

MANAHAN O'DELL LLP

Amanda E. Manahan (SBN 199197)

amanahan@manahanodell.com

Shaheen Anthony Etemadi (SBN 319138)

setemadi@manahanodell.com

7700 Irvine Center Drive, Suite 180

Irvine, California 92618

Tel: (949) 799-8002

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/21/2025 10:23 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By L. Leyva, Deputy Clerk

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)

phaines@haineslawgroup.com

2155 Campus Drive, Suite 180

El Segundo, California 90245

Tel: (424) 292-2350

Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SERGIO MAGANA, individually and on behalf
of all other aggrieved employees,

Plaintiff,

v.

AMERICAN RESTORE, INC.; and DOES 1
through 100, inclusive,

Defendants.

Case No. **25NWCV04153**

**REPRESENTATIVE ACTION
COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF UNDER THE
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE § 2698 *et seq.*)**

**REQUEST FOR PUBLIC INJUNCTIVE
RELIEF**

UNLIMITED CIVIL CASE

1 Plaintiff SERGIO MAGANA (“Plaintiff”), individually and on behalf of all other aggrieved
2 employees, hereby brings this Representative PAGA Complaint against AMERICAN RESTORE,
3 INC.; and DOES 1 through 100, inclusive (collectively, “Defendants”), and hereby alleges with
4 knowledge with respect to his own acts and on information and belief as to other matters as follows:

5 **INTRODUCTION**

6 1. Defendants provide restoration and waterproofing services throughout Southern
7 California, including in Los Angeles County.

8 2. Plaintiff brings this action on behalf of himself and all other current and former
9 employees of Defendants employed in California during the PAGA Period, including exempt, non-
10 exempt, and/or misclassified employees (collectively, “Aggrieved Employees”). The term “PAGA
11 Period” is defined as commencing from one year prior to the submission of Plaintiff’s notice of Labor
12 Code violations to the Labor and Workforce Development Agency (“LWDA”) and Defendants
13 through the date of final judgment.

14 3. This individual and representative action is brought under Labor Code §§ 204, 206,
15 210, 221, 223, 224, 226, 226.3, 226.7, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197,
16 1197.1, 1198, 1199, 1771, 1774, 1776, 1811, 1815, 2800, 2802, 2804, and 2810.3, Industrial Welfare
17 Commission Wage Order No. 16 (“Wage Order 16”), and Code of Civil Procedure § 1021.5.

18 4. Defendants have engaged in a systematic pattern of wage and hour violations under the
19 Labor Code. During the PAGA Period, Defendants maintained a consistent practice and policy of
20 violating state wage and hour laws by, among other things, failing to timely pay all wages (including
21 minimum, overtime, double time, and prevailing wages), failing to provide compliant meal periods or
22 compensation in lieu thereof, failing to provide compliant rest periods or compensation in lieu thereof,
23 failing to timely pay all wages due upon separation of employment, failing to provide accurate
24 itemized wage statements, and failing to maintain accurate records.

25 5. Accordingly, Plaintiff brings this individual and representative action for recovery of
26 civil penalties and injunctive relief under Labor Code §§ 2698 *et seq.*

27 **JURISDICTION AND VENUE**

28 6. This Court has jurisdiction over Defendants because, upon information and belief,

1 Defendants are citizens of California, Defendants have sufficient minimum contacts in California, or
2 otherwise intentionally avail themselves to the California market so as to render the exercise of
3 jurisdiction over them by the California courts consistent with the traditional notions of fair play and
4 substantial justice.

5 7. Venue in this County is proper under California Code of Civil Procedure § 395.5
6 because a substantial part of Defendants' unlawful conduct, acts, and omissions alleged in this
7 Complaint occurred in this County, Defendants conduct substantial business in this County, and/or
8 Defendants' liability arose in this County.

9 **PARTIES**

10 8. Plaintiff is an individual over the age of eighteen (18). Within the statute of limitations
11 periods applicable to the only cause of action pled in this Complaint, Defendants employed Plaintiff
12 as a non-exempt employee.

13 9. Defendant AMERICAN RESTORE, INC. is a California corporation. AMERICAN
14 RESTORE, INC. is, and at all relevant times was, an employer subject to California state wage and
15 hour laws. AMERICAN RESTORE, INC. is, and at all relevant times was, a licensed California public
16 works contractor. Plaintiff is informed, believes, and thereon alleges that the practices and policies
17 AMERICAN RESTORE, INC. that are complained of by way of this Complaint were implemented
18 during the PAGA Period.

19 10. Plaintiff does not know the true names or capacities, whether individual, partner, or
20 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
21 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to further
22 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and
23 believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
24 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and
25 proximately caused Plaintiff and other Aggrieved Employees to be subject to the unlawful
26 employment practices, wrongs, injuries and damages complained of herein.

27 11. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
28 herein, Defendants were and are the employers of Plaintiff and other Aggrieved Employees.

1 12. At all relevant times, each of said Defendants participated in the doing of the acts
2 hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and
3 each of them, were the agents, servants, and employees of each and every one of the other Defendants,
4 as well as the agents of all Defendants, and at all times herein mentioned were acting within the course
5 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
6 and/or otherwise ratified each and every one of the acts or omissions complained of in this Complaint.

7 13. At all times mentioned herein, Defendants, and each of them, were members of and
8 engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope
9 of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges
10 that all Defendants were joint employers for all purposes of Plaintiff and other Aggrieved Employees.

11 **GENERAL ALLEGATIONS**

12 14. Defendants did (and do) business as a waterproofing and restoration contractor.
13 Defendants employed Plaintiff in the non-exempt position of “General Laborer” (or other similarly
14 titled position) from approximately August 2019 through July 2025. Plaintiff’s primary job duties
15 included general labor, such as completing pick-ups and deliveries; dropping off materials, equipment,
16 and machinery at job sites; maintaining Defendants’ vehicles; working at Defendants’ warehouse
17 (putting orders together, cleaning the warehouse, and operating forklifts); driving Defendants’ trash
18 trailer to the city dump; and concrete restoration on private jobs and public works projects (tipping
19 floor jobs).

20 15. Defendants’ practices and policies deprived Plaintiff and other Aggrieved Employees
21 of minimum, overtime, double time, and prevailing wages. Defendants required Plaintiff and other
22 Aggrieved Employees to complete work-related tasks off the clock, such as donning and doffing
23 personal protective equipment, communicating with Defendants’ management and supervisors,
24 working through meal periods as a result of work demands (including but not limited to travel time to
25 obtain potable water which Defendants failed to provide to Plaintiff and other Aggrieved Employees
26 in violation of Labor Code §§ 1198 and 2441 and IWC Wage Order 16- 2001), and going through
27 security screenings (and/or entering a gate code) when arriving at Defendants’ public works projects.
28 On occasions when Plaintiff did not receive a compliant meal period, Defendants altered Plaintiff’s

1 time records to add a time entry or adjust the existing time entry to falsely reflect a compliant meal
2 period even though Defendants did not provide a compliant meal period. Due to Defendants'
3 timekeeping policies/practices that fail to compensate for all hours worked, Plaintiff and other
4 Aggrieved Employees were not compensated for all required minimum, overtime, double time, and
5 prevailing wages.

6 16. Defendants failed to provide Plaintiff and other Aggrieved Employees with all legally
7 compliant meal periods due to Defendants' meal period policies/practices, which have resulted in late
8 (commencing after the fifth hour of work), short (less than 30 minutes), and/or missed meal periods.
9 Specifically, Plaintiff and other Aggrieved Employees would frequently miss their meal periods due
10 to work demands and understaffing. In addition, on those occasions when Plaintiff and other
11 Aggrieved Employees were able to take a meal period, Plaintiff and other Aggrieved Employees were
12 unable to commence their meal periods until after the completion of five hours of work due to work
13 demands and understaffing. Plaintiff's meal periods were also cut short as Plaintiff and other
14 Aggrieved Employees were regularly interrupted with emergent work issues and expected to respond
15 during their meal periods. As noted above, Defendants had a policy/practice of editing/altering
16 Plaintiff's time entries to make it appear as though Plaintiff received compliant meal periods
17 notwithstanding the fact that Plaintiff often was prevented from taking a timely, full 30-minute
18 uninterrupted meal period. Due to work demands, Defendants frequently instructed Plaintiff that even
19 though he did not receive his meal period, he still had to clock out to make it appear like he received
20 a meal period. If Plaintiff did not comply, Defendants would alter his time records. Further, for at least
21 a portion of the relevant time period, Defendants failed to provide Plaintiff and other Aggrieved
22 Employees with potable water, causing Plaintiff and other Aggrieved Employees to spend time
23 obtaining potable water during their meal periods. On occasions when Plaintiff and other Aggrieved
24 Employees were provided meal periods, Defendants required Plaintiff and other Aggrieved Employees
25 to keep a cellular phone on their person to communicate with their supervisors at all times, in violation
26 of *Augustus v. ABM Security Svcs., Inc.* (2016) 2 Cal.5th 257. *Id.*, at 269 ("[O]ne cannot square the
27 practice of compelling employees to remain at the ready, **tethered by time and policy to**
28 **particular...communications devices**, with the requirement to relieve employees of all work duties

1 and employer control.”) (emphasis added). As such, Defendants failed to relinquish control over how
2 Plaintiff and other Aggrieved Employees spent their meal periods. As a result of Defendants’ meal
3 period practices and policies, Plaintiff and other Aggrieved Employees were not provided with all
4 lawful meal periods to which they were entitled. On occasions when Plaintiff and other Aggrieved
5 Employees were not provided with all lawful meal periods to which they were entitled, Defendants
6 failed to pay Plaintiff and other Aggrieved Employees an additional hour of premium pay at the regular
7 rate of pay for each workday in which a meal period violation occurred, as required by Labor Code §
8 226.7. Upon information and belief, for at least a portion of the relevant time period, Defendants failed
9 to maintain any pay code or other mechanism for the payment of meal period premiums when they
10 failed to authorize and permit Plaintiff with legally compliant meal periods.

11 17. Plaintiff and other Aggrieved Employees were not authorized and permitted to take a
12 duty free, ten-minute rest period for every 4 hours worked (or major fraction thereof) due to
13 Defendants’ rest period policies/practices. Specifically, Defendants did not authorize and permit any
14 duty-free rest periods regardless of shift length. Due to work demands, Defendants frequently told
15 Plaintiff he could not take a rest period. Further, even if Plaintiff and other Aggrieved Employees were
16 ever able to take a rest period, which Plaintiff alleges they were not, Defendants required Plaintiff and
17 other Aggrieved Employees to carry and be responsive to their cellular phones at all times while on
18 duty in violation of *Augustus*. *Id.*, 2 Cal.5th at 269 (“[O]ne cannot square the practice of compelling
19 employees to remain at the ready, **tethered by time and policy to particular...communications**
20 **devices**, with the requirement to relieve employees of all work duties and employer control during 10-
21 minute rest periods.”) (emphasis added). As such, Defendants failed to relinquish control over how
22 Plaintiff and other Aggrieved Employees spent their rest periods. Further, Defendants failed to
23 implement a compliant recovery period policy or practice. Specifically, access to shade and recovery
24 periods were not sufficiently provided to Plaintiff and other Aggrieved Employees who performed
25 construction work outdoors for Defendants during extremely hot days, especially during the summer.
26 Consequently, Plaintiff and other Aggrieved Employees did not receive paid recovery periods and did
27 not receive compensation in lieu thereof. As a result of Defendants’ rest period practices and policies,
28 Plaintiff and other Aggrieved Employees were not provided with all lawful rest periods to which they

1 were entitled. On occasions when Plaintiff and other Aggrieved Employees were not provided with
2 all lawful rest periods to which they were entitled, Defendants failed to pay Plaintiff and other
3 Aggrieved Employees an additional hour of premium pay at the regular rate of pay for each workday
4 in which a rest period violation occurred, as required by Labor Code § 226.7. Upon information and
5 belief, for at least a portion of the relevant time period, Defendants failed to maintain any pay code or
6 other mechanism for the payment of rest period premiums when they failed to authorize and permit
7 Plaintiff with legally compliant rest periods.

8 18. Defendants also required Plaintiff and other Aggrieved Employees to provide their own
9 supplies necessary to perform their job duties without reimbursing them for these necessary business
10 expenses. Specifically, Defendants required Plaintiff and other Aggrieved Employees to use their
11 personal cell phones to clock in and out for their shifts and communicate throughout the day with
12 supervisors about their work duties. Additionally, Defendants required Plaintiff and other Aggrieved
13 Employees to purchase tools and equipment necessary for their jobs, including hammers, pliers,
14 screwdrivers, tool bags, etc. Upon information and belief, Defendants never reimbursed Plaintiff and
15 other Aggrieved Employees for a reasonable portion of their cellular phone expenses or the full cost
16 of the tools and equipment necessary to perform their jobs, as mandated by *Cochran v. Schwan's*
17 *Home Service, Inc.* (2014) 228 Cal.App.4th 1137, and Labor Code § 2802.

18 19. As a result of Defendants' failure to pay minimum wages, overtime wages, double time
19 wages and prevailing wages, and meal and rest period premium wages owed, Defendants also
20 maintained inaccurate payroll records, issued inaccurate wage statements to Plaintiff and other
21 Aggrieved Employees, and failed to pay all final wages owed to Plaintiff and other Aggrieved
22 Employees upon their respective separations from employment.

23 **FIRST CAUSE OF ACTION**

24 **Civil Penalties and Injunctive Relief Under PAGA (Labor Code §§ 2698, *et seq.*)**

25 **(Against All Defendants)**

26 20. Plaintiff incorporate by reference all previous paragraphs of this Complaint as though
27 fully set forth herein.

28 21. On September 16, 2025, Plaintiff notified Defendants, via certified mail, and the

1 California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’
2 violations of the California Labor Code and Plaintiff’s intent to bring a claim for injunctive relief and
3 civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California
4 Labor Code identified in this Complaint. Now that sixty-five days have passed from Plaintiff notifying
5 Defendants of these violations, Plaintiff has exhausted the administrative requirements for bringing a
6 claim under the Private Attorneys General Act with respect to the violations alleged in this Complaint.

7 22. Defendants have committed several Labor Code violations against Plaintiff and other
8 Aggrieved Employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698
9 *et seq.*, acting on behalf of himself and other Aggrieved Employees, brings this individual and
10 representative action against Defendants to recover the civil penalties due to Plaintiff and other
11 Aggrieved Employees and the State of California according to proof, including, but not limited to: (1)
12 \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each
13 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure
14 to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial
15 violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay
16 period; (3) \$250.00 for each initial violation; and \$1,000.00 for each subsequent violation pursuant to
17 Labor Code § 226.3 per employee per pay period; and/or (4) \$100.00 for each initial violation and
18 \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor
19 Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

20 (a) Violation of Labor Code §§ 201-204, 210, 221, 223, 224, 510, 558, 1194, 1197,
21 1197.1, 1198, 1771, 1774, 1811, and 1815 for failure to timely pay all earned wages owed to Plaintiff
22 and other Aggrieved Employees during employment and upon separation of employment;

23 (b) Violation of Labor Code §§ 226.7, 516, and 558 for failing to authorize and
24 permit all required rest periods and failing to pay rest period premiums to Plaintiff and other
25 Aggrieved Employees at these employees’ respective regular rates of compensation for rest period
26 violations;

27 (c) Violation of Labor Code §§ 226.7, 512, and 558 for failing to provide meal
28 periods as required by law and failing to pay meal period premiums to Plaintiff and other Aggrieved

1 Employees at these employees' respective regular rates of compensation for meal period violations;

2 (d) Violation of Labor Code §§ 226 *et seq.* for failing to furnish Plaintiff and other
3 Aggrieved Employees with accurate and compliant itemized wage statements;

4 (e) Violation of Labor Code §§ 221, 223, and 224 for secretly paying Plaintiff and
5 other Aggrieved Employees less than the statutory or contractual rate;

6 (f) Violation of Labor Code §§ 1174, 1174.5, 1776, and 1198 for failure to
7 maintain accurate records on behalf of Plaintiff and other Aggrieved Employees;

8 (g) Violation of Labor Code §§ 2800, 2802, and 2804 for failure to reimburse
9 Plaintiff and other Aggrieved Employees for necessary business expenditures; and

10 (h) Derivative violations of Labor Code § 1199.

11 23. Under Labor Code §§ 2699(a), 2699.3, and 2699.5, Plaintiff is entitled to recover civil
12 penalties on behalf of all other Aggrieved Employees and the State of California, in addition to public
13 injunctive relief, for the alleged foregoing violations of the Labor Code.

14 24. Under Labor Code §§ 2699(g) and 2802(c) and California Code of Civil Procedure §
15 1021.5, Plaintiff is entitled to attorneys' fees and costs incurred in this action.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Plaintiff prays for judgment against Defendants, jointly and severally, as
18 follows:

19 1. For civil penalties due to Plaintiff and other Aggrieved Employees and the State of
20 California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not
21 limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for
22 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
23 failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial
24 violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay
25 period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to
26 Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00
27 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5)
28 \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period

1 for those violations of the Labor Code for which no civil penalty is specifically provided;

2 2. For appropriate injunctive relief pursuant to Labor Code § 2698 *et seq.*;

3 3. For prejudgment interest, as permitted by law;

4 4. For attorneys' fees and costs as permitted by law, including under Labor Code §§ 2698
5 *et seq.* and Code of Civil Procedure § 1021.5; and

6 5. For such other and further relief the Court may deem just and proper.

7
8 Dated: November 21, 2025

**MANAHAN O'DELL LLP / HAINES LAW
GROUP, APC**

9
10 By: *Shaheen Anthony Etemadi*

11 Shaheen Anthony Etemadi
12 Attorneys for Plaintiff
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28