

1 Alex Asil Mashiri, Esq. (SBN 283798)
alex@mashirilawfirm.com
2 **MASHIRI LAW FIRM, APC**
11251 Rancho Carmel Drive #500694
3 San Diego, CA 92150
Tel: (858) 348-4938
4 Fax: (858) 348-4939

5 Tamim Jami, Esq. (SBN 311351)
tamim@jamilaw.com
6 **THE JAMI LAW FIRM P.C.**
3525 Del Mar Heights Rd #941
7 San Diego, CA 92130
Tel: (858) 284-0248
8 Fax: (858) 284-0977

9 Attorneys for Plaintiff
10 KENNETH G. MARTINEZ

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO**

13 KENNETH G. MARTINEZ, an individual, for
14 the real party in interest, the State of California,

15 Plaintiff,

16 vs.

17 SOLAR INTEGRATED ROOFING
CORPORATION AND MILHOLLAND
18 ELECTRIC INC.; and DOES 1 through 50,

19
20 Defendants.
21
22
23
24
25
26
27
28

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/28/2023 at 12:52:11 PM

Clerk of the Superior Court
By Katie Winburn, Deputy Clerk

Case No. 37-2023-00027189-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiff KENNETH G. MARTINEZ (“Plaintiff”), in his capacity as the State of California’s
2 designated proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current
3 and former California non-exempt employees alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the PAGA, incorporated in Labor Code sections 2698, 2699 *et seq.*,
6 Plaintiff brings this representative action against Defendants SOLAR ROOFING CORPORATION
7 (“SOLAR”), MILHOLLAND ELECTRIC INC. (“MILHOLLAND”) and DOES 1 through 50 (all
8 defendants are hereinafter collectively referred to as “Defendants”) for wage and hour violations of
9 the California Labor Code and the applicable Industrial Welfare Commission Wage Order (the “IWC
10 Wage Order”).

11 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
13 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
14 for violation of the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
16 to the procedures specified in Labor Code section 2699.3.

17 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
18 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

19 **JURISDICTION AND VENUE**

20 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
21 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
22 because Plaintiff alleges claims arising under California law.

23 5. This Court has jurisdiction over Defendants because each is believed to be an
24 association, corporation, business entity, or individual that conducts substantial business in the State
25 of California, County of San Diego.

26 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

27 ///

28 ///

7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the Superior Court of California for the County of San Diego because this is where the wrongful misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Plaintiff worked for Defendants during which time he was paid hourly and was considered non-exempt.

10. Plaintiff is an “aggrieved employee” because he was employed by Defendants and had one or more of the alleged violations committed against him, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the current and former employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

11. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

12. Plaintiff is informed and believes, and based thereon alleges, that at all times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

///

///

///

1 13. At all material times, Defendants were and/or are employers or persons acting on
2 behalf of employers, under California law, the IWC Wage Order, and the Labor Code, including Labor
3 Code sections 558 and 558.1 and thus are jointly and severally liable for the violations alleged herein
4 and any amounts awarded and/or recoverable as a result of this action.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 14. On April 20, 2023, Plaintiff, via counsel, provided the statutorily required notice to the
7 LWDA (“PAGA Notice”), indicating that Plaintiff intends to pursue claims against Defendants for
8 violations of the Labor Code.

9 15. On April 20, 2023, Plaintiff, via counsel, sent a copy of the PAGA Notice to
10 Defendants SOLAR and MILHOLLAND.

11 16. The statutory period expired since Plaintiff provided the PAGA Notice to the LWDA
12 and LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable
13 penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A). As
14 such, Plaintiff has exhausted the administrative requirements under the PAGA.

15 **PAGA REPRESENTATIVE ACTION CLAIMS**

16 17. California law provides that an aggrieved employee may file a representative action
17 under the PAGA against an employer for violations of the Labor Code and Wage Order.

18 18. On information and belief, and as alleged below, current and former non-exempt
19 employees of Defendants were subject to wage and hour violations by Defendants, specifically by
20 Defendants’ violation of Labor Code sections 201, 202, 203, 204, 226, 226(a), 226(a)(1), 226(a)(2),
21 226(a)(5), 226(a)(9), 226(b), 226(c), 226.7, 226.7(b), 226.7(c), 246, 246(a), 246(b), 246(c), 246(i),
22 432, 510, 512, 1197, 1198, 1198.5, 2802, 2698 and 2699 et seq.

23 **FIRST CAUSE OF ACTION**

24 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
25 **Sections 246, 246(a), 246(b), 246(c) against all Defendants)**

26 19. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
27 forth herein.

28 ///

20. Under Labor Code sections 246, 246(a), 246(b), 246(c), employers in California must provide employees with paid sick leave.

21. Upon information and belief, Defendants failed to provide paid sick leave to their employees in violation of Labor Code sections 246, 246(a), 246(b), and 246(c).

22. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 246, 246(a), 246(b), 246(c),

23. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of Alameda Cty.* (2020) 9 Cal.5th 279.)

24. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

25. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

26. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown according to proof.

27. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute, Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SECOND CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code
Sections 246 and 246(i) against all Defendants)**

28. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

///

1 29. Under Labor Code section 246(i), an employer is required to either provide a written
2 notice or an itemized wage statement accurately itemizing an employee's available paid sick leave
3 hours.

4 30. Upon information and belief, Defendants also violated Labor Code section 246(i) by
5 failing to provide a written notice or itemized wage statement accurately itemizing the employees'
6 available paid sick leave hours.

7 31. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
8 Labor Code sections 246 and 246(i).

9 32. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
10 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
11 *Alameda Cty.* (2020) 9 Cal.5th 279.)

12 33. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
13 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
14 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
15 all Labor Code provisions for which a civil penalty is not specifically provided.

16 34. Plaintiff is seeking civil penalties against Defendants under Labor Code section
17 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
18 amount to be shown according to proof.

19 35. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover
20 attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown
21 according to proof.

22 36. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute,
23 Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an
24 amount to be shown according to proof.

25 ///

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
3 **Section 1197 against all Defendants)**

4 37. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 38. Under Labor Code section 1197, an employer is required to pay its employees the
7 proper minimum wages for all hours worked.

8 39. Upon information and belief, Defendants failed to properly provide their employees
9 with minimum wages for all hours worked. By way of example, Defendants' employees would work
10 many hours without getting compensated for the hours worked and/or not paid the correct minimum
11 wages for all hours worked in violation of Labor Code section 1197.

12 40. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
13 Labor Code section 1197.

14 41. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
15 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
16 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
17 all Labor Code provisions for which a civil penalty is not specifically provided.

18 42. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
19 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
20 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

21 43. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
22 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
23 according to proof.

24 **FOURTH CAUSE OF ACTION**

25 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
26 **Sections 512 and 226.7(b) against all Defendants)**

27 44. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
28 set forth herein.

1 45. Under Labor Code section 512, an employer must provide a meal period of at least
2 thirty minutes if the employee works more than five hours. California Labor Code section 512
3 “requires a first meal period no later than the end of an employee’s fifth hour of work [...]” (*Brinker*
4 *Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

5 46. Labor Code section 226.7(b) prohibits an employer from requiring an employee to
6 work during a meal period.

7 47. Upon information and belief, during all times relevant to this action, Defendants failed
8 to provide their employees with compliant meal periods in violation of Labor Code sections 512,
9 226.7(b), and the IWC Wage Order.

10 48. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
11 Labor Code sections 512 and 226.7(b) and the IWC Wage Order.

12 49. Labor Code section 558 imposes upon Defendants, and each of them, civil penalties of
13 fifty dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred
14 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

15 50. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 51. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
20 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
21 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

22 52. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
23 reasonable attorneys’ fees, costs, and filing fees paid to the LWDA in an amount to be shown
24 according to proof.

25 ///

26 ///

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226.7(b) against all Defendants)**

4 53. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 54. Rest periods under California labor law are required for non-exempt employees who
7 work three and a half (3 1/2) or more hours in a day. Employees are entitled to ten (10) minutes of
8 rest period for each four (4) hours, or a substantial fraction thereof, that they work in a day.

9 55. Labor Code section 226.7(b) prohibits an employer to require an employee to work
10 during a rest period and provides that an employee must be paid a wage for doing so.

11 56. Upon information and belief, Defendants failed to provide their employees with proper
12 rest periods in violation of Labor Code section 226.7(b) and the IWC Wage Order.

13 57. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
14 the rest break provision in Labor Code section 226.7(b) and the IWC Wage Order.

15 58. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 59. Plaintiff is seeking civil penalties against Defendants under Labor Code section
20 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties
21 under the PAGA as alleged herein in an amount to be shown according to proof.

22 60. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
23 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
24 according to proof.

25 ///

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

[illegible]

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

3
4
5
6
7
8
9
20
21
22
23
24
25
26
27
28

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
86

20
21
22
23
24
25
26
27
28

23
24
25
26
27
28

24
25
26
27
28

26
27
28

28

1 69. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1
2 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on
3 the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-
4 and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
5 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor
6 Code § 510 and IWC Wage Order.)

7 70. Upon information and belief, Defendants' employees were not paid for all overtime
8 and double time hours worked for Defendant. By way of example, Defendants failed to properly
9 provide their employees with overtime pay for hours worked in excess of eight hours in a workday
10 and/or hours worked in excess of 40 hours in one workweek. By way of another example, Defendants
11 failed to properly provide their employees with double time pay for all hours worked in excess of 12
12 hours in a workday and/or for all hours worked in excess of eight on the seventh consecutive day of
13 work in a workweek.

14 71. Defendants also violated Labor Code sections 510 and 1198 because it failed to
15 compensate their employees at the appropriate regular rate of pay where necessary for all overtime
16 and double time hours worked. By way of one example, instead of paying double time hours at double
17 the employee's regular rate of pay, Defendants would pay double time at the base rate.

18 72. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
19 Labor Code sections 510, 1198, and the IWC Wage Order.

20 73. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
22 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
23 all Labor Code provisions for which a civil penalty is not specifically provided.

24 ///

25 ///

26 ///

27 ///

28 ///

74. Pursuant to Labor Code section 558, any employer or other person acting on behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them, penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

75. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

76. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(1) against all Defendants)**

77. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

78. Labor Code section 226(a)(1) requires wage statements that an employer issues to its employees accurately state the gross wages earned.

79. Defendants failed to accurately state the proper gross on the wage statements in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to their employees failed to include the accurate amount of gross wages because they failed to include the proper amount of wages, including, but not limited to, meal/rest premium wages, and regular and/or overtime wages.

80. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

///

///

89. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

90. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

91. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

92. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

93. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

94. Labor Code section 226(a)(5) requires wage statements that an employer issues to its employees accurately state the net wages earned.

95. Defendants failed to accurately state the proper net on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued to their employees failed to include the accurate amount of net wages because they failed to include the proper amount of wages, including, but not limited to, meal/rest premium wages, and regular and/or overtime wages.

96. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(5).

97. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

98. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

99. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

100. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

ELEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(9) against all Defendants)**

101. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

102. Labor Code section 226(a)(9) requires wage statements that an employer issues to its employees accurately state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

103. Defendants failed to provide the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of one example, the rates/hours for meal/rest premiums, regular time, and overtime are inaccurately itemized. By way of another example, the double time rate of pay on the wage statements are inaccurately itemized.

///

104. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(9).

105. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

106. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

107. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

108. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TWELFTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a) against all Defendants)**

109. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

110. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage statement provided to an employee or a computer-generated record that accurately shows all of the information required under 226(a)(1) through (a)(9).

111. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the records kept do not include the accurate gross and net wages, total hours worked, and applicable hourly rates and corresponding hours worked.

112. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a).

113. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

114. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

115. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

116. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 204 against all Defendants)**

117. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

118. Labor Code section 204 imposes an obligation of timely payment of wages upon California employers.

119. Defendants violated Labor Code section 204 because they failed to timely pay their employees all earned wages during an applicable pay period. By way of one example, Defendants failed to pay all earned wages, including, but not limited to, meal/rest premium wages, and regular/overtime wages in a timely manner as required under Labor Code section 204.

///

120. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 204.

121. Labor Code section 210 imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

122. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

123. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 210, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

124. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 201, 202, and 203 against all Defendants)**

125. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

126. Under Labor Code section 201, if an employee is discharged by his/her employer, the wages earned and unpaid at the time of discharge are due and payable immediately.

127. Under Labor Code section 202, if on the other hand, “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.”

///

128. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... 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 therefore is commenced; but the wages shall not continue for more than 30 days. ...”

129. Upon information and belief, employees did not receive all wages upon termination or separation of employment. By way of one example, employees were owed wages, including, but not limited to, meal/rest premium wages, and regular/overtime wages. To this date, Defendants have not paid all wages upon termination or separation of employment.

130. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 201, 202, and 203.

131. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

132. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

133. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 2802 Against all Defendants)**

134. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

///

///

135. Labor Code section 2802(a) states that an employer must reimburse employees “for all necessary expenditures” incurred by the employee in “direct consequence of the discharge of his or her duties.”

136. Defendants violated Labor Code section 2802. By way of one example, Defendants' employees were required to use their cellular phone and purchase certain tools for employment related matters. However, Defendants failed to adequately reimburse their employees for use of their personal cell phones and/or purchase of certain tools.

137. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 2802.

138. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

139. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

140. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SIXTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code
Sections 226(b), 226(c), 432, and 1198.5 against all Defendants)**

141. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

142. Labor Code section 226(b) requires, in pertinent part, that “An employer [...] shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer.”

///

1 143. Labor Code section 226(c) requires, in pertinent part, that “An employer who receives
2 a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
3 or former employee shall comply with the request as soon as practicable, but no later than 21 calendar
4 days from the date of the request.”

5 144. Labor Code section 432 requires employers doing business in the State of California
6 to provide current and former employees copies of all written instruments they sign upon request.

7 145. Labor Code section 1198.5(b)(1) provides, in pertinent part: “The employer shall make
8 the contents of those personnel records available for inspection to the current or former employee, or
9 his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar
10 days from the date the employer receives a written request.”

11 146. On March 7, 2023, Plaintiff, through counsel, sent a letter to Defendants, requesting
12 copies of his payroll and personnel records. To date, no documents have been produced by
13 Defendants.

14 147. Upon information and belief, Defendants have a policy and practice whereby they
15 refuse to provide all required payroll and personnel records to employees who request them, including,
16 but not limited to, time records, handbooks, policies, documents with the employee’s signature, etc.

17 148. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
18 Labor Code sections 226(b), 226(c), 432, and 1198.5.

19 149. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
20 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
21 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
22 all Labor Code provisions for which a civil penalty is not specifically provided.

23 150. Plaintiff is seeking civil penalties against Defendants under the PAGA, including
24 Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties
25 under the PAGA in an amount to be shown according to proof.

26 151. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
27 attorneys’ fees, costs, filing fees paid to the LWDA and civil penalties in an amount to be shown
28 according to proof.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
3. Post-judgment interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

MASHIRI LAW FIRM, APC

By: 
 Alex Asil Mashiri
 Attorney for Plaintiff
KENNETH G. MARTINEZ