 Cal. DLSE LEXIS 21 (Cal. DLSE, Jan. 5, 1988).) If an employee works during a meal period, that employee is entitled to "one additional hour of pay at the employee's regular rate of compensation for each workday that the meal…period is not provided." (Cal. Lab. Code § 226.7(c); *Brinker Restaurant Corp.*, 53 Cal. 4th at 1039-40.)

Here, Mr. Villa and the aggrieved employees were not authorized or permitted to take a 30-minute meal period after *six* hours of work instead of the legally mandated *five* hours of work during the PAGA Period. Mr. Villa and the aggrieved employees were also not authorized or permitted to take a second meal period after working *ten* hours. Additionally, Mr. Villa and the aggrieved employees were not permitted or authorized to leave the Hesperia Warehouse. (*See Estrada v. Royalty Carpet Mills, Inc.* (2022) 76 Cal. App. 5th 685, 705 (employer's meal period policy that prohibits employees from leaving premises non-compliant) citing *Brinker Restaurant Corp.*, 53 Cal. 4th at 1036-1037.)

e. Failure To Authorize Or Permit Rest Breaks In Violation Of Cal. Lab. Code §§ 226.7, 1198 And 1199, And IWC Wage Order No. 7-2001

"The employment of any employee for longer hours than those fixed [by law]…is unlawful." Cal. Lab. Code § 1198. Employers must authorize and permit employees a 10-minute uninterrupted paid rest break after four hours of work. 8 CCR 11070(12)(A). Specifically, employers must "relieve employees of all work-related duties and employer control" during an employee's rest break. *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 270. If an employer fails to authorize or permit an employee from taking their mandatory rest period, that employee is entitled to "one additional hour of pay at the employee's regular rate of compensation for each workday that the…rest…period is not provided." Cal. Lab. Code § 226.7(c).

Here, Mr. Villa and the aggrieved employees were not authorized or permitted to take a 30-minute meal period after *five* hours of work instead of the legally mandated *four* hours of work or major fraction thereof during the PAGA Period. Additionally, Mr. Villa and the aggrieved employees were not permitted or authorized to leave the Hesperia Warehouse. (*See Estrada v. Royalty Carpet Mills, Inc.* (2022) 76 Cal. App. 5th 685, 705 (employer's meal period policy that prohibits employees from leaving premises non-compliant) citing *Brinker Restaurant Corp.*, 53 Cal. 4th at 1036-1037.)

f. Failure to Furnish Accurate or Itemized Wage Statements in Violation Of Cal. Lab. Code § 226 And IWC Wage Order No. 7-2001

Employers must furnish accurate and itemized wage statements to employees semimonthly or at the time of payment of wages. (Cal. Lab. Code § 226(a); 8 CCR 11070(7).) A proper wage statement must enumerate, *inter alia*, gross wages earned and total hours worked. Id. Failure to furnish accurate and itemized wage statements entitles an employee to recover $50 for the first violation, $100 for each subsequent violation, up to a maximum penalty of $4,000 plus attorney's fees and costs. (Cal. Lab. Code §§ 226(e)(1) and 218.5; 8 CCR 11070(7); *Elliot v. Spherion Pac. Work, LLC*, 572 F. Supp. 2d 1169, 1181 (C.D. Cal. Aug. 13, 2008)(Labor Code section 226 is intended to prevent employee confusion about wages).)

Here, Kimco/Maersk did not furnish wage statements to Mr. Villa and the aggrieved employees during the PAGA Period. Specifically, Mr. Villa is informed and believes that their wage statements did not accurately and sufficiently itemize the uncompensated time spent in Kimco/Maersk's security screening lines. Mr. Villa is further informed and believes that Kimco/Maersk did not accurately and sufficiently itemize all overtime, double-time, meal period, and rest period wages. Additionally, Mr. Villa is informed and believes that Kimco/Maersk did not accurately and sufficiently calculate their respective rates of pay correctly because all overtime, double-time, meal period, and rest period wages were not considered.

g. Failure to Pay All Earned But Unpaid Wages Upon Separation of Employment in Violation of Cal. Lab. Code §§ 201 and 203

"If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." (Cal. Lab. Code § 201(a).) Failure to pay all wages earned and unpaid at the time of discharge will "continue" for 30 days. (Cal. Lab. Code § 203(a).) Specifically, the continued unpaid wages or waiting time penalties "accrue not only on the days that the employee might have worked, but also on nonworkdays." (*Mamika v. Barca* (1998) 69 Cal. App. 4th 487, 492-493.) Waiting time penalties are computed by calculating the daily rate of pay "multiplied by the number of days of nonpayment, up to 30 days." (*Id.*)

The purpose and intent of Labor Code sections 201 and 203 "is to compel the prompt payment of earned wages." (*Oppenheimer v. Sunkist Growers, Inc.* (1957) 153 Cal. App. 2d Supp. 897, 898-99.) More specifically, "The object of the statutory plan is to encourage employers to pay amounts concededly owed by him to his discharged or terminated employee without undue delay and to hasten settlement of disputed amounts." (*Triad Data Services, Inc. v. Jackson* (1984) 153 Cal. App. Supp. 1, 11.)

Here, Kimco/Maersk terminated Mr. Villa on or around January 8, 2025. Kimco/Maersk did not pay Mr. Villa all of his earned but unpaid wages including the time spent in security screening lines or all of his overtime, double-time, meal period, and rest period wages immediately upon termination. Mr. Villa is informed and believes that a subset of aggrieved employees who separated from Kimco/Maersk were also not paid all of their earned but unpaid wages immediately upon termination or within 72-hours of voluntarily resignation.

h. Failure to Reimburse Necessary Business Expenses In Violation Of Cal. Lab. Code § 2802 And IWC Wage Order No. 1-2001

Employers are required to indemnify employees for all necessary business expenses incurred on behalf of the employer. (Cal. Lab. Code § 2802.) For example, employers are required to reimburse an employee's use of his or cell phone for work. (*Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal. App. 4th 1137, 1140.) An employer must even reimburse an employee for using his or cell phone for work even if the employee has unlimited cell phone minutes or data. (*Tehrani v. Macy's W. Stores, Inc.*, 2016 U.S. Dist. LEXIS 51713 at *24-25 (C.D. Cal. Apr. 18, 2016).)

Here, Kimco/Maersk required Mr. Villa to use his personal cell phone for work. In particular, Kimco/Maersk required that Mr. Villa use his personal cell phone to send and text messages related to work during the PAGA Period. Kimco/Maersk did not reimburse Mr. Villa for using his cell phone on these occasions. Mr. Villa is also informed and believes that Kimco/Maersk required the aggrieved employees to use their personal cell phones for work and that Kimco/Maersk did not reimburse them either.

i. Failure to Maintain Accurate Payroll Records in Violation of Cal. Lab. Code § 1174 and IWC Wage Order No. 7-2001

Employers must keep accurate payroll records of, *inter alia*, total hours worked and applicable rates of pay, and meal periods. (Cal. Lab. Code § 1174(c); 8 CCR 11070(7)(A).) Accurate payroll records "facilitates…information-gathering" and is "necessary for the employees' welfare." (*Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal. 4th 557, 577; *California Manufacturers Assn. v. Industrial Welfare Com.* (1980) 109 Cal. App. 3d 95, 112.) An employer's failure to maintain accurate payroll is a misdemeanor punishable by a $500 civil penalty. Cal. Lab. Code §§ 1175(d) and 1174.5. This is so because an employer's failure to maintain accurate payroll records "affects a broad public interest." (*Gould v. Maryland South Industries, Inc.* (1995) 31 Cal. App. 4th 1137, 1148-49.)

Here, Mr. Villa is informed and believes Kimco/Maersk willfully failed to maintain accurate payroll records for himself and the aggrieved employees during the PAGA Period. In particular, Mr. Villa is informed that Kimco/Maersk willfully turned a blind eye to the fact that Mr. Villa and the aggrieved employees spent off-the-clock compensable time in security screening lines and were not paid overtime, double-time, meal period, and rest period wages pursuant to California law.

j. Failure To Produce Payroll Records in Violation Of Cal. Lab. Code § 226

"An employer who receives a written or oral request to inspect or receive a copy of records…shall comply…no later than 21 calendar days from the date of the request." (Cal. Lab. Code § 226(c).) An employer that fails or refuses to comply with a payroll records request is liable for a $750 statutory penalty to the requesting employee. (Cal. Lab. Code § 226(f).)

Here, Mr. Villa requested copies of his payroll records file from Kimco via Certified Mail, Return Receipt Requested on July 14, 2025. The United States Postal Service delivered Mr. Villa's written request for his payroll records on July 17, 2025. Kimco's last day to produce Mr. Villa's payroll records was August 4, 2025. To-date, Kimco has failed and/or refused to produce any of Mr. Villa's payroll records.

Mr. Villa is informed and believes Kimco/Maersk received similar requests for payroll records from a subset of the aggrieved employees during the PAGA Period. Mr. Villa is further informed and believes that Kimco/Maersk failed and/or refused to produce those requesting aggrieved employees' payroll records.

k. Failure To Produce Personnel File in Violation Of Cal. Lab. Code § 1198.5

Employers are required to make an employee's "personnel records available for inspection…not later than 30 calendar days from the date the employer receives a written request…." (Cal. Lab. Code § 1198.5(b); 1998 Cal. DLSE LEXIS 8.) Personnel records include but are not limited to "the employee's performance or to any grievance concerning the employee." (Cal. Lab. Code § 1198.5(a).) Moreover, the term "personnel record" should be construed "broadly."[1] (*Wellpoint Health Networks, Inc. v. Superior* Court (1997) 59 Cal. App. 4th 110, 124.)

If an employer fails or refuses to comply with Labor Code section 1198.5(b), the employee is entitled to "recover a…$750…penalty from the employer" and may sue to recover attorney's fees. (Cal. Lab. Code §§ 1198.5(k) and (j); *Johnson v. Winter* (1982) 127 Cal. App. 3d 435, 439 ("Labor Code section 1198.5… permit[s] an employee to inspect personnel files which are or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination except for letters of reference."); Cal. DLSE Man. § 42.1.)

Here, Mr. Villa requested copies of his personnel file from Kimco via Certified Mail, Return Receipt Requested on July 14, 2025. The United States Postal Service delivered Mr. Villa's written request for his payroll records on July 17, 2025. Kimco's last day to produce Mr. Villa's payroll records was August 18, 2025. To-date, Kimco has failed and/or refused to produce any of Mr. Villa's personnel file.

Mr. Villa is informed and believes Kimco/Maersk received similar requests for personnel files from a subset of the aggrieved employees during the PAGA Period. Mr. Villa is further informed and believes that Kimco/Maersk failed and/or refused to produce those requesting aggrieved employees' personnel files.

l. PAGA Civil Penalties

An employer that violates a provision of the Labor Code is guilty of a misdemeanor punishable by a $100 fine. Cal. Lab. Code § 1199. PAGA imputes a civil penalty of $100 for each aggrieved employee per pay period for the initial Labor Code violation and $200 per each aggrieved employee for each subsequent violation. Cal. Lab. Code § 2699(f)(2). Moreover, an employee who asserts PAGA claims in a representative

[1] The terms "and" and "or" should be construed in the inclusive sense, either disjunctively or conjunctively, as necessary to bring, within the scope of this request, any information that may otherwise be construed to be outside its scope. The term "each" includes "every" and vice versa. The terms "a," "an," and "any" include "all," and "all" includes "a," "an," and "any."

capacity is entitled to recover reasonable attorney's fees and costs. Cal. Lab. Code § 2699(g); *see*, *also* Cal. Lab. Code § 218.5.

For the foregoing reasons, Kimco/Maersk has violated Labor Code sections 201-203, 226, 226.7, 512, 1182.12, 1194, 1197.1, 1198.5, 1199, 2698, 2802 and is liable to Mr. Villa and the aggrieved employees for civil penalties and fines recoverable under PAGA and the Labor Code.

***

Please review Mr. Villa's notice and act against Kimco/Maersk as soon as possible. If LWDA declines to act against Kimco/Maersk, please notify this office so that Mr. Villa may seek civil penalties, accrued interest, attorney's fees and costs, and all other relief recoverable under PAGA on behalf of herself, all aggrieved employees, and the State of California.

Sincerely,

LAW OFFICE OF SHAFIEL A. KARIM, P.C.

Shafiel A. Karim
Attorney at Law

cc: Kimco Staffing Services, Inc.
Maersk Warehousing & Distribution Services USA LLC
(via Certified Mail, Return Receipt Requested)
c/o C T Corporation System
330 North Brand Boulevard, Suite 700
Glendale, California 91203

Daniel Villa (via email only)

File No. 3206.1

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:	FOR COURT USE ONLY
Shafiel A. Karim Law office of Shafiel A. Karim 1154 E. Wardlow Rd. Long Beach, CA 90807 TELEPHONE NO.: 562/246-5371 FAX NO. *(Optional)*: E-MAIL ADDRESS *(Optional)*: shafiel@skarimlaw.com ATTORNEY FOR *(Name)*: Daniel Villa	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: Daniel Villa RESPONDENT/DEFENDANT: Kimco Staffing Services, Inc.	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER:

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action.** I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:

   Po Box 91985, Long Beach CA 90809

3. On *(date)*: 09/17/25 I mailed from *(city and state)*: Long Beach, CA
   the following **documents** *(specify)*:

   Paga Notice Letter

   ☐ The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and *(check one)*:
   a. ☐ **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
   b. ☒ **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
   a. **Name** of person served: Kimco Staffing Services, Inc.
   b. **Address** of person served: Maersk Warehousing & Distribution Services USA LLC
   c/o C T Corporation System
   330 North Brand Boulevard, Suite 700
   Glendale, California 91203

   ☐ The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Sept. 17 2025

Maria Garcia
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

Maria Garcia
(SIGNATURE OF PERSON COMPLETING THIS FORM)

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Kimco Staffing Services, Inc.
Maersk Warehousing & Distribution Services USA LLC
c/o C T Corporation System
330 North Brand Blvd.
Suite 700
Glendale, CA 91203

See Reverse for Instructions

From: **LWDA DO NOT REPLY** lwdadonotreply@dir.ca.gov
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation
Date: September 17, 2025 at 10:13 AM
To: shafiel@skarimlaw.com

Thank you for your payment.

Order Information
Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-1125795-25
Submission Type: PAGA Notice
Order Number: ORD-000337548
Total:$75.00
Card Type: Visa
Date: 9/17/2025
____
Billing Information
Name: Shafiel Karim
Email: shafiel@skarimlaw.com
Billing Address:
1154 E. Wardlow Rd.
Long Beach, California
90807

From: **LWDA DO NOT REPLY** lwdadonotreply@dir.ca.gov
Subject: Thank you for submission of your PAGA Case.
Date: September 17, 2025 at 10:13 AM
To: shafiel@skarimlaw.com

9/17/2025

LWDA Case No. LWDA-CM-1125795-25
Law Firm : Law Office of Shafiel A. Karim, P.C.
Plaintiff Name : Daniel Villa
Employer: Kimco Staffing Services, Inc.
Filing Fee : $75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

Please note that a PAGA Notice is not a complaint within the meaning of Division 5 (Labor Code §§6300 et seq.). To file a complaint about workplace safety and health hazards with Cal/OSHA, please visit: https://www.dir.ca.gov/dosh/complaint.htm

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm