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Assigned for all purposes:

Judge Peter Wilson

Dept. CX101

Attorneys for Plaintiff ARMIDA ESQUIVEL, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of herself and other current and former employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

ARMIDA ESQUIVEL, as an individual and
on behalf of all similarly situated employees,

Plaintiff,

v.

ALL-RITE LEASING COMPANY, INC.;
ANGIE LOPEZ; and DOES 1 through 50,
inclusive,

Defendant.

Case No.: 30-2023-01325416-CU-OE-CXC

**REPRESENTATIVE ACTION COMPLAINT
FOR CIVIL PENALTIES AND FINES**

1. Violation of PAGA for Failure to Pay All Wages Including Overtime Wages;
2. Violation of PAGA for Failure to Provide Rest Periods;
3. Violation of PAGA for Failure to Provide Accurate Itemized Wage Statements;
4. Violation of PAGA for Failure to Pay Wages Upon Ending Employment; and
5. Violation of PAGA for Failure to Reimburse for All Necessary Business Expenditures and Losses

1 Plaintiff ARMIDA ESQUIVEL (hereinafter “ESQUIVEL” or “Plaintiff”) as a
2 representative of the State of California and the Labor and Workforce Development Agency
3 (LWDA”), and on behalf of herself and other current and former employees, complains and
4 alleges as follows:

5 **INTRODUCTION**

6 1. This matter arises out of the violation of numerous Labor Code provisions by
7 Defendant ALL-RITE LEASING COMPANY, INC., a California Corporation in good standing
8 doing business in California (“All-Rite Leasing”), ANGIE LOPEZ (“Lopez”) (collectively,
9 “Defendants”) and DOES 1-50, inclusive. Plaintiff and similarly aggrieved employees seek civil
10 penalties pursuant to the Private Attorney General Act (“PAGA”) for these violations.

11 2. Plaintiff brings this lawsuit seeking civil penalties on behalf of the State for
12 Defendants’ violations of the Labor Code, including, but not limited to, sections 201, 202, 203,
13 204, 221-225/5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, and 2802 as well as Wage Order
14 No. 5, subdivisions 3, 5, 9, 11 and 12. Plaintiff also seeks to recover, among other things, interest,
15 attorneys’ fees, and costs pursuant to Labor Code.

16 **JURISDICTION AND VENUE**

17 3. Venue is proper in this Judicial district and the County of Orange because the
18 Defendant maintains their locations in this county, transact business in this county, the obligations
19 and liability arise in this county, and work was performed by Plaintiff and other aggrieved
20 employees making the subject of this action in the County of Orange, California.

21 4. Defendant employed Plaintiff and similarly aggrieved employees within the State
22 of California and the unlawful acts alleged herein have a direct effect on Plaintiff and the
23 aggrieved employees.

24 5. The California Superior Court has jurisdiction in the matter because the individual
25 claim is under the seventy-five thousand dollar (\$75,000.00) individual claim threshold and five
26 million dollars (\$5,000,000.00) aggregated jurisdictional threshold for Federal Court and, upon
27 information and belief, Plaintiff and Defendant are residents of and/or domiciled in the State of
28 California. 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, and Rules of Court.

ADMINISTRATIVE REMEDIES

6. By this complaint, Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided by the PAGA, labor Code section 2698 et seq., to the extent permitted by law, as an aggrieved employee who was employed by Defendant and subject to alleged violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in their notice to the Labor Workforce Development Agency and the employer violations of Labor Code sections 201, 202, 203, 204, 221-225, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, and 2802 as well as Wage Order No. 5, subdivisions 3, 5, 9, 11 and 12.

7. Under Labor Code section 2699.3 subdivision (a), a Plaintiff may bring a cause of action under PAGA only after giving notice to the LWDA and the employer of the Labor Code section alleged to have been violated, and after receiving notice from the LWDA of its intentions not to investigate, or after sixty-five (65) days have passed without notice. Plaintiff, and other aggrieved employees are current and former employees of Defendant dating from three hundred sixty-five (365) days from the submission of the written notice to the LWDA and Defendant to the resolution of this matter. ("PAGA period")

8. Prior to filing this complaint, on March 10, 2023, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency ("LWDA") (LWDA-CM-941226-23) and to Defendant of the specific provisions alleged to have been violated, including facts and theories to support the alleged violations as required by the California Private Attorneys General Act ("PAGA"), Cal. Labor Code section 2699.3. Please see a true and correct copy of the letter to the LWDA dated March 10, 2023, attached hereto as Exhibit "A."

9. More than sixty-five (65) days have passed for the LWDA to provide notice of its intent to investigate Plaintiff's claims, and the LWDA has not provided notice of its intention to investigate Plaintiff's claims.

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THE PARTIES

A. Plaintiff

10. Plaintiff and aggrieved employees, at all relevant times herein, were employees of the Defendant and entitled to compensation for: (1) all hours worked, (2) overtime compensation, (3) non-compliant rest and meal periods; (4) reimbursement for necessary business expenditures; and (5) penalties from Defendant. Plaintiff ESQUIVEL began her employment with Defendant on or around October 26, 2021 as a maintenance worker. Plaintiff ESQUIVEL left Defendants' employment on or around March 10, 2023.

11. At all relevant times herein, Plaintiff was employed by Defendant during the defined PAGA Period in a non-exempt hourly capacity. Each of the aggrieved employees are an identifiable, current, and/or former similarly situated person who was employed in non-exempt hourly position in California for Defendant during the defined PAGA Period.

B. Defendant

12. Plaintiff is informed and believes, and based thereon allege, that Defendant ALL-RITE LEASING COMPANY, INC. is a California corporation in the business of building cleaning and maintenance services in Southern California.

13. Plaintiff is informed and believes that Defendant ANGIE LOPEZ is a current owner and/or managing member of All-Rite Leasing. Lopez may be held liable for the violations set forth herein under and pursuant to Labor Code section 558 as "person[s] acting on behalf of an employer who violates, or causes to be violated ... any provision regulating hours and days of work in any order of the Industrial Welfare Commission."

14. On information and belief, Defendants were and/or are the employer of Plaintiff and similarly aggrieved employees during the PAGA Period.

15. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50, inclusive, but on information and belief allege that those Defendants are legally responsible for the payment of minimum wage and/or overtime compensation, rest period compensation and/or Labor Code section 203 penalties to the aggrieved employees by virtue of their unlawful practices,

1 and therefore sues these Defendants by such fictitious names. Plaintiff will amend this Complaint
2 to allege the true names and capacities of the DOE Defendants when ascertained.

3 16. Plaintiff is informed and believes, and based thereon allege, that each Defendant
4 acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint
5 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant
6 are legally attributable to the other Defendant. Furthermore, Defendants in all respects acted as
7 the employer and/or joint employer of Plaintiff and Similarly aggrieved employees.

8 17. Plaintiff is informed and believes, and based thereon allege that each Defendant
9 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
10 managing agent, and/or principal of the Defendant, and in performing the actions mentioned
11 below was acting, at least in part, within the course and scope of that authority as such agent,
12 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
13 permission and consent of the Defendant. Plaintiff also allege the acts of each Defendant are
14 legally attributable to the other Defendants.

15 18. Plaintiff is informed and believes, and based thereon allege, that each of the
16 Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder,
17 principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing
18 agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in
19 part, within the course and scope of such employment and agency, with the express and implied
20 permission, consent, and knowledge, approval and/or ratification of the other Defendants.

21 19. The above Defendants, managing agents, and supervisors aided, abetted,
22 condoned, permitted, approved, authorized and/or ratified the unlawful acts described herein.

23 **GENERAL ALLEGATIONS**

24 20. Plaintiff and other aggrieved employees are, and at all times relevant herein have
25 been, non-exempt employees within the meaning of the Labor Code and the implementing rules
26 and regulations of IWC California Wage Orders.
27
28

1 21. Plaintiff worked for Defendants from on or around October 26, 2021 until March
2 11, 2022. Plaintiff. At all relevant times hereto, Plaintiff was employed as non-exempt hourly
3 worker.

4 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
5 policies and practices described herein are common across each of ALL-RITE LEASING job
6 sites within the state.

7 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 failed to compensate Ms. Esquivel and aggrieved employees at the legally mandated wage rates
9 for all hours worked, including applicable overtime rates, in violation of California law.
10 Specifically, Defendants had a rounding policy dividing the hour into increments when
11 calculating pay. Therefore, Plaintiffs' time was rounded to the nearest increment for payroll
12 purposes. Upon information and belief, Defendants' rounding policies and practices resulted in a
13 disproportionate impact which does not average out over a period of time and results in a failure
14 to compensate Plaintiff and those similarly situated for all time actually worked. Additionally,
15 Ms. Esquivel and aggrieved employees frequently worked shifts in excess of eight (8) but were
16 not always paid the applicable overtime rate.

17 24. Additionally, Defendants were obligated to provide Plaintiff and other aggrieved
18 employees with a ten (10) minute rest break for every four (4) hours, or major fraction thereof,
19 worked each day. Defendant prevented Plaintiff and other aggrieved employees from taking rest
20 breaks throughout their shifts in order to complete its jobs more quickly.

21 25. For at least one (1) year prior to the filing of this action and through to the present,
22 Plaintiff alleges that Defendant consistently maintained and enforced the following unlawful
23 practices and policies against its employees, in violation of California state wage and hour laws.

24 26. Defendant had a consistent policy of not paying Plaintiff and other aggrieved
25 employees for all hours worked;

26 27. During the PAGA Period, Defendants were obligated to pay Plaintiff and other
27 aggrieved employees members overtime compensation for all hours worked over eight (8) hours
28 of work in one (1) day or forty (40) hours in one (1) week, and double-time for hours worked in

1 excess of twelve (12) in one day and for all hours worked over (8) hours on the seventh
2 consecutive day.

3 28. Defendant had a consistent policy of failing to provide other aggrieved employees
4 within the State of California, including Plaintiff, rest periods of at least (10) minutes per four (4)
5 hours worked or major fraction thereof and failing to pay such employees one (1) hour of pay at
6 the employees' regular rate of compensation for each workday that the rest period is not provided,
7 as required by California state wage and hour laws, in one or more of the following manners:

8 a. employees were required to work without being provided a minimum ten-
9 minute rest period for every four hours, or major fraction thereof, worked and
10 were not compensated with one hour of pay at their regular rate of pay for each
11 workday that a rest period was not provided; and

12 b. At times, Ms. Esquivel and aggrieved employees were not permitted to take a
13 rest period when they were busy. Specifically, Defendants would tell Ms.
14 Esquivel and aggrieved employees to take their ten (10) minute rest breaks in
15 conjunction with their thirty (30) minute meal breaks on weekdays, and on
16 weekends they were not provided with rest breaks at all.;

17 29. With respect to Plaintiff and the other aggrieved employees who either were
18 discharged, laid off, or resigned, Defendant failed to pay them in accordance with the
19 requirements of Labor Code sections 201, 202, and 203;

20 30. Defendant failed to institute policies and procedures that ensured accurate
21 recording of all hours Plaintiff and other aggrieved employees worked; and

22 31. Defendant instituted policies and procedures that offset the necessary costs of
23 doing business on its employees. Defendants only provided Ms. Esquivel and aggrieved
24 employees with one (1) work shirt with the company name written on it. Given the nature of the
25 work Ms. Esquivel and aggrieved employees engaged in, these shirts would get excessively
26 soiled. Rather than providing more shirts or reimbursing Ms. Esquivel and aggrieved employees
27 for the washing of their uniforms, Defendants would complain about the cleanliness of Ms.
28 Esquivel and aggrieved employees' uniforms and tell them to "clean it better.". Defendant

1 required Plaintiff and other aggrieved employees to take on the burden of these expenses without
2 reimbursement in violation of Labor Code section 2802.

3 32. Plaintiff is informed and believes, and based thereon alleges, that Defendant
4 willfully failed to pay other aggrieved employees all wages earned, including compensation for
5 missed rest periods, in a timely manner upon or after termination of their employment with
6 Defendant.

7 33. Plaintiff is informed and believes, and based thereon alleges, that Defendant
8 currently employs, and during the relevant liability period has employed hundreds of employees
9 in the State of California in non-exempt positions.

10 34. At relevant times herein, Plaintiff and the other aggrieved employees were
11 employed by Defendants in non-exempt hourly positions.

12 35. On information and belief, Plaintiff alleges that Defendants' actions as described
13 throughout this complaint were willful.

14 36. On information and belief, Plaintiff alleges that Defendants willfully failed to pay
15 the legal wages, failed to provide legal rest periods, and willfully failed to pay one hour's wages
16 in lieu of rest and meal periods, when each such employee quit or was discharged.

17 37. Plaintiff, on behalf of himself and other aggrieved employees, brings this action
18 pursuant to PAGA to recover civil penalties for violations of Labor Code sections 201, 202, 203,
19 204, 221-225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, and 2802, as well as reasonable
20 attorneys' fees and costs.

21 38. Defendants have made it difficult to account with precision for the unlawfully
22 withheld wages and rest period compensation owed to Defendants' non-exempt employees,
23 including Plaintiff, during the liability period, because it did not implement and preserve a record-
24 keeping method as required for non-exempt employees by Labor Code sections 226, 1174,
25 subdivision (d), and section 7 of the California Wage Orders. Defendants have failed to comply
26 with Labor Code section 226, subdivision (a), by itemizing in wage statements all deductions
27 from payment of wages and accurately reporting total hours worked by Plaintiff and the other
28 aggrieved employees.

39. By failing to pay Ms. Esquivel and aggrieved employees for all hours worked, including the applicable overtime rates, Defendants provided wage statements that were incomplete and inaccurate. Specifically, Defendants provided wage statements with an inaccurate corresponding number of hours worked at each hourly rate which resulted in inaccurate gross and net wages.

FIRST CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO PAY ALL WAGES INCLUDING REGULAR, MINIMUM AND OVERTIME WAGES (Plaintiff on behalf of herself and Aggrieved Employees against all Defendants)

40. Plaintiff and aggrieved employees reallege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

41. Labor Code section 204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

42. Labor Code section 510, subdivision (a) provides that “[a]ny work in excess of eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any one (1) workweek and the first eight (8) hours worked on the seventh (7th) day of work in any one (1) workweek shall be compensated at the rate of no less than one and one-half (1 & ½) times the regular rate of pay for an employee.”

43. Labor Code section 510, subdivision (a) further provides that “[a]ny work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

44. Labor Code section 1194 and applicable IWC Wage Orders make it unlawful for Defendants not to make required overtime and double time payments identified in the preceding paragraphs, and that employees not paid such payments can recover any monies owed through a civil action.

45. Labor Code section 1194.1194.2 and subdivision (4) of the applicable IWC Wage Order make it unlawful for Defendants not to pay the applicable minimum wage to all employees

1 and that employees not paid such payments can recover any monies owed, including liquidated
2 damages, through a civil action.

3 46. Defendants have willfully violated the Labor Code by failing to pay Plaintiff
4 aggrieved employees all wages. Plaintiff and aggrieved employees were denied wages as a result
5 of Defendants' policy and practice of failing to compensate Plaintiff and aggrieved employees
6 for all regular, minimum and overtime hours worked. Specifically, Defendant had a rounding
7 policy dividing the hour into increments when calculating pay. Therefore, Plaintiff's time was
8 rounded to the nearest increment for payroll purposes. Upon information and belief, Defendants'
9 rounding policies and practices resulted in a disproportionate impact which does not average out
10 over a period of time and results in a failure to compensate Plaintiff and those similarly situated
11 for all time actually worked.

12 47. Further, Defendants have regularly violated the Labor Code with respect to
13 meeting the requirements of paying wages earned, including regular time, overtime, double-time
14 and remuneration when calculating the employees' regular rate of pay, as herein alleged.
15 Defendants have intentionally excluded remuneration that must be included in all employees'
16 regular rate of pay in order to avoid payment of wages and other benefits in violation of the Labor
17 Code and the applicable IWC Wage Order(s). Defendants are thereby able to reduce its overhead
18 and operating expenses and gain an unfair advantage over competing roofing companies who
19 comply with state law.

20 48. Additionally, Plaintiff and aggrieved employees regularly worked in excess of
21 eight (8) hours per day. Defendant failed to pay Plaintiff and aggrieved employees members
22 overtime premium for hours worked in excess of eight (8) hours. Defendant failed to schedule
23 Plaintiff and aggrieved employees' members in such a manner that allowed Plaintiff and
24 aggrieved employees members to be relieved of their shift immediately, thereby causing Plaintiff
25 and aggrieved employees to work in excess of eight (8) hours per day.

26 49. Defendant Lopez may be held liable for the violations set forth herein under and
27 pursuant to Labor Code section 558 as "person[s] acting on behalf of an employer who violates,
28 or causes to be violated ... any provision regulating hours and days of work in any order of the

1 Industrial Welfare Commission.” Specifically, Plaintiff is informed and believes that Lopez is the
2 person who implemented and enforced the policies described herein and as such, are liable under
3 Labor Code section 558.

4 50. As such, Plaintiff and aggrieved employees seek civil penalties pursuant to Labor
5 Code sections 2698-2699, attorneys’ fees and costs.

6 **SECOND CAUSE OF ACTION**

7 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
8 **PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**
9 **(Plaintiff and Aggrieved Employees against all Defendants)**

10 51. Plaintiff and aggrieved employees reallege and incorporate by reference all
11 preceding paragraphs of this complaint as though fully set forth herein.

12 52. Labor Code section 226.7 and Code of Regulations, Title 8, section 11150,
13 subdivision (12) provides that Defendants authorize and permit all employees to take rest periods
14 at the rate of ten (10) minutes rest time per four (4) work hours.

15 53. Labor Code section 226.7, subdivision (b) provides that if an employer fails to
16 provide an employee rest periods in accordance with this section, the employer shall pay the
17 employee one (1) hour of pay at the employee’s regular rate of compensation for each workday
18 that the rest period is not provided.

19 54. Defendants, Defendants would tell Ms. Esquivel and aggrieved employees to take
20 their ten (10) minute rest breaks in conjunction with their thirty (30) minute meal breaks on
21 weekdays, and on weekends they were not provided with rest breaks at all. By and through their
22 actions, Defendant intentionally and improperly denied rest periods to the Plaintiff and aggrieved
23 employees in violation of Labor Code sections 226.7 and 8 CCR section 11050, subdivision 12.

24 55. At all times relevant hereto, Plaintiff and aggrieved employees have worked shifts
25 of four (4) hours or more in a workday.

26 56. By virtue of the Defendants’ unlawful failure to provide rest periods to Plaintiff
27 and aggrieved employees as a result of their scheduling and non-compliant shift relief system,
28

1 Plaintiff and aggrieved employees have suffered, and will continue to suffer, damages, in amounts
2 which are presently unknown, but will be ascertained according to proof at trial.

3 57. Defendant Lopez may be held liable for the violations set forth herein under and
4 pursuant to Labor Code section 558 as “person[s] acting on behalf of an employer who violates,
5 or causes to be violated ... any provision regulating hours and days of work in any order of the
6 Industrial Welfare Commission.” Specifically, Plaintiff is informed and believes that Defendant
7 Lopez is the person who implemented and enforced the policies described herein and as such, are
8 liable under Labor Code section 558.

9 58. Plaintiff and aggrieved employees seek civil penalties pursuant to Labor Code
10 sections 2698-2699, attorneys' fees and costs.

11 **THIRD CAUSE OF ACTION**

12 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO** 13 **PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

14 **(Plaintiff and Aggrieved Employees against all Defendants)**

15 59. Plaintiff and aggrieved employees reallege and incorporate by reference all
16 preceding paragraphs of this complaint as though fully set forth herein.

17 60. Labor Code section 1174, subdivision (d) requires an employer to keep at a central
18 location in California or at the plant or establishment at which the employees are employed,
19 payroll records showing the hours worked daily, and the wages paid to, each employee. Plaintiff
20 is informed and believes that Defendant willfully failed to make or keep accurate records for
21 Plaintiff and similarly aggrieved employees.

22 61. Labor Code section 226, subdivision (a) states that, “every employer shall,
23 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
24 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately
25 when wages are paid by personal check or cash, an accurate itemized statement in writing
26 showing: (1) gross wages earned; (2) total hours worked by the employee; (4) all deductions; (5)
27 net wages; (6) the inclusive dates of the period for which the employee is paid; (7) the name of
28 the employee and only the last four digits of his or her social security number or an employee

1 identification number other than a social security number; (8) the name and address of the legal
2 entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and
3 corresponding number of hours worked at each hourly rate by the employee.”

4 62. Industrial Welfare Commission (“IWC”) Wage Order Number 5-2002, paragraph
5 (7) requires that every employer shall keep accurate information with respect to each employee,
6 including time records showing when each employee begins and ends each work period, the total
7 daily hours worked by each employee and the total hours worked in each payroll period, and
8 applicable rates of pay. Plaintiff is informed and believes that Defendant willfully and
9 intentionally failed to make and/or keep records which accurately reflect the hours worked by
10 Plaintiff and aggrieved employees. Specifically, Plaintiff believes that Defendants’ records do
11 not accurately reflect the hours Plaintiff and aggrieved employees worked as a result of
12 Defendants’ rounding policy, the hours Plaintiff and aggrieved employees worked during their
13 rest periods and the hours Plaintiff and aggrieved employees worked in excess of eight (8) hours
14 per day, the wages owed for said off-the-clock and overtime hours, as well as the wages owed in
15 the form of statutory premiums for non-compliant rest periods.

16 63. Plaintiff is informed and believes that Defendants’ failure to keep accurate payroll
17 records, as described above, violated Labor Code, sections 226 and 1174, subdivision (d) and the
18 applicable wage order for every pay period during which these records and information was not
19 kept by Defendant.

20 64. Defendant Lopez may be held liable for the violations set forth herein under and
21 pursuant to Labor Code section 558 as “person[s] acting on behalf of an employer who violates,
22 or causes to be violated ... any provision regulating hours and days of work in any order of the
23 Industrial Welfare Commission.” Specifically, Plaintiff is informed and believes that Defendant
24 Lopez is the person who implemented and enforced the policies described herein and as such, are
25 liable under Labor Code section 558.

26 65. Plaintiff, and aggrieved employees seek civil penalties pursuant to Labor Code
27 sections 2698-2699, attorneys' fees and costs. is informed and believes

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1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
3 **PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES**

4 **(Plaintiff and Aggrieved Employees against all Defendants)**

5 66. Plaintiff and aggrieved employees reallege and incorporate by reference all
6 preceding paragraphs of this complaint as though fully set forth herein.

7 67. Plaintiff and certain members of the Similarly aggrieved employees who ended
8 their employment with Defendants during the PAGA Period, were entitled to be promptly paid
9 lawful overtime compensation and other premiums, as required by Labor Code sections 201-203.
10 Defendants refused and/or failed to promptly compensate Plaintiff and aggrieved employees'
11 wages owed as a result of their failure to provide meal and rest periods as well as pay off-the-
12 clock and/or overtime compensation.

13 68. Defendant Lopez may be held liable for the violations set forth herein under and
14 pursuant to Labor Code section 558 as "person[s] acting on behalf of an employer who violates,
15 or causes to be violated ... any provision regulating hours and days of work in any order of the
16 Industrial Welfare Commission." Specifically, Plaintiff is informed and believes that Angie
17 Lopez is the person who implemented and enforced the policies described herein and as such, are
18 liable under Labor Code section 558.

19 69. Accordingly, Plaintiff and aggrieved employees seek civil penalties pursuant to
20 Labor Code sections 2698-2699, attorneys' fees and costs.

21 **FIFTH CAUSE OF ACTION**

22 **VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO**
23 **REIMBURSE FOR ALL NECESSARY BUSINESS EXPENDITURES AND LOSSES**

24 **(Plaintiff and Aggrieved Employees against all Defendants)**

25 70. Plaintiff and aggrieved employees reallege and incorporate by reference all
26 preceding paragraphs of this complaint as though fully set forth herein.

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EXHIBIT A



Raleigh Dixon, Esq.
562.590.5550 phone
562.590.8400 facsimile
rdixon@mahoney-law.net

March 10, 2023

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY

PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL #7022 2410 0000 2418 4746

Return Receipt Requested

Angie Lopez – Managing Member and Agent for Service of Process
All-Rite Leasing Company, Inc.
950 South Coast Drive, Suite 110
Costa Mesa, CA 92626

VIA CERTIFIED MAIL #7022 2410 0000 2418 4753

Return Receipt Requested

Attn: Mr. Ian Rosenberg
All-Rite Leasing Company, Inc.
3420 Bristol Street, Suite 210
Costa Mesa, CA 92626

VIA CERTIFIED MAIL #7022 2410 0000 2418 4760

Return Receipt Requested

David A. Wimmer, Esq.
Swerdlow Florence Sanchez Swerdlow & Wimmer
9401 Wilshire Blvd., Suite 828
Beverly Hills, CA 90212

Re: Armida Esquivel v. All-Rite Leasing Products LLC

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2698 ET SEQ.**

To: Labor and Workforce Development Agency; All-Rite Leasing Company,
Inc. ("Employer")

From: Armida Esquivel, on behalf of herself and all aggrieved employees who were subject to
the employer's wage and hour policies set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents Armida Esquivel (“Ms. Esquivel”), 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 sections 2698 et seq. (“PAGA”), on behalf of herself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

All-Rite Leasing Company, Inc. is a California Company in the business of building cleaning and maintenance services in Southern California, and was the employer of Ms. Esquivel.

Angie Lopez is a current owners and/or managing member of All-Rite Leasing Company, Inc.. Angie Lopez may be held liable for the violations set forth herein under and pursuant to Labor Code section 558 as “person[s] acting on behalf of an employer who violates, or causes to be violated ... any provision regulating hours and days of work in any order of the Industrial Welfare Commission.” For purposes of this All-Rite Leasing Company, Inc. and Angie Lopez are collectively referred to as “Employers”.

Ms. Esquivel is a former employee of Employers and worked for Employers as a Maintenance Worker from October 26, 2021 until March 11, 2022.

Ms. Esquivel alleges that Employers violated various sections of the Labor Code, including sections 201, 202, 226, 226.7 510, 558, and 1194, by:

- a) Failing to pay Ms. Esquivel and aggrieved employees for all hours worked;
- b) failing to provide Ms. Esquivel and aggrieved employees with rest periods or premium compensation in lieu thereof
- c) failing to provide Ms. Esquivel and aggrieved employees with accurate itemized wage statements;
- d) failing to pay Ms. Esquivel and aggrieved employees all wages earned and owed at separation of employment; and
- e) failing to reimburse Ms. Esquivel and aggrieved employees for all necessary expenditures and losses incurred in furtherance of their job duties.

Ms. Esquivel and the similarly aggrieved employees are identifiable current, and/or former hourly non-exempt employees who worked for Employers in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Employers failed to pay Ms. Esquivel and aggrieved employees for all hours worked

Pursuant to Labor Code section 1194, subdivision (a), “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Labor Code section 510, subdivision (a), provides that “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

Employers failed to compensate Ms. Esquivel and aggrieved employees at the legally mandated wage rates for all hours worked, including applicable overtime rates, in violation of California law. Specifically, Defendant had a rounding policy dividing the hour into increments when calculating pay. Therefore, Plaintiff’s time was rounded to the nearest increment for payroll purposes. Upon information and belief, Defendant’s rounding policies and practices resulted in a disproportionate impact which does not average out over a period of time and results in a failure to compensate Plaintiff and those similarly situated for all time actually worked. Additionally, Ms. Esquivel and aggrieved employees frequently worked shifts in excess of eight (8) but were not always paid the applicable overtime rate.

Employers’ failure to pay Ms. Esquivel and aggrieved employees for all hours worked, including applicable overtime rates, as detailed above is actionable under PAGA as a violation of Labor Code sections 510 and 1194.

B. Employers failed to provide Ms. Esquivel and aggrieved employees with rest periods or premium compensation in lieu thereof

Labor Code section 226.7 requires that employers permit all employees to take a ten-minute rest period for every four hours, or major fraction thereof worked. Further, when an employer fails to provide an employee with required rest periods, the employer must pay the employee one hour of pay at the employee’s regular rate of pay for each workday that a required rest period is not provided.

At times, Ms. Esquivel and aggrieved employees were not permitted to take a rest period when they were busy. Specifically, Employers would tell Ms. Esquivel and aggrieved employees to take their ten (10) minute rest breaks in conjunction with their thirty (30) minute meal breaks on weekdays, and on weekends they were not provided with rest breaks at all.

Employers failed or refused to provide premium compensation to Ms. Esquivel and aggrieved employees for late rest periods.

Employers’ conduct in failing to provide compliant rest periods or premium compensation in lieu thereof is actionable under PAGA as violations of Labor Code sections 226.7.

C. Employers failed to provide Ms. Esquivel and aggrieved employees with accurate itemized wage statements

Labor Code section 226, subdivision (a), requires employers to furnish employees with accurate itemized wage statements reflecting the total hours worked, gross and net wages, applicable hourly rates, the corresponding number of hours worked at each hourly rate, and the name and address of the legal entity that is the employer. Labor Code section 1174 further requires employers to keep accurate payroll records that include “the hours worked daily” by employees.

By failing to pay Ms. Esquivel and aggrieved employees for all hours worked, including the applicable overtime rates, Employers provided wage statements that were incomplete and inaccurate. Specifically, Employers provided wage statements with an inaccurate corresponding number of hours worked at each hourly rate which resulted in inaccurate gross and net wages.

Employer's conduct is not compliant with Labor Code sections 226 and 1174 and is therefore actionable under PAGA.

D. Employers failed to pay Ms. Esquivel and aggrieved employees all wages earned and owed upon separation of employment

E.

Pursuant to Labor Code section 201, subdivision (a), "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

Labor Code section 202, subdivision (a) provides, "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

At the time that Ms. Esquivel and aggrieved employees resigned or were terminated, Employers failed to compensate them for all wages earned and owed at the applicable overtime rate as well as premiums for missed rest periods.

Labor Code section 203, subdivision (a), states that "[i]f an employer willfully fails to pay ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days." Accordingly, Ms. Esquivel and aggrieved employees are entitled to thirty days of waiting time penalties.

F. Employers failed to reimburse Ms. Esquivel and aggrieved employees for all necessary business expenditures and losses

Pursuant to Labor Code section 2802, subdivision (a), "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

Here, Employers only provided Ms. Esquivel and aggrieved employees with one (1) work shirt with the company name written on it. Given the nature of the work Ms. Esquivel and aggrieved employees engaged in, these shirts would get excessively soiled. Rather than providing more shirts or reimbursing Ms. Esquivel and aggrieved employees for the washing of their uniforms, Employers would complain about the cleanliness of Ms. Esquivel and aggrieved employees' uniforms and tell them to "clean it better."

Employers' failure to reimburse Ms. Esquivel and Aggrieved Employees is not complaint with Labor Code section 2802 and is therefore actionable under PAGA.

G. Angie Chavez is personally liable for Labor Code Violations

Plaintiff is informed and believes that Angie Chavez is a current owner and/or managing member of All-Rite Leasing Company, Inc. Angie Chavez may be held liable for the violations set forth herein under and pursuant to Labor Code section 558 as “person[s] acting on behalf of an employer who violates, or causes to be violated ... any provision regulating hours and days of work in any order of the Industrial Welfare Commission.” Specifically, Plaintiff is informed and believes that Angie Chavez is the persons who implemented and enforced the policies described herein and as such, are liable under Labor Code section 558.

H. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Esquivel becomes aware of additional compensation owed or losses incurred by Ms. Esquivel or by any other aggrieved employee of the Employers, Ms. Esquivel expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

Mahoney Law Group, APC
Raleigh Dixon, Esq.
249 E. Ocean Blvd., Ste. 814
Long Beach, CA 90802
Tel: (562) 590-5550
Email: rdixon@mahoney-law.net

Sincerely,

A handwritten signature in blue ink that reads "Raleigh Dixon". The signature is fluid and cursive, with the first name "Raleigh" and last name "Dixon" clearly distinguishable.

Raleigh Dixon, Esq.

MAHONEY LAW GROUP, APC