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by Superior Court of California, County of San Mateo
ON 6/5/2023
By /s/ Jennifer Torres
Deputy Clerk

Attorneys for Plaintiff LUIS ALEXANDER URQUILLA as individual and on behalf of all similarly aggrieved employees.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

LUIS ALEXANDER URQUILLA as an
individual and on behalf of all similarly
aggrieved employees

Plaintiff,

v.

JOSHUA'S MOVING PACKING
SERVICES, LLC. dba JOSHUA'S MOVING
PACKING SVC & STORAGE, LLC and
DOES 1 through 50, inclusive

Defendant.

Case No.: 23-CIV-02506

COMPLAINT FOR DAMAGES.

1. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Willful Misclassification of an Individual as an Independent Contractor;
2. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
3. Violation of the Private Attorneys General Act, Labor Code §2698 et. seq. For Failure to Provide Meal Periods;
4. Violation of the Private Attorneys General Act, Labor Code §2698 et. seq. For Failure to Provide Rest Periods;
5. Violation of the Private Attorneys General Act, Labor Code §2698 et. seq. For Failure to Reimburse for Necessary Expenditures;
6. Violation of the Private Attorneys General Act, Labor Code §2698 et. seq. Failure to Keep Accurate Time Records; §2698 et. seq.;
7. Violation of the Private Attorneys General Act, Labor Code §2698 et. seq. Failure to Provide Itemized Wage Statements; and
8. Violation of the Private Attorneys General Act, Labor Code §2698 et. seq. Failure to Pay Wages Upon Ending Employment;

1 Plaintiff LUIS ALEXANDER URQUILLA ("Mr. Urquilla" or "Plaintiff") complains
2 and alleges as follows:

3 I.

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
6 who were subjected to one or more of the violations alleged herein ("Aggrieved Employees") by
7 Defendant JOSHUA'S MOVING PACKING SERVICES, LLC dba JOSHUA'S MOVING
8 PACKING SVC & STORAGE, LLC ("Defendant"). The term "RELEVANT TIME PERIOD"
9 or "TIME PERIOD" is defined as one (1) year and sixty-five (65) days prior to the filing of the
10 complaint. Plaintiff reserves the right to amend this complaint to reflect a different "Time Period"
11 as further discovery is conducted.

12 2. Plaintiff individually and on behalf of All Aggrieved Employees, seeks relief
13 against Defendant for: (1) willfully misclassifying an individual as an independent contractor (2)
14 failure to pay all wages due, including minimum, regular, and overtime wages; (3) failure to
15 provide meal periods or premium compensation in lieu thereof; (4) failure to provide rest periods
16 or premium compensation in lieu thereof; (5) failure to reimburse for necessary expenditures and
17 (6) failure to keep accurate time records; (7) failure to provide accurate itemized wage statements
18 upon payment of wages; (8) failure to pay wages due upon termination of employment.

19 3. At all relevant times herein, Defendant has consistently maintained and enforced
20 the following unlawful practices and policies against Plaintiff:

21 (a) Willfully misclassing individuals as independent contractors when they are in fact
22 employees;

23 (b) Willfully refusing to pay all hours worked, including both regular and overtime
24 wages;

25 (c) Willfully refusing to provide meal periods or compensation in lieu thereof;

26 (d) Willfully refusing to provide rest periods or providing compensation in lieu thereof;

27 (e) Willfully refusing to reimburse necessary expenditures;

28 (f) Willfully refusing to keep accurate time records;

(g) Willfully refusing to provide itemized wage statements;

(h) Willfully refusing to pay wages upon termination.

JURISDICTION AND VENUE

4. This court has subject matter jurisdiction over the causes of action alleged in this complaint because the Court is a court of general subject matter jurisdiction and is not otherwise excluded from exercising subject matter jurisdiction over said causes of action.

5. Venue is proper in the County of San Mateo because Defendant JOSHUA'S MOVING PACKING SERVICES, LLC. dba JOSHUA'S MOVING PACKING SVC & STORAGE, LLC, transacts business in this county, and thus the obligations and liability arise in this county.

6. The California Superior Court has jurisdiction in the matter, because the individual claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional threshold for Federal Court and this action seeks recovery of civil penalties. Plaintiff is a resident of and/or domiciled in the County of San Mateo, State of California.

7. Further, there is no federal question at issue as the issues herein are based solely on California Statutes and law including the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure, Rule of Court, and Business and Professions Code.

THE PARTIES

A. The Plaintiff

8. Plaintiff began his employment with Defendant on or around October 2019 through May 2022, as a Mover. Throughout the Relevant Time Period, Plaintiff worked for Defendant in the County of San Mateo. Plaintiff was always paid an hourly wage, and was deemed a non-exempt hourly employee by Defendant.

B. The Defendant

9. Plaintiff is informed and believes, and based thereon alleges that, Defendant is a California Corporation that provides moving services throughout the County of San Mateo,

throughout the State of California, and in the State of Nevada as well. Defendant was the employer of Plaintiff and similarly aggrieved employees during the Relevant Time Period.

10. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendant sued herein as DOES 1 through 50, inclusive, but on information and belief allege that said Defendant is legally responsible for violations alleged herein. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendant when ascertained.

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

PAGA ADMINISTRATIVE PREREQUISITE

12. Plaintiff Luis Alexander Urquilla as representative of the State of California, brings this action on behalf of himself and other aggrieved employees, for recovery of penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA"), to address employer violations of the California Labor Code.

13. Pursuant to Labor Code section 2699.3(a), a plaintiff may bring a cause of action under PAGA only after giving notice to the Labor and Workforce Development Agency ("LWDA") and the employer of the alleged Labor Code violations, and after receiving notice from the LWDA of its intention not to investigate, or after sixty-five (65) days have passed without notice from the LWDA.

14. Plaintiff complied with the procedures for bringing this suit specified in Labor Code section 2699.3(a). Plaintiff gave written notice on March 22, 2023, by electronic filing to the LWDA and by certified mail to Defendant, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff was given an LWDA case number of LWDA-CM-945497-23. A copy of Plaintiff's original letter sent to the LWDA on March 30, 2023, is attached and incorporated by reference to this Complaint as Exhibit A.

1 15. More than sixty-five (65) days have passed since Plaintiff submitted his March 22,
2 2023 notice to the LWDA and Defendant of the specific Labor Code violations, and the LWDA
3 has not provided any notice by certified mail of its intent to investigate the Defendant's alleged
4 violations as mandated by Labor Code section 2699.3(a)(2)(A). Accordingly, pursuant to Labor
5 Code section 2699.3(a)(2)(A), Plaintiff may commence and is authorized to pursue this cause of
6 action.

7 **FACTUAL ALLEGATIONS**

8 16. Defendant operated its moving services business by employing Movers whom
9 Defendant referred to as independent contractors. Movers were an integral part of Defendant's
10 business and Defendant's revenues rely on the Movers completing their assignments in a timely
11 fashion.

12 17. Despite being deemed an independent contractor, Plaintiff was an employee.
13 Defendant exercised significant control over Movers, the work of movers was an integral part of
14 Defendant's business, and Plaintiff did not have an independent established trade or business,
15 such as the work performed by Defendant. Defendant thus engaged in willful misclassification of
16 the Plaintiff by classifying him as an independent contractor when he was in fact an employee.

17 18. Plaintiff's status as an employee, entitles him to the protections of the California
18 Labor Code and vindicates his rights from Defendant's ongoing wrongful scheme to deny its
19 employees their rights under California wage and hour laws for worked performed in California.
20 Defendant wrongfully refused to pay Plaintiff and the Aggrieved Employees regular wages,
21 overtime compensation, meal and rest break premiums, and other statutory benefits mandated by
22 California.

23 19. Throughout the Relevant Time Period, Defendant employed Plaintiff and the
24 Aggrieved Employees in non-exempt positions throughout California. Plaintiff and Aggrieved
25 Employees were employed by Defendant in positions that are paid at an hourly rate less than
26 twice that of the state minimum wage and remain under the direct control and supervision of
27 Defendant. Accordingly, these positions remain non-exempt from California's wage and hour
28

laws, yet Defendant fails to pay overtime, provide meal and rest periods, and otherwise pay all wages due to these non-exempt employees as required by law.

20. Plaintiff is informed and believes, based thereon alleges, that Defendant's policies and practices described herein are common within the State of California.

21. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned, Defendant was advised by skilled lawyers, employees, and other professionals who were knowledgeable about California's wage and hour laws, employment and personnel practices, and the requirements of California law.

22. Plaintiff is informed and believes, and thereon alleges that Defendant knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive wages for all hours worked, including minimum, regular, and overtime wages, and that they were not receiving wages earned for work that was required to be performed. In violation of the Labor Code and IWC Wage Orders, Defendant failed to pay Plaintiff and Aggrieved Employees earned wages by failing to compensate Plaintiff and aggrieved Employees the mandatory minimum wage. Defendant also failed to pay Plaintiff and Aggrieved Employees at the requisite overtime and double time rate for all hours worked in excess of eight (8) hours and/or twelve (12) hours per workday.

23. Mr. Urquilla alleges that Defendant failed to compensate him and Aggrieved Employees at the legally mandated wage rates for all hours worked. Mr. Urquilla and Aggrieved Employees performed work during overtime periods and during meal periods, and regularly and frequently worked beyond the eighth (8th) hour of their shift and were not compensated. During the Relevant Time Period, Defendant had a policy and/or practice of paying Mr. Urquilla and Aggrieved Employees for eight (8) hours on days when the workload required fifteen (15) hours to complete. Another one of Defendant's policy's and/or practice was to pay only eight (8) hours for jobs that required extensive travel to areas such as Los Angeles and/or Las Vegas, Nevada; such jobs resulted in Mr. Urquilla and Aggrieved Employees arriving at 11:00 PM to Defendant's warehouse in San Mateo County.

1 24. Further, to the extent the total hours worked exceeded eight (8) in one day, or forty
2 (40) in one week, all excess hours were required to be compensated at a rate of one-and-a-half
3 times the employee's base rate of pay. Similarly, all excess hours over twelve (12) hours in a day
4 were required to be compensated at a rate of two (2) times the employee's base rate of pay.
5 Defendant did not include all remuneration, specifically non-discretionary bonuses, for the
6 purpose of paying overtime.

7 25. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
8 or should have known that Plaintiff and Aggrieved Employees were entitled to recover all
9 required meal periods or payment of one (1) additional hour of pay at Plaintiff and Aggrieved
10 Employees' regular rate of pay when they did not receive timely, uninterrupted off-duty meal
11 periods. In violation of the Labor Code and IWC Wage Orders, Defendant had a pattern, practice,
12 and policy of not providing proper meal periods. Specifically, it was Defendant's policy and
13 practice to prohibit Plaintiff and Aggrieved Employees to not take meal periods because
14 completing a job assignment was the Defendant's priority. Defendant implemented a policy and
15 practice to require that Plaintiff and Aggrieved Employees eat while driving back to Defendant's
16 warehouse after completing a job assignment.

17 26. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
18 or should have known that Plaintiff and Aggrieved Employees were entitled to recover all
19 required rest periods or payment of one (1) additional hour of pay at Plaintiff and Aggrieved
20 Employees' regular rate of pay when they did not receive a timely, uninterrupted off-duty rest
21 periods. Defendant implemented a policy prohibiting Plaintiff and Aggrieved Employees to take
22 a rest period so that job assignments could be completed quickly. It was Defendant's policy and
23 practice to prohibit Plaintiff and Aggrieved Employees from taking a rest period as the time spent
24 driving back to Defendant's warehouse was tantamount to a rest period. Defendant failed to
25 provide adequate coverage to relieve Plaintiff and Aggrieved Employees. In addition, Defendant
26 subjected Plaintiff and Aggrieved Employees to pressure to complete work on time, thus
27 discouraging and essentially prohibiting Plaintiff and Aggrieved Employees from taking their
28 lawful breaks. Due to Defendant's policy and practice, which prioritized work tasks over rest

1 period compliance, Plaintiff and Aggrieved Employees were prohibited from taking lawful
2 breaks.

3 27. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
4 or should have known that Plaintiff and Aggrieved Employees were entitled to receive itemized
5 wage statements that accurately showed their actual hours worked, total hours worked, number
6 of hours worked at each hourly rate, gross and net wages earned, and premium wages earned per
7 pay period in accordance with California law. In violation of the Labor Code, Plaintiff and
8 Aggrieved Employees were not provided with accurate itemized wage statements showing their
9 rate of pay, the actual hours worked, correct premium wages earned per pay period, as well as the
10 total hours worked per pay period. As a result, of Defendant's policy and practice to misclassify
11 Plaintiff and Aggrieved Employees as independent contractors, Defendant did not provide
12 Plaintiff and Aggrieved Employees itemized wage statements.

13 28. By failing to include on Plaintiff and Aggrieved Employees' paystubs, all owed
14 meal and rest premium pay, and all minimum wage and overtime and double-time owed,
15 Defendant failed to keep accurate payroll records and failed to provide Plaintiff and Aggrieved
16 Employees with complete and accurate wage statements.

17 29. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
18 or should have known that Plaintiff and Aggrieved Employees were entitled to accurate time
19 records. Employer failed to keep accurate time records reflecting the time Plaintiff and Aggrieved
20 Employees started their shift, the time they began and ended their meal periods, and the time they
21 ended their shifts.

22 30. Furthermore, it was Defendant's policy and practice to maintain time records that
23 were inaccurate and/or falsified. Plaintiff Urquilla maintains that the timecards in his personnel
24 files are falsified. Plaintiff Urquilla was not aware these timecards existed much less authorize
25 these timecards for submittal before each pay period.

26 31. Defendant willfully failed to reimburse Plaintiff and Aggrieved Employees for
27 necessary business expenses incurred during their employment with Defendant. Specifically,
28 Defendant implemented a policy and procedure to require Plaintiff and Aggrieved Employees to

1 use their personal vehicles to pick up other employees from various job sites. As a result of
2 Defendant's policy and practice, Plaintiff and Aggrieved Employees incurred fuel, mileage, and
3 use expenses without reimbursement.

4 32. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
5 or should have known that Plaintiff and certain Aggrieved Employees were entitled to timely
6 payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiff
7 and certain Aggrieved Employees did not receive payment of all wages due, within permissible
8 time periods, upon separation of employment.

9 **FIRST CAUSE OF ACTION**

10 **VIOLATION OF PAGA FOR WILLFUL MISCLASSIFICATION OF AN INDIVIDUAL**
11 **AS AN INDEPENDENT CONTRACTOR**

12 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

13 33. Plaintiff and Aggrieved Employees reallege and incorporates by reference the
14 preceding paragraphs of this complaint as if fully set forth herein.

15 34. Labor code section 226.8 provides that it is unlawful to willfully classify an
16 individual as an independent contractor. Pursuant to Labor code section 2775(b), an employee is
17 an individual who is subject to the control of the employer, the individual performs the work that
18 is integral to the employer's business, and the individual is not an established trade or occupation
19 independent of the employer's business.

20 35. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
21 or should have known that Plaintiff and Aggrieved Employees were employees and not
22 independent contractors. Plaintiff and Aggrieved Employees were subject to the control of
23 Defendant because Defendant trained Plaintiff and Aggrieved Employees, determined their
24 schedules, directed Plaintiff and Aggrieved Employees to transport other Movers in their personal
25 vehicles, generated work orders, and deployed and directed Plaintiff and Aggrieved Employees
26 to perform the work orders at various sites. Therefore, Plaintiff and Aggrieved Employees were
27 employees and were willfully misclassified as Independent Contractors by the Defendant.
28

1 36. As Movers, Plaintiff and Aggrieved Employees were an integral part of
2 Defendant's business because Defendant's business is in the line of removing personal property
3 from one location to another, and this could only be accomplished with movers such as Plaintiff
4 and Aggrieved Employees. Therefore, Plaintiff and Aggrieved Employees were employees.

5 37. Plaintiff and Aggrieved Employees are employees because they do not have an
6 independently established trade or profession like the work performed by Defendant.

7 38. Therefore, Defendant violated Labor Code section 226.8 when Defendant willfully
8 misclassified Plaintiff and Aggrieved Employees as independent contractors.

9 39. Labor code section 226.8(b) provides that if the Labor and Workforce
10 Development Agency or a court, issues a determination that a person or employer has engaged in
11 any of the enumerated violations of subdivision (a), the person or employer shall be subject to a
12 civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand
13 dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.

14 40. Labor code section 226.8(c) provides that if the Labor and Workforce
15 Development Agency or a court issues a determination that a person or employer has engaged in
16 any of the enumerated violations of subdivision (a) and the person or employer has engaged in or
17 is engaging in a pattern or practice of these violations, the person or employer shall be subject to
18 a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five
19 thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted
20 by law.

21 41. Plaintiff individually, and on behalf of the Aggrieved Employees, requests that
22 civil penalties be assessed against Defendant pursuant to Labor Code section 226.8(b) and
23 226.8(c), in a sum provided by the Labor Code and/or other statutes.

24 **SECOND CAUSE OF ACTION**

25 **VIOLATION OF PAGA FOR RECOVERY OF UNPAID WAGES AND OVERTIME**

26 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

27 42. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
28 fully set forth herein.

1 43. Any work in excess of eight hours in any workday, and any work in excess of forty
2 (40) hours in a workweek shall be compensated at a rate of no less (1 ½) than one and one-half
3 times the regular rate of pay for an employee. (Labor Code § 510(a); IWC Wage Order 4-2001,
4 Sect. 3(A).) Any work in excess of twelve (12) hours in a workday shall be compensated at the
5 rate of twice the regular rate of pay of an employee. (*Ibid.*)

6 44. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day
7 and over forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees
8 minimum wage for all hours worked and overtime pay for hours worked in excess of eight (8)
9 hours per day and/or forty (40) hours per week. Defendant required Plaintiff and Aggrieved
10 Employees to work until assignments were complete which could be as long as fifteen (15) hours
11 in one day or more than forty (40) hours per week, while only compensating Plaintiff and
12 Aggrieved Employees for eight (8) hours per day.

13 45. Plaintiff and Aggrieved Employees were also frequently required to work through
14 meal periods for which Defendant required at least thirty (30) minutes be deducted from the time
15 recorded, resulting in additional unpaid wages.

16 46. Since the LWDA has not indicated that it will be investigating, and since more
17 than sixty-five (65) days since Plaintiff provided notice have passed, and because Defendant took
18 no corrective action to remedy the allegations set forth above, Plaintiff, as a representative of the
19 people of the State of California, will seek any and all civil penalties otherwise capable of being
20 collected by the Labor Commissioner, the LWDA and/or the Department of Labor Standards
21 Enforcement (“DLSE”). This includes each of the following, as set forth in Labor Code section
22 2699.5, which provides that section 2699.3 subdivision (a), applies to any alleged violations of
23 the following provisions: 510 and 1194.

24 47. Plaintiff is informed and believes that Defendant has violated, and continues to
25 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
26 minimum wages and overtime.

27 48. Plaintiff, as a personal representative of the general public, will and does seek to
28 recover any and all penalties for each and every violation shown to exist or to have occurred

1 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
2 otherwise only available to public agency enforcement actions. Funds recovered will be
3 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
4 recovered being reimbursed to the LWDA.

5 49. Additionally, Plaintiff and Aggrieved Employees are entitled to attorney's fees and
6 costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment
7 interest.

8 **THIRD CAUSE OF ACTION**

9 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR** 10 **PREMIUM COMPENSATION IN LIEU THEREOF**

11 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

12 50. Labor Code sections 226.7 and 512 and IWC Wage Order 4-2001, Sect. 11
13 provides that no employer shall employ any person for a work period of more than five (5) hours
14 without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes
15 or employ any person for a work period of more than ten (10) hours without a second meal period
16 of not less than thirty (30) minutes.

17 51. Labor Code section 226.7 provides that if an employer fails to provide an
18 employee a meal period in accordance with this section, the employer shall pay the employee one
19 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
20 period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide
21 legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not
22 relieving employees from all work duties during meal periods thereby preventing employees from
23 taking legally compliant meal periods.

24 52. At all relevant times, Plaintiff and Aggrieved Employees have worked shifts of
25 more than five (5) hours in a workday.

26 53. The burden to prove that a meal or rest period violation has occurred normally
27 rests on the Plaintiff. However, under *Safeway, Inc. v. Superior Court*, 238 Cal.App.4th 1138,
28 1159-60 (2015), where an employer fails to keep accurate records of meal and rest periods, a

presumption of meal and rest period violations is created, shifting the burden to the employer to prove that meal and rest period violations did not occur.

54. Defendant failed to schedule non-exempt employees adequately to reasonably ensure Plaintiff and Aggrieved Employees could take and/or receive such meal periods within the statutory timeframe. Defendant denied Plaintiff and Aggrieved Employees duty-free meal periods. As a result, Plaintiff and Aggrieved Employees were often forced to forego meal periods and/or work during their meal periods. In so doing, Defendant has intentionally and improperly denied meal periods to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512 and other regulations and statutes.

55. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more than five (5) hours in a workday.

56. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have worked more than ten (10) hours in a workday.

57. Pursuant to Labor Code section 226.7, Plaintiff and Aggrieved Employees are entitled to damages equal to one (1) hour of wages at their regular rate of pay for each missed meal break according to proof.

58. At all times relevant hereto, Defendant, failed to offer or to schedule non-exempt positions in a manner so as to reasonably provide meal and/or work free meal periods as required by Labor Code sections 226.7 and 512.

59. Defendant's failure to schedule Plaintiff and Aggrieved Employees in such a way as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees and/or to provide on-duty meal periods in accordance with the applicable Wage Order, has caused Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be ascertained according to proof at trial.

60. Plaintiff individually and on behalf of the Aggrieved Employees, requests recovery of meal period compensation pursuant to Labor Code section 226.7 and 558, subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well as the

assessment of any civil penalties against Defendant, and each of them, in a sum as provided by the Labor Code and/or other statutes.

61. Since the LWDA has not indicated that it will be investigating and 65 days have passed since Plaintiff mailed his letter, and because Defendant took no corrective action to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commissioner, the LWDA and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

62. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the Relevant Time Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA.

63. Additionally, Plaintiff and Aggrieved Employees are entitled to attorney’s fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

FOURTH CAUSE OF ACTION

VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST BREAKS OR PREMIUM COMPENSATION IN LIEU THEREOF

(By Plaintiff and Aggrieved Employees Against All Defendants)

64. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

65. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

66. Labor Code section 226.7, subdivision (b), provides that an employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.

1 67. Defendant, and each of them, failed and or refused to implement a relief system
2 by which Plaintiff and Aggrieved Employees could receive rest periods and /or work free rest
3 periods. Defendant denied Plaintiff and Aggrieved Employees duty free rest periods by
4 interrupting Plaintiff and Aggrieved Employees' rest period. By and through their actions,
5 Defendant intentionally and improperly denied duty free rest periods to the Plaintiff and
6 Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

7 68. Furthermore, Defendant failed to provide Plaintiff and Aggrieved Employees with
8 duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest periods all
9 together in violation of Labor Code section 226.7 and 512.

10 69. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked
11 more than four (4) hours in a workday.

12 70. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff
13 and Aggrieved Employees, Plaintiff and Aggrieved Employees have suffered, and will continue
14 to suffer, damages, in amounts which are presently unknown, but which exceed the jurisdictional
15 limits of this Court and which will be ascertained according to proof at trial.

16 71. Plaintiff, by virtue of Plaintiff's employment with Defendant, Defendant's failure
17 to provide Plaintiff and Aggrieved Employees with rest breaks, and Defendant's policy of
18 requiring employees to work through their rest periods without receiving compensation in lieu
19 thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has
20 satisfied all prerequisites to serve as a representative of the general public to enforce California's
21 labor laws, and the penalty provisions identified in Labor Code section 2699.5.

22 72. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
23 recovery of break period compensation pursuant to Labor Code sections 226.7 and 558,
24 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
25 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
26 by the Labor Code and/or other statutes. Plaintiff, as a representative of the people of the State of
27 California, will seek any and all penalties otherwise capable of being collected by the Labor
28 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in

1 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a) applies to any
2 alleged violation of the following provisions; 226.7 and 512.

3 73. Plaintiff, as a personal representative of the general public, will and does seek to
4 recover any and all penalties for each and every violation shown to exist or to have occurred
5 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
6 otherwise only available to public agency enforcement actions. Funds recovered will be
7 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
8 recovered being reimbursed to the LWDA.

9 74. Additionally, Plaintiff and Aggrieved Employees are entitled to attorney's fees
10 and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

11 **FIFTH CAUSE OF ACTION**

12 **VIOLATION FOR PAGA FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

13 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

14 75. Plaintiff realleges and incorporates by reference the allegations in the preceding
15 paragraphs.

16 76. Labor Code section 2802 states that "An employer shall indemnify his or her
17 employee for all necessary expenditures or losses incurred by the employee in direct consequence
18 of the discharge of his or her duties..."

19 77. Plaintiff and Aggrieved Employees were not reimbursed by Defendant for
20 necessary expenditures as a direct consequence of the discharge of their duties.

21 78. Defendant knowingly, willingly, and intentionally attempted to offset the cost of
22 doing business, on Plaintiff and Aggrieved Employees.

23 79. Defendant had a corporate practice and policy of requiring Plaintiff and Aggrieved
24 Employees to shoulder the burden of Defendant's cost of doing business by failing to reimburse
25 Plaintiff and Aggrieved Employees for necessary business expenditures. Specifically, Defendant
26 required that Plaintiff and Aggrieved Employees to use their personal vehicles to transport
27 Defendant's employees to various job sites.
28

1 80. Accordingly, Plaintiff and Aggrieved Employees are entitled to civil penalties in
2 accordance with PAGA, which shall also include all reasonable costs, including, but no limited
3 to, attorney's fees and interest.

4 **SIXTH CAUSE OF ACTION**

5 **VIOLATION FOR PAGA FOR FAILURE TO MAINTAIN ACCURATE TIME**
6 **RECORDS**

7 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

8 81. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
9 preceding paragraphs of this complaint as if fully set forth herein.

10 82. Labor Code section 1174(d) provides: every person employing labor in this state
11 shall ...keep, at a central location in the state...payroll records showing the hours worked daily
12 by and the wages paid to...employees...These records shall be kept in accordance with rules
13 established for this purpose by the commission, but in any case, shall be kept on file for not less
14 than two years.

15 83. Defendant knowingly and intentionally failed to maintain accurate time records
16 for Plaintiff and Aggrieved Employees in accordance with Labor Code section 1174(d) by failing
17 to record the accurate number of hours worked as a result of Defendant's policies and procedures.
18 Specifically, Defendant implemented a policy and procedure to neglect creating time cards for
19 Plaintiff and Aggrieved Employees which would have indicated the time worked, as well as
20 whether a lunch was taken. Defendant failed to maintain accurate time records for Plaintiff and
21 Aggrieved Employees causing Plaintiff and Aggrieved Employees injury.

22 84. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
23 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
24 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
25 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

26 85. Plaintiff, as a personal representative of the general public, will and does seek to
27 recover any and all penalties for each and every violation shown to exist or to have occurred
28 during the Relevant Time and Period, in an amount according to proof, as to those penalties that

are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA.

86. Additionally, Plaintiff and Aggrieved Employees are entitled to attorney's fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

SEVENTH CAUSE OF ACTION

VIOLATION FOR PAGA FOR FAILURE TO PROVIDE ITEMIZED WAGE

STATEMENTS

(By Plaintiff and Aggrieved Employees Against All Defendants)

87. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

88. Labor Code section 226, subdivision (a), states in pertinent part that, "every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee...(3) the number of piece-rate units earned...;(4) all deductions...;(5) net wages; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer... and (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee..." (Lab. Code. §226.)

89. Defendant knowingly and intentionally failed to provide timely and accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code section 226, subdivision (a), by failing to record the accurate time that Plaintiffs and Aggrieved Employees worked, the amount of overtime Plaintiff and Aggrieved Employees worked, the premium wages earned for missed meal and rest periods, and the reimbursement for business expenses the Plaintiff and Aggrieved Employees incurred. It was Defendant's policy and practice

1 to pay Plaintiff and Aggrieved Employees cash and not provide itemized wage statements. Such
2 failure caused injury to Plaintiff and Aggrieved Employees.

3 90. Because Defendant knowingly and intentionally misclassified Plaintiff and
4 Aggrieved Employees as independent contractors, Defendant failed to provide accurate itemized
5 wage statements. Such failure caused injury to Plaintiff and Aggrieved Employees.

6 91. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
7 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
8 initial pay period in which a violation occurs and one-hundred (\$100) per employee for each
9 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

10 92. Plaintiff, as a personal representative of the general public, will and does seek to
11 recover any and all penalties for each and every violation shown to exist or to have occurred
12 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
13 otherwise only available to public agency enforcement actions. Funds recovered will be
14 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
15 recovered being reimbursed to the LWDA.

16 93. Additionally, Plaintiff and Aggrieved Employees are entitled to attorney's fees and
17 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

18 **EIGHTH CAUSE OF ACTION**

19 **VIOLATION FOR PAGA FOR FAILURE TO PAY WAGES DUE UPON**

20 **TERMINATION OF EMPLOYMENT**

21 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

22 94. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
23 preceding paragraphs of this complaint as if fully set forth herein.

24 95. Labor Code section 203 provides that: if an employer willfully fails to pay, without
25 abatement or reduction, in accordance with sections 201, 201.5, 202, and 205.5, any wages of an
26 employee who is discharged or who quits, the wages of the employee shall continue as a penalty
27 from the due date thereof at the same rate until paid or until an action therefor is commenced; but
28 the wages shall not continue for more than thirty (30) days.

1 96. Plaintiff and certain Aggrieved Employees who ended their employment with
2 Defendant during the Relevant Time Period, were entitled to be promptly paid minimum wage,
3 lawful overtime compensation, and other premiums, as required by Labor Code sections 201 and
4 203.

5 97. Defendant refused and/or failed to promptly compensate Plaintiff and Aggrieved
6 Employees wages owed as a result of Defendant's failure to provide meal and/or rest periods as
7 well as pay both minimum and overtime compensation owed for work performed for Defendant.

8 98. Plaintiff, by virtue of his employment with Defendant, is an Aggrieved Employee
9 with standing to bring an action under the PAGA and has suffered injury as to one or more
10 violations committed by Defendant. Plaintiff has satisfied all prerequisites to serve as a
11 representative of the general public to enforce California's labor laws, and the penalty provisions
12 identified in Labor Code section 2699.5.

13 99. Plaintiff, as a representative of the people of the State of California, will seek any
14 and all penalties otherwise capable of being collected by the Labor Commissioner and/or the
15 DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which
16 provides that section 2699.3 subdivision (a), applies to any alleged violation of the following
17 provisions: 201-203, 226, 226.7, 510, 512, 1174, and 1194.

18 100. Plaintiff, as a personal representative of the general public, will and does seek to
19 recover any and all penalties for each and every violation shown to exist or to have occurred
20 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
21 otherwise only available to public agency enforcement actions. Funds recovered will be
22 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
23 recovered being reimbursed to the LWDA.

24 101. Additionally, Plaintiff and Aggrieved Employees are entitled to attorney's fees
25 and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

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Dated: June 5, 2023

- MAHONEY LAW GROUP, APC**

Kevin Mahoney
Attorneys for Plaintiff LUIS ALVAREZ

EXHIBIT A



Kevin Mahoney, Esq.
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562.590.8400 facsimile
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March 30, 2023

VIA ELECTRONIC FILING

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

<https://dir.tfaforms.net/266>

VIA FIRST-CLASS CERTIFIED MAIL #7019 2970 0000 2983 0061

Joshua's Moving Packing Services, LLC d/b/a Joshua's Moving Packing & Storage, LLC

1379 Hollyburne Avenue

Menlo Park, CA 94025

VIA FIRST-CLASS CERTIFIED MAIL #7019 2970 0000 2983 0054

Carlos Rengifo, Agent for Service of Process for

JOSHUA'S MOVING PACKING SERVICES, LLC

d/b/a JOSHUA'S MOVING PACKING & STORAGE, LLC

1007 Bransten Road

Unit D

San Carlos, CA 94070

Re: Luis Alexander Urquilla v. Joshua's Moving Packing Services, LLC d/b/a Joshua's Moving Packing & Storage, LLC

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION
§2698 et seq.**

To: California Labor and Workforce Development Agency, Joshua's Moving Packing Services, LLC d/b/a Joshua's Moving Packing & Storage, LLC

From: Luis Alexander Urquilla on behalf of himself and all aggrieved employees who were subject to the employer's wage and hour policies and practices as set forth below.

Factual Statement

Mahoney Law Group, APC represents the interests of Mr. Luis Alexander Urquilla ("Employee" or "Mr. Urquilla"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of himself and other aggrieved employees.

Joshua's Moving Packing Services, LLC d/b/a Joshua's Moving Packing & Storage, LLC (Employer) is a professional moving company that packs and moves personal belongings from one property location to another. It employs twenty-four (24) employees in two locations. In order to provide these services, Employer utilizes numerous trained "Movers." Upon generating customer orders, Employer directs its Movers to pack up items from homes and businesses and transport these to the customer's new property.

Mr. Urquilla and other aggrieved employees perform the job duties of a Mover, and are designated as "Independent Contractors" in the personnel files Employer maintains. Employer uniformly misclassified its Movers, including Mr. Urquilla, and continues to uniformly misclassify its movers as independent contractors. However, under California law, Mr. Urquilla and other Movers have been and are employees.

Employer has violated and continues to violate several California Labor Code provisions, which are listed below. Therefore, Employer is liable for civil penalties under PAGA.

Theories of Labor Code Violations and Remedies

Joshua's Moving Packing Services, LLC Movers are Employees

Employee has a policy and/or practice of intentionally and unlawfully misclassifying its employees, such as Mr. Urquilla and other aggrieved employees as independent contractors. Joshua's Moving Packing Services, LLC exercises significant control over the Movers, such as training, determining daily schedules, directing Movers to transport other Movers in their personal vehicles, as well as requiring Movers to clock in and out of work. Additionally, hiring Movers to move belongings from one property to another, is an integral part of Employer's business. Moreover, neither Mr. Urquilla nor other aggrieved employees have an independent established trade, occupation, or business, as the work performed by Employer. As such, Employer engaged in willful misclassification of an individual as an independent contractor in violation of Labor Code section 226.8.

Failure to Pay Wages Pursuant to Labor Code sections 200-204, 510, 558, 1194, 1197, 1198, and the IWC Wage Order

Employer failed to pay Mr. Urquilla and other aggrieved employees for all hours worked at the legally mandated wage rates. Mr. Urquilla and similarly aggrieved employees (1) performed work off-the-clock, during overtime periods and meal periods; (2) regularly and frequently worked beyond their scheduled eight-hour shift, but Employer only compensated Mr. Urquilla and other employees for eight (8) hours at the regular pay rate; (3) required Mr. Urquilla and other employees to perform work during their meal and rest periods, when they were ostensibly off-duty and (4) Employer failed and/or refused to compensate Mr. Urquilla and other aggrieved employees a rate of double time for working more than twelve (12) hours in one day.

It was Employer's policy and practice to only pay Mr. Urquilla and similarly aggrieved employees for eight hours on days when even the workload required them to work up to fifteen (15) hours for the day to complete. Another one of Employer's policies and procedures was to pay

only eight (8) hours for jobs that required extensive travel to areas such as Los Angeles or Las Vegas, Nevada, where such jobs required Mr. Urquilla and similarly aggrieved employees to work nineteen (19) hour days to arrive back to Employer's warehouse at 11:00PM. Furthermore, it was Employer's policy and practice to require Mr. Urquilla and other similar aggrieved employees to work during their rest breaks and meal breaks in order to complete the next job. When Mr. Urquilla and other similarly aggrieved employees did take a lunch, they were told by the Employer that they could not stop and get food due to the busy nature of their schedule in order to complete the next job. Also, it was Employer's policy and practice to require Mr. Urquilla and other similarly situated employees to indicate in time cards that a lunch was taken even though the lunch was not taken. These policies and practices implemented by Employer, substantially caused Mr. Urquilla and similarly aggrieved employees to suffer a violation of California Labor Code sections 200-204, 510, 558, 1194, 1197, 1198 and the IWC Wage Order.

Failure to Provide Rest Periods Pursuant to Labor Code section 226.7, 512, and IWC Wage Order

Employer failed to provide rest periods to Mr. Urquilla and similarly aggrieved employees. It was the policy and practice of the Employer to require Mr. Urquilla and similarly aggrieved employees to not take a rest break because completing a job quickly was Employer's priority. Also, Employer implemented a policy and practice of requiring Mr. Urquilla and similarly aggrieved employees to utilize an on-duty rest period by requiring that they eat while driving back to Employer's warehouse after each work assignment was completed. Thus, Mr. Urquilla and similarly situated employees did not get rest breaks due to Employer's policies and practices which prioritized work tasks over rest break compliance. Even though Mr. Urquilla and other aggrieved employees were prevented from taking lawful timely rest periods, Employers failed to provide them with premium pay for every untimely or uninterrupted rest period. Employer's conduct which is in violation of Labor Code section 226.7, 512, as well as California Code of Regulations, Title 8, section 11010, subdivisions 11 and 12, is also actionable under PAGA. Further, insofar as Employers required the employees to work during their rest periods, the timekeeping by Employers was non-compliant under Labor Code section 1174 and California Code of Regulations, Title 8, section 11010, subdivision 7. As such, Employer's policies and practices substantially caused Mr. Urquilla and similarly aggrieved Employees to suffer a violation of Labor Code section 226.7, 512, 1174, and the applicable IWC Wage Order.

Failure to Provide Meal Periods Pursuant to Labor Code section 226.7, 512, and IWC Wage Order

Employer failed to provide meal periods to Mr. Urquilla and similarly aggrieved employees. It was the policy and procedure of the Employer to require Mr. Urquilla and similarly aggrieved employees to not take a meal break because completing a job quickly was the Employer's priority. Also, Employer implemented a policy and procedure of requiring Mr. Urquilla and similarly aggrieved employees to utilize an on-duty meal period by requiring that they eat while driving back to Employer's warehouse after each work assignment was completed. Thus, Mr. Urquilla and similarly situated employees did not get meal or rest breaks due to Employer's policies and practices which prioritized work tasks over rest and meal period compliance. Mr. Urquilla and other aggrieved employees were prevented from taking lawful

timely uninterrupted meal periods, and as Employer failed to provide them with premium pay for every untimely or uninterrupted meal period. Employer's conduct which is in violation of Labor Code section 226.7, 512, as well as California Code of Regulations, Title 8, section 11010, subdivisions 11 and 12, is also actionable under PAGA. Further, insofar as Employers required the employees to work during their meal and rest periods, the timekeeping by Employers were non-compliant under Labor Code section 1174 and California Code of Regulations, Title 8, section 11010, subdivision 7. As such, Employer's policies and practices substantially caused Mr. Urquilla and similarly aggrieved Employees to suffer a violation of Labor Code section 226.7, 512, 1174, and the applicable IWC Wage Order.

Failure to Maintain Accurate Time Records Pursuant to Labor Code section 1174(d)

Employer did not keep accurate time records in violation of Labor Code section 1174(d), the applicable wage order, thus rendering these violations actionable under PAGA. Employer failed to keep accurate time records reflecting the time Mr. Urquilla and similarly, aggrieved employees started their shifts, the time they began and ended their meal periods, and the time they ended their shifts. It was Employer's policy and practice to require Mr. Urquilla and similarly aggrieved employees to not clock in or out for work or to fill out a time card of any sort. Furthermore, the time records in Mr. Urquilla's and other similarly aggrieved employees' personnel are fraudulent as Mr. Urquilla and other similarly aggrieved employees never verified these time cards. Therefore, Employer's policies and practices have substantially caused Mr. Urquilla and similarly aggrieved Employees to suffer violations of Labor Code sections 1174(d).

Failure to Furnish Itemized Wage Statements Pursuant to Labor Code sections 226 and 1174

As a result of Employer's failure to pay all wages owed as described above, Employer further failed to keep accurate payroll records and failed to provide Mr. Urquilla and other aggrieved employees with complete and accurate wage statements showing the true number of hours worked and accurate overtime/premium wages earned per pay period. It was Employer's policy and practice to pay Mr. Urquilla and other similarly aggrieved employees, in cash and not provide itemized wage statements. As such, Employer's policy and practice of not providing any itemized wage statements substantially caused Mr. Urquilla and similarly aggrieved Employees to suffer a violation of Labor Code section 226.7, 512, 1174.

Failure to Reimburse Business Expenses Pursuant to Labor Code section 2802

Employer failed to indemnify Mr. Urquilla and similarly aggrieved employees for all necessary expenditures or losses. Employer maintained a policy and practice to require Mr. Urquilla and similarly aggrieved employees to use their personal vehicles to pick up co-workers from various job sites approximately two (2) times a month during the time employed by Employer. As a result of Employer's policy and practice to fail to reimburse for business expenses, Mr. Urquilla and similarly aggrieved employees, suffered a violation of Labor Code section 2802.

Employer Engaged in a Pattern or Practice of Willful Misclassification Pursuant to Labor Code section 226.8(a)(1)

Employer misclassified Mr. Urquilla and other similarly aggrieved employees as independent contractors instead of employees. Employer engaged in a policy and practice to misclassify its employees by designating them as independent contractors in their personnel files while exercising control over Mr. Urquilla and similarly aggrieved employees. For example, Employer-provided training, set schedules, determined daily work hours, and ordered employees not to take lunches and breaks. Despite Employer's choice to retain a significant right to control Mr. Urquilla and other similar aggrieved employees, Employer's creation of an employee relationship, and Employer's knowledge that its Movers were employees, Employer chose to uniformly classify Mr. Urquilla and other similarly aggrieved employees as independent contractors. Employer has engaged in a pattern or practice of willful misclassification of Mr. Urquilla and similarly aggrieved Employees as independent contractors because it has misclassified them as independent contractors as opposed to employees. As a result of Employer's policy and practice of misclassification, Mr. Urquilla and other similarly aggrieved Employees have suffered a violation of Labor Code section 226.8(a)(1).

Conclusion

Employer has violated a number of California wage and hour laws. Mr. Urquilla will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments, or concerns.

Sincerely,



Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC