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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
03/25/2024 at 03:24:00 PM
Clerk of the Superior Court
By Brenda Ramirez, Deputy Clerk

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

IRVING WILLIAMS, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

TRIDENT MARITIME SYSTEMS, LLC; US
JOINER, LLC; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2023-00021186-CU-OE-CTL

[Related Case No. 37-2023-00030735-CU-OE-CTL]

*Hon. Marcella O. McLaughlin
Dept. 72*

CLASS ACTION

**CONSOLIDATED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Minimum Wage Violations
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Paid Sick Leave Violations
6. Unpaid Vacation Wages
7. Untimely Payment of Wages
8. Wage Statement Violations
9. Waiting Time Penalties
10. Failure to Reimburse Business Expenses
11. Failure to Provide Records
12. Unlawful Deduction of Wages
13. Unfair Competition
14. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 et seq.)

1 Plaintiff IRVING WILLIAMS, individually and on behalf of all others similarly situated and
2 the State of California under the Private Attorneys General Act (“Plaintiff”) brings this
3 CONSOLIDATED CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants
4 TRIDENT MARITIME SYSTEMS, LLC, US JOINER, LLC, and DOES 1 through 50, inclusive
5 (collectively “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This is a class and representative action filed for wage and hour violations of the
8 California Labor Code against Trident Maritime Systems, LLC, and US JOINER, LLC.

9 2. Defendants employed Plaintiff and class members in San Diego County and in the State
10 of California. Defendants failed to pay minimum wage, overtime and sick pay at the regular rate of
11 pay, meal and rest period premiums for non-compliant breaks, all wages owed each pay period and
12 upon separation of employment, and provided non-compliant wage statements.

13 3. Plaintiff brings this action to recover the unpaid damages, plus interest, penalties,
14 attorney fees, and costs.

15 **JURISDICTION & VENUE**

16 4. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
17 California Constitution as the causes of action are premised upon violations of California law.

18 5. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
19 the Superior Court.

20 6. This Court has jurisdiction over Defendants because, upon information and belief,
21 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
22 themselves to the California economy so as to render the exercise of jurisdiction over them by the
23 California courts consistent with traditional notions of fair play and substantial justice.

24 7. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395,
25 and/or 395.5 because, upon information and belief, Defendants conduct business and committed some
26 of the alleged violations in this county.

PARTIES

A. Plaintiff Irving Williams

8. Plaintiff is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about November 2020 to March 31, 2023. Plaintiff worked as a Welder.

9. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this 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.”])

B. Defendants

10. Defendant Trident Maritime Systems, LLC is a limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

11. Defendant US Joiner, LLC is a limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

12. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

13. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

14. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

15. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

16. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

17. Plaintiff reserves the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

18. The class is ascertainable and shares a well-defined community of interest in this litigation:

a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of class members are ascertainable by inspection of Defendants' employment and payroll records.

b. Typicality: Plaintiff's claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiff experienced, will establish the right of the class to recover on the causes of action alleged herein.

c. Adequacy: Plaintiff is an adequate class representative; will take all necessary steps to protect the class members' interests adequately and fairly; has no interest antagonistic to other class members; and is represented by attorneys

who have substantial experience prosecuting, defending, resolving, and litigating wage and hour class, collective, and representative actions in California state and federal courts.

d. Superiority: A class action is superior to other means for adjudicating this dispute. Individual joinder is impractical. Class treatment will allow for common issues to be resolved in a single forum, simultaneously, and without duplication of effort and expense.

e. Public Policy Considerations: Certification of this lawsuit as a class action advances the State of California's strong public interest in ensuring its approximately millions of employed residents are properly paid the wages they earned for the hours they worked. Class actions provide a mechanism for enforcement of labor laws and allow for vindication of employee rights by unnamed class members.

19. Common questions of law and fact as to the class members predominate over questions affecting only individual members. The common questions of law and fact exist as to whether the employment policies and practices formulated by Defendants and applied to the class members constitute violations of California law.

GENERAL ALLEGATIONS

20. Plaintiff and class members worked for Defendants and were compensated on an hourly basis as nonexempt employees. This resulted in unpaid minimum wage and overtime (as applicable).

21. Plaintiff and class members were required to go through a security checkpoint at the front of the shipyard before they were able to clock-in for the day. They were not paid for the time spent during the security check. This resulted in unpaid minimum wage and overtime (as applicable).

22. Plaintiff and class members were also required to go through a security bag check at the end of their workday after they already clocked-out for the day. They were equally not paid for the time spent during the security bag check.

23. Plaintiff and class members earned an annual bonus each year that was calculated and given to them based on Defendant's revenue for the year before. Defendants failed to include

employees' additional remuneration in the regular rate of pay to calculate and pay overtime, sick pay, and Labor Code § 226.7 premiums.

24. Plaintiff earned an annual bonus of \$2,200 on April 15, 2022. This bonus was not retroactively calculated into his overtime, paid sick leave pay, or premium pay nor was it calculated into any of his 2022 overtime, paid sick leave pay, or premium pay. Other class members received the same or similar bonus or additional non-excludable forms of remuneration that were not factored into their respective pay rates.

25. Defendants failed to consistently provide compliant first and second meal periods to Plaintiff and class members, in violation of Labor Code §§ 226.7, 512 and §11 of the applicable IWC Wage Orders. Plaintiff and the class members often experienced late, short, missed, and interrupted meal periods as they were required be present during quality inspection checks. Despite Plaintiff's time records showing that he clocked out for 30 minutes each day, in reality, he did not. The time records demonstrate an unlawful time rounding of meal periods. When Defendants did not provide fully compliant meal periods, Defendants failed to pay Plaintiff and other class members a meal period premium at the lawful "regular rate of compensation" in violation of Labor Code § 226.7.

26. Moreover, Defendants failed to authorize or permit ten-minute rest periods for every four hours of work or major fraction thereof as required by Labor Code §§ 226.7, 516, and § 12 of the applicable IWC Wage Order. When Defendants did not provide fully compliant rest periods, Defendants failed to pay Plaintiff and other class members a rest period premium at the lawful "regular rate of compensation" in violation of Labor Code § 226.7.

27. When Defendants paid meal or rest break premiums, Defendants failed to pay all the premiums owed at the "regular rate of compensation" because they did not factor in bonuses, stipends, differentials, and other forms of remuneration, instead electing to pay class members at the base hourly rate, in violation of Labor Code § 226.7.

28. In periods where Plaintiff took paid sick leave, Defendants failed to properly calculate and pay sick leave at the appropriate regular rate of pay by failing to include Plaintiff's annual bonus and other nonexcludable remuneration in such calculation, in violation of Labor Code §§ 246 through 248 *et seq.*

29. An illustrative example of this appears on Plaintiff's wage statement from November 25, 2022 to December 11, 2022 where Plaintiff was paid his paid sick leave at his hourly rate of \$26.52 rather than at his regular rate of pay.

30. On February 13, 2023, Plaintiff's requested his payroll and personnel records pursuant to Labor Code §§ 226, 247.5, 432, 1174, 1198.5 and §7 of the IWC Wage orders. However, Defendants failed to provide Plaintiff's wage statements and instead provided a few scattered "summary of a record of a payment."

31. Because of these violations, Defendants failed provide accurate itemized wage statements to class members that included the accurate gross or net wages earned, as the employees earned sick leave wages and premiums, which were not paid at the lawful rate in light of the regular rate violations. Likewise, premium wages were paid at an inaccurate hourly wage rate (i.e., the base rate or a multiple of the base rate for overtime instead of the regular rate) which violates the wage statement requirement to include the correct hourly rate in effect each pay period along with the correct number of hours. Additionally, certain wage statements issued to Plaintiff and class members did not list the applicable overtime or doubletime hourly rate or hours worked, and instead simply listed the gross amount paid for that earnings category as a lump sum, in further violation of Labor Code § 226(a). Furthermore, the wage statements in fact issued to Plaintiff and class members on a per pay period basis failed to detail the applicable hourly rates and number of hours worked at each rate, or the deductions from wages, as illustrated on Plaintiff's final wage statement issued. Therefore, Defendants have provided inaccurate and non-compliant wage statements to class members.

32. Moreover, Defendants failed to provide all reimbursement owed to employees for necessary and reasonable work expenses, such as cell phones, uniforms, as well as all vacation time owed and accrued upon separation of employment. These violations create derivative liability for failure to pay all wages owed each payday or upon separation of employment.

33. As a result of the foregoing violations, Defendants also failed to timely pay all wages as they were due to Plaintiff and class members while they were employed and also failed to timely pay all wages due to Plaintiff and class members at their separation of employment.

1 **FIRST CAUSE OF ACTION**

2 **MINIMUM WAGE VIOLATIONS**

3 **Violation of Labor Code §§ 1194, 1194.2 and 1197**

4 **(All Claims Alleged by Plaintiff and Class Members Against All Defendants)**

5 34. All outside paragraphs of this Complaint are incorporated into this section.

6 35. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
7 §§ 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days
8 of Work” and “Minimum Wages” sections of the applicable orders), which require non-exempt
9 employees be timely paid at least the state or local minimum wage (if higher) for each hour of work,
10 and further provide a private right of action for an employer’s failure to pay all minimum wages (plus
11 liquidated damages).

12 36. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class
13 members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
14 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of
15 Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful
16 local and county minimum wage ordinances in effect. As a result, Defendants are liable for all
17 associated damages, including liquidated damages for the minimum wage violations pursuant to Labor
18 Code § 1194.2.

19 37. Defendants’ unlawful acts and omissions deprived Plaintiff and class members of
20 minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and class
21 members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an
22 amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys’
23 fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY ALL OVERTIME WAGES**

26 **Violation of Labor Code §§ 510 and 1194**

27 38. All outside paragraphs of this Complaint are incorporated into this section.

39. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages all overtime hours worked, and which further provide a private right of action for an employer's failure to pay all overtime compensation for overtime hours worked.

40. Defendants failed in their affirmative obligation to pay Plaintiff and class members no less than one and one-half times their respective "regular rate of pay" for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective "regular rate of pay" for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek for such hours worked, in violation of Labor Code sections 204, 510, 558, 1194, and 1198 and the IWC Wage Orders (the "Hours and Days of Work" sections of the applicable orders).

41. Plaintiff and class members are entitled to recover the full amount of the unpaid overtime, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

42. All outside paragraphs of this Complaint are incorporated into this section.

43. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful regular rate of compensation.

44. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiff and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in

violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

45. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

46. Plaintiff and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys’ fees, and costs to the extent permitted by law.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 516

47. All outside paragraphs of this Complaint are incorporated into this section.

48. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods (or rest period premiums in lieu thereof), and which further provide a private right of action for an employer’s failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful regular rate of compensation.

49. Defendants willfully failed in their affirmative obligation to consistently authorize and permit Plaintiff and class members to receive compliant, duty-free rest periods of not less than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the applicable orders).

50. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant rest period was not provided, in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY ALL PAID SICK LEAVE WAGES**

3 **Violation of Labor Code §§ 200, 218, 246 *et seq.***

4 51. All outside paragraphs of this Complaint are incorporated into this section.

5 52. Defendants knowingly and intentionally failed in their affirmative obligation to pay
6 sick leave wages to Plaintiff and the Paid Sick Leave Class in violation of Labor Code section 246
7 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law.
8 (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 [“Courts have recognized
9 that ‘wages’ also include those benefits to which an employee is entitled as a part of his or her
10 compensation, including money, room, board, clothing, vacation pay, and sick pay”].)

11 53. Labor Code section 246(l) governs how Defendants were required to calculate paid sick
12 leave:

13 [A]n employer shall calculate paid sick leave using any of the following calculations:

14 (1) Paid sick time for nonexempt employees shall be calculated in the same
15 manner as the regular rate of pay for the workweek in which the employee uses
16 paid sick time, whether or not the employee actually works overtime in that
17 workweek.

18 (2) Paid sick time for nonexempt employees shall be calculated by dividing the
19 employee’s total wages, not including overtime premium pay, by the
20 employee’s total hours worked in the full pay periods of the prior 90 days of
21 employment.

22 (3) Paid sick time for exempt employees shall be calculated in the same manner
23 as the employer calculates wages for other forms of paid leave time.

24 54. Defendants failed to pay Plaintiff and the Paid Sick Leave Class their paid sick leave
25 wages at one of the lawful rates set forth in the statute because Defendants failed to include in their
26 sick leave calculation the additional remuneration received by Plaintiff and the Paid Sick Leave Class.

27 55. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick
28 leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19

Supplemental Sick Leave wages to the Paid Sick Leave Class at the correct rate in violation of Labor Code sections 246, 248.1, 248.2, and 248 *et seq.*

56. Pursuant to Labor Code section 248.1, Defendants were required to provide up to 80 hours of Covid-19 Supplemental Paid Sick Leave to employees for the period of April 20, 2020 to December 31, 2020. Labor Code section 248.2 required Defendants to provide up to 80 hours of Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2021 through at least September 30, 2021. Labor Code section 248.6 extended Covid sick leave protections and requires employers to provide up to 80 hours of Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2022 to September 30, 2022, and may be extended thereafter.

57. Under Labor Code section 248.1, employees must be paid for Covid-19 Supplemental Paid Sick Leave at the highest of the following: (1) the regular rate of pay for the last pay period, (2) state minimum wage, (3) local minimum wage.

58. Under Labor Code section 248.2, non-exempt employees must be paid supplemental paid sick leave according to the highest of the following four methods:

(I) Calculated in the same manner as the regular rate of pay for the workweek in which the covered employee uses COVID-19 supplemental paid sick leave, whether or not the employee actually works overtime in that workweek.

(II) Calculated by dividing the covered employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(III) The state minimum wage.

(IV) The local minimum wage to which the covered employee is entitled.

59. Labor Code section 248.6 requires employers to pay supplemental sick leave using either method (I) or (II), as identified above.

60. On information and belief, Defendants failed to pay Covid-19 Supplemental Sick Leave in the manner described above because Defendants failed to include in their sick leave calculation the additional remuneration received by the Paid Sick Leave Class.

61. As a result, Defendants violated the Labor Code and are liable to Plaintiff and the Paid Sick Leave Class for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

SIXTH CAUSE OF ACTION

UNPAID VACATION WAGES

Violation of Labor Code §§ 201, 202, 203, and 227.3 and 1194, and 1198

62. All outside paragraphs of this Complaint are incorporated into this section.

63. This cause of action is brought by an unpaid vacation wages subclass pursuant to Labor Code §§ 200, 201, 202, 203, and 227.3 and 1194, and 1198, which require non-exempt employees be timely paid all vested vacation wages at their final rate of pay upon separation of employment, and which further provide a private right of action for an employer's timely failure to pay all vacation compensation upon termination. Defendant offered Plaintiff and class members an employment contract or policy providing for the accrual of vacation and/or paid time off. Plaintiff and class members accrued vacation and/or PTO pursuant to the contract or policy.

64. Upon separation of Plaintiff and class members, Defendants willfully failed in their affirmative obligation to timely pay Plaintiff and class members all accrued but unused vacation at their final rate during their employment with Defendants, in violation of Labor Code sections 201(a), 202(a), and 227.3.

65. Plaintiff and class members are entitled to recover the full amount of the accrued vacation wages owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

SEVENTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

Violation of Labor Code §§ 204, 210, 218

66. All outside paragraphs of this Complaint are incorporated into this section.

67. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay period, and which further provide a private right of action for an employer's failure to comply with

1 this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due
2 under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

3 68. Defendants willfully failed in their affirmative obligation to timely pay all wages,
4 including paid sick leave and meal and rest premiums, earned by Plaintiff and class members twice
5 during each calendar month on days designated in advance by the employer as regular paydays (for
6 employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly
7 employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the
8 "Minimum Wages" sections of the applicable orders).

9 69. Plaintiff and class members are entitled to recover the full amount of the unpaid wages,
10 in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay
11 each employee and \$200 for all subsequent violations and for all willful or intentional violations for
12 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided
13 in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

14 **EIGHTH CAUSE OF ACTION**

15 **WAGE STATEMENT VIOLATIONS**

16 **Violation of Labor Code § 226**

17 70. All outside paragraphs of this Complaint are incorporated into this section.

18 71. This cause of action is brought by the Wage Statement Subclass pursuant to Labor Code
19 § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each
20 pay period, and which further provide a private right of action for an employer's failure to comply
21 with this obligation.

22 72. Defendants knowingly and intentionally failed in their affirmative obligation provide
23 accurate itemized wage statements to Plaintiff and class members resulting in injury to Plaintiff and
24 class members. Specifically, the wage statements issued to Plaintiff and class members did not
25 accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

26 73. Defendants' unlawful acts and omissions deprived Plaintiff and class members of
27 accurate itemized wage statements, causing confusion and concealing wage and premium
28 underpayments.

74. As a result, Plaintiff and class members are entitled to recover the statutory penalty of \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 226(e).

NINTH CAUSE OF ACTION

WAITING TIME PENALTIES

Violation of Labor Code §§ 201 *et seq.*

75. All outside paragraphs of this Complaint are incorporated into this section.

76. This cause of action is brought by the Waiting Time Class pursuant to Labor Code §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of employment, and which further provide a private right of action to recover statutory waiting time penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days wages.

77. Defendants willfully failed and continue to fail in their affirmative obligation to pay all wages earned and unpaid to Plaintiff and members of the Waiting Time Class immediately upon termination of employment or within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his or her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

78. Plaintiff and the Waiting Time Class are entitled to recover a waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

1
2 **TENTH CAUSE OF ACTION**

3 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

4 **Violation of Labor Code § 2802**

5 79. All outside paragraphs of this Complaint are incorporated into this section.

6 80. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff and a
7 reimbursement subclass for all necessary expenditures, losses, expenses, and costs incurred by them
8 in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

9 81. Defendants' unlawful acts and omissions deprived Plaintiff and class members of
10 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff and class
11 members are entitled to recover the amount unreimbursed expenses of Plaintiff and class members in
12 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
13 Code section 2802.

14 **ELEVENTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE RECORDS**

16 **Violation of Labor Code §§ 226, 432, and 1198.5**

17 82. All outside paragraphs of this Complaint are incorporated into this section.

18 83. Plaintiff brings this cause of action exclusively *in an individual capacity*.

19 84. Labor Code section 432 states that [i]f an employee. . . signs any instrument relating to
20 the obtaining or holding of employment, he shall be given a copy of the instrument upon request."

21 85. Labor Code section 226(b) grants employees the right to inspect or receive "a copy of
22 records pertaining to their employment." Labor Code section 226(f) authorizes a penalty of \$750 for
23 an employer's failure to comply with a request for records made under section 226.

24 86. Labor Code section 1198.5 requires employers to provide an employee's "personnel
25 records" within 30 days of receipt of the request. Section 1198.5(k) authorizes a penalty of \$750 for
26 an employer's failure to provide a copy of or permit inspection of personnel records. Section 1198.5(l)
27 allows an employee to seek injunctive relief to obtain an employer's compliance with this section and
28 authorizes the recovery of attorneys' fees and costs.

1 87. Section 7 (Records) of the IWC Wage Orders, which may be enforced through Labor
2 Code section 1198, requires that employers maintain time records of when an employee begins and
3 ends each work period and when the employee takes meal periods, among other required employment
4 and payroll records. Section 7(C) states that “[a]n employee’s records shall be made available for
5 inspection by the employee upon reasonable request.”

6 88. Plaintiff requested from Defendants all records due under the IWC Wage Orders
7 (including the Records sections) and Labor Code sections 226, 432, and 1198.5. However, Defendants
8 failed to provide Plaintiff’s wage statements. Only a few scattered “record of a payment issued” were
9 provided instead.

10 89. Defendants’ unlawful acts and omissions deprived Plaintiff of the ability review the
11 documents they received during their employment and to inspect and reconcile their actual time
12 worked with the ultimate pay they received on their wage statements. Plaintiff is entitled to recover
13 the penalties and injunctive relief, in addition to interest, attorneys’ fees, and costs to the extent
14 permitted by law, including under Code of Civil Procedure section 1021.5, and Labor Code sections
15 226 and 1198.5.

16 **TWELFTH CAUSE OF ACTION**

17 **UNLAWFUL DEDUCTION OF WAGES**

18 **Violations of Labor Code §§ 221 and 223**

19 90. All outside paragraphs of this Complaint are incorporated into this section.

20 91. Labor Code § 221 provides that: "It shall be unlawful for any employer to collect or
21 receive from an employee any part of wages therefore paid by said employer to said employee."

22 92. Labor Code § 223 provides “Where any statute or contract requires an employer to
23 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting
24 to pay the wage designated by statute or by contract.”.

25 93. During the relevant time period, Defendants have unlawfully taken deduction from
26 Plaintiff and class members compensation for alleged health insurance premiums paid for when
27 Plaintiff took time off. Defendants did not receive authorization from Plaintiff for the alleges offset or
28 deduction from his wages. Because of these unlawful deductions form Plaintiff’s and class members’

1 compensation, they are liable to Plaintiff and class members for the compensation that should have
2 been paid but for the unlawful deductions pursuant to Labor Code §§ 221 and 223 and applicable IWC
3 Wage Orders.

4 **THIRTEENTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION**

6 **Violation of Business and Professions Code §§ 17200 *et seq.***

7 94. All outside paragraphs of this Complaint are incorporated into this section.

8 95. Defendants have engaged and continue to engage in unfair and/or unlawful business
9 practices in the State of California in violation of California Business and Professions Code § 17200
10 by committing the foregoing wage and hour violations alleged throughout this Complaint.

11 96. Defendants' dependence on these unfair and/or unlawful business practices deprived
12 Plaintiff and continue to deprive other class members of compensation to which they are legally
13 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to
14 Defendants over competitors who have been and/or are currently employing workers in compliance
15 with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair
16 business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

17 97. Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged in this
18 Complaint, and Plaintiff, as an individual and on behalf of others similarly situated, seeks full
19 restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired,
20 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

21 98. Plaintiff does not have an adequate remedy at law for past or future violations, to the
22 extent the statute of limitations on each of the alleged causes of action do not extend to the four year
23 limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order
24 violations do not provide a private right of action.

25 99. Plaintiff and class members are entitled to injunctive relief against Defendants,
26 restitution, and other equitable relief to return all funds over which Plaintiff and class members have
27 an ownership interest and to prevent future damage and the public interest under Business and
28 Professions Code § 17200 *et seq.* Plaintiff and class members are further entitled to recover interest,

attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

FOURTEENTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)

100. All outside paragraphs of this Complaint are incorporated into this section.

101. Plaintiff brings this cause of action as a proxy for the State of California on behalf of the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"), codified as Labor Code section 2698 *et seq.*:

a. All current and former non-exempt employees who worked for Defendants in California at any time from one year prior to the postmark date of the initial PAGA notice through date of trial.

102. Plaintiff reserves the right to amend, supplement, or add to this description of the aggrieved employees, according to proof.

103. The State of California, via the Labor and Workforce Development Agency ("LWDA"), is the real party in interest in this action with respect to this cause of 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."])

104. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law,, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3. "

105. Labor Code section 2699(f) provides: "For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more

employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

106. Any allegations regarding violations of the IWC Wage Orders are enforceable as violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

107. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil penalties under the PAGA.

108. On or about May 15, 2023, Plaintiff paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged violations

109. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor Code Violations,” is attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein (the “PAGA notice”).

110. On or about January 16, 2024, Plaintiff amended his PAGA notice, paid the requisite PAGA filing fee and provided written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support the alleged violations

111. A true and correct copy of Plaintiff’s written amended PAGA notice, entitled “Amendment to LWDA Notice dated May 15, 2023,” is attached hereto as Exhibit 2 and incorporated by reference as though fully set forth herein (the “Amended PAGA notice”).

112. To date, neither Plaintiff nor Plaintiff’s counsel has received a response to Plaintiff’s written PAGA notice from the LWDA.

113. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither Plaintiff nor Plaintiff’s counsel has received written notice by certified mail from any defendant providing a description of any actions taken to cure the alleged violations.

1 114. Now that at least 65 days have passed from Plaintiff notifying Defendants of these
2 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate
3 the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all
4 prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

5 115. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this
6 Complaint, Defendants committed the following violations and are liable for all corresponding civil
7 penalties:

- 8 a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194,
9 1197, 1198; IWC Wage Orders.
- 10 b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage
11 Orders.
- 12 c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- 13 d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512,
14 1198; IWC Wage Orders.
- 15 e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516,
16 1198; IWC Wage Orders.
- 17 f. ***Unpaid Vacation Wages.*** Violation of Labor Code §§ 201, 202, 203, 227.3,
18 1194, and 1198.
- 19 g. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code
20 §§ 204, 204b, 210.
- 21 h. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of
22 Labor Code §§ 201, 202, 203, 256.
- 23 i. ***Failure to Reimburse Business Expenses.*** Violation of Labor Code § 2802.
- 24 j. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- 25 k. ***Failure to Provide Employee Records.*** Violation of Labor Code §§ 226, 432,
26 1174, 1198.5; IWC Wage Orders.
- 27 l. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC
28 Wage Orders.

1 m. ***Unlawful Deduction of Wages.*** Violations of Labor Code §§ 221 and 223

2 116. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations
3 alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants
4 pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the
5 extent permitted by law, including under Labor Code section 2699(g).

6
7 **PRAYER**

8 Plaintiff prays for judgment as follows:

- 9 a. For certification of this action as a class action;
10 b. For appointment of Plaintiff as the class representative;
11 c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
12 d. For division of class members into appropriate classes and/or subclasses according to
13 proof;
14 e. For recovery of damages in amount according to proof;
15 f. For all recoverable pre- and post-judgment interest;
16 g. For recovery of all civil and statutory penalties and liquidated damages;
17 h. For disgorgement of all amounts wrongfully obtained;
18 i. For restitution and injunctive relief;
19 j. For this action to be maintained as a representative action under the PAGA;
20 k. For Plaintiff and counsel of record to be provided with all enforcement capability as if
21 the action were brought by the State of California or the California Division of Labor
22 Enforcement;
23 l. For recovery of all civil penalties and other recoverable amounts under the PAGA;
24 m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
25 permitted by law, including (without limitation) under Labor Code § 2699, and Code
26 of Civil Procedure section 1021.5
27
28

- 1 n. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
2 permitted by law, including (without limitation) under Labor Code §§ 218.5, 226,
3 1194, 2802, and Code of Civil Procedure section 1021.5; and
4 o. For such other relief the Court deems just and proper.

5
6 Dated: March 25, 2024

Ferraro Vega Employment Lawyers, Inc.

7 
8 _____
9 Nicholas J. Ferraro
Lauren N. Vega
Attorneys for Plaintiff Irving Williams

EXHIBIT 1

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

May 15, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Trident Maritime Systems, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **IRVING WILLIAMS** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

TRIDENT MARITIME SYSTEMS, LLC

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices

affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Welder from about November 2020 through March 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

Plaintiff and the aggrieved employee were required to go through a security checkpoint at the front of the shipyard prior to entering and reaching the timeclocks. Plaintiff and the aggrieved employee were required to show their work badge to the security guard at the front of the gate, then walk through the shipyard to punch in at one of the designated timeclocks. Plaintiff and the aggrieved employees were not paid for the time spent during the security check nor for the time spent walking from the security checkpoint to the timeclocks.

Additionally, at the end of the workday, Plaintiff and the aggrieved employees were required to clock out at one of the designated timeclocks in the yard, then were required to have all backpack or large bags checked before leaving the front gates. Plaintiff and the aggrieved employees were not paid for the time spent on bag checks at the end of the day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work 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;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages, as a result of the unlawful policy and practice of unpaid security checks and timeclock procedures, as set forth above.

Additionally, Plaintiff and the aggrieved employees earned an annual bonus each year, including Plaintiff’s bonus of \$2,200. This bonus is calculated and given to employees based on Defendants’ revenue for the year. As such, Plaintiff and the aggrieved employees were not properly paid all overtime wages earned, as Defendants failed to calculate properly calculate overtime using the regular rate of pay including the non-discretionary bonuses and other remunerations. These earnings were not included in such calculations.

Social Security Number: XXX-XX-9654				
Earnings	rate	hours	this period	year to date
Bonus			2,200.00	2,200.00
Regular				9,079.85
Holiday				618.00
PTO				3,042.06
Retro Pay				162.07
Gross Pay			\$2,200.00	15,101.98

Excerpt from Plaintiff’s wage statement dated April 15, 2022 for the pay period of April 06, 2022 to April 12, 2022 with the annual bonus of \$2,200.

Defendants also could have included the \$2,200 bonus in calculating Plaintiff and the aggrieved employees overtime pay for the 2022 calendar year, but also failed to do so. This is evident on Plaintiff’s wage statements as exemplified below:

Earnings	rate	hours	this period	year to date
Regular	26.5200	60.50	1,604.46	36,264.44
Overtime	39.7800	20.75	825.44	1,143.68
Double Time			148.02	148.02
Holiday	26.5200	16.00	424.32	1,678.80
Bereavement				636.48
Bonus				2,200.00
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$3,002.24	47,047.88

Excerpt from Plaintiff's wage statement dated December 02, 2022 for the pay period of November 14, 2022 to November 27, 2022.

Earnings	rate	hours	this period	year to date
Regular	26.5200	40.00	1,060.80	37,325.24
Overtime	39.7800	8.00	318.24	1,461.92
CA SPSL 22	26.5200	40.00	1,060.80	1,060.80
Bereavement				636.48
Bonus				2,200.00
Double Time				148.02
Holiday				1,678.80
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$2,439.84	49,487.72

Excerpt from Plaintiff's wage statement dated December 16, 2022 for the pay period of November 25, 2022 to December 11, 2022.

Plaintiff retains standing to pursue these claims against Defendants, as Plaintiff experienced the alleged violations, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option

of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees.

Defendants failed to provide Plaintiff and the aggrieved employees with any type of written notice of the amount of paid sick leave available to them. This information is not on Plaintiff’s wage statements nor was it provided to him in a separate writing.

An example of Plaintiff’s wage statement is below:

Earnings				rate	hours	this period	year to date	Other Benefits and Information	this period	total to date
Regular				26.5200	72.00	1,909.44	34,659.98	Ca Sup Avail	80.00	
Overtime				39.7800	8.00	318.24	318.24	Emplr Life	2.07	48.87
Bereavement							636.48	Emplr Ltd	5.52	127.68
Bonus							2,200.00	Emplr Std	0.69	15.87
Holiday							1,254.48	Totl Hrs Worked	80.00	
PTO							4,814.39			
Retro Pay							162.07			
Gross Pay						\$2,227.68	44,045.64	Important Notes		
								EMPLOYER BUSINESS PHONE#919-710-1807		
Deductions				Statutory				BASIS OF PAY: HOURLY		
Federal Income Tax				-147.28			3,875.93	EFFECTIVE THIS PAY PERIOD YOUR STATE		
Social Security Tax				-138.12			2,730.83	EXEMPTIONS/ALLOWANCES HAVE BEEN CHANGED FROM 1		
Medicare Tax				-32.30			638.66	TO 2.		
CA State Income Tax				-25.53			1,263.64	IF NO CA Spst Used IS LISTED YOU HAVE USED ZERO HRS		
CA SDI Tax				-24.50			484.50	Additional Tax Withholding Information		
Other								Taxable Marital Status:		
Safety				-120.95			241.01	CA: Single		
Garnishment							703.69	Exemptions/Allowances:		
Net Pay						\$1,739.00		CA: 2(Head of Household)		
Chkck1				-1,739.00						
Net Check						\$0.00				
Your federal taxable wages this period are \$2,227.68										

Additionally, Defendants failed to pay sick leave in accordance with one of the permissible methods in Labor Code §246(l)(1)-(3). Specifically, Defendants failed to pay paid sick leave at the regular rate by failing to factor in bonuses, commissions, and other forms of remuneration into the paid sick leave rate. The \$2,200 bonus mentioned above was an annual bonus, and as such, it should have been included in Plaintiff's regular rate of pay for one calendar year. However, it was not calculated into the 2021 nor the 2022 calendar year.

An example of Defendant's failure to calculate Plaintiff's annual bonus into his 2022 paid sick leave pay is below (or into prior pay periods in which sick pay was earned in the same pay period in which a bonus was earned):

Earnings	rate	hours	this period	year to date
Regular	26.5200	40.00	1,060.80	37,325.24
Overtime	39.7800	8.00	318.24	1,461.92
CA SPSL 22	26.5200	40.00	1,060.80	1,060.80
Bereavement				636.48
Bonus				2,200.00
Double Time				148.02
Holiday				1,678.80
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$2,439.84	49,487.72

Excerpt from Plaintiff's wage statement dated December 16, 2022 for the pay period of November 25, 2022 to December 11, 2022.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages **Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise

a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and the aggrieved employees often experienced a missed, shortened, or interrupted meal period. After a project is finished, it needed to be inspected by quality control and/or a third-party inspection service, depending on what type of project it was. The inspections can last up to two hours. During the inspections, Plaintiff and the aggrieved employees were required to be present with the inspector to answer any questions and receive feedback from the inspector. As such, Plaintiff and the aggrieved employees were unable to a timely 30-minute duty free meal break.

Despite Plaintiff’s time records showing that he clocked out for 30 minutes each day, in reality, he did not. The time records are more reflective of a work schedule as they do not show the actual time of Plaintiff’s clock in and clock outs. The time records show that Plaintiff clocked into work at 6:30am and clocked out at 10:00am then back in at 10:30am until his final clock out at 3:00pm almost every day. Occasionally he clocked in at 5:30am with a final clock out of 2:00pm. The time records demonstrate unlawful time rounding of meal periods in violation of the legal standard set forth in violation of *Donohue v. AMN Services, LLC* and further demonstrate a policy and practice of non-compliance with California’s meal period requirements.

A sample of the time record provided is below:

12/5/2022	Mon	*06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/6/2022	Tue	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/7/2022	Wed	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/8/2022	Thu	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/9/2022	Fri	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/10/2022	Sat	*05:30 AM	10:00 AM	10:30 AM	*02:00 PM	8.00	8.00

When Defendants did not provide complaint meal periods, Defendants failed to consistently pay Plaintiff and other aggrieved employees a meal period premium in violation of Labor Code section 226. The time records reflect shifts in excess of 5 and 6 hours without a corresponding 30- minute unpaid meal period or premium payment in lieu of such meal period (or second meal period premiums as applicable).

If a meal period premium was paid, Defendants underpaid Plaintiff and other aggrieved employees who earned a meal period premium in the same pay period where they earned shift differential pays, bonuses, or other forms of non-excludable remuneration because these premiums were not paid at the “regular rate of compensation” as the premiums paid did not factor in the shift differential payments and bonuses, among other forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages **Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period

for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

As explained above, Plaintiff and other employees experienced missed, shortened, or interrupted rest periods due to the same reasons they experienced missed, shortened, or interrupted meal periods. When Plaintiff and other aggrieved employees experienced these missed, shortened, or interrupted rest periods, Defendants failed to pay rest period premiums at the regular rate as required by Labor Code section 226.7.

On information and belief, Defendants had a policy and practice of not paying rest period premiums to employees who were unable to take rest periods. To the extent Defendants ever paid a rest period premium, Defendants violated Labor Code section 226.7 because such premiums were not paid at the correct regular rate of compensation to aggrieved employees, which would have factored in bonuses and other forms of compensation. As discussed throughout this correspondence, Defendants had a non-compliant policy and practice of miscalculating and underpaying the regular rate of pay applicable to overtime and other premiums. Based on this practice, Plaintiff alleges the rest period premiums were equally deficient with respect to payments made to the aggrieved employees.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each

pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Due to Defendants' failure to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages, sick leave, and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all premiums, overtime, regular, sick leave, and other earnings on time each pay day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

An illustrative example of Defendant's failure to provide accurate itemized wage statement is below:

Earnings	rate	hours	this period	year to date
Regular	26.5200	60.50	1,604.46	36,264.44
Overtime	39.7800	20.75	825.44	1,143.68
Double Time			148.02	148.02
Holiday	26.5200	16.00	424.32	1,678.80
Bereavement				636.48
Bonus				2,200.00
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$3,002.24	47,047.88

Excerpt from Plaintiff's wage statement dated December 02, 2022 for the pay period of November 14, 2022 to November 27, 2022.

Additionally, on Plaintiff's final wage statement dated April 07, 2023, Defendant failed to detail out all of Plaintiff's applicable hourly rates and the number of hours worked at each rate as well as all of Plaintiff's deductions. This format of wage statements was issued to aggrieved employees and demonstrates non-compliance in each of those respective pay periods.

Plaintiff's final wage statement is below:

THE TRISTAR MARITIME CO
2011 CRYSTAL DR
STE 1102
ARLINGTON, VA 22202

SSN: XXX-XX-9654
Filing Status: Single or Married Filing Separately

IRVING LAVELLE WILLIAMS

Earnings Statement
Period Beginning Date: 09/20/2022
Period Ending: 04/07/2023
Pay Date: 04/01/2023

Gross Pay	Deductions	Net Pay/Net Check
\$2,148.12	\$201.73	\$1,946.39

Hours and Earnings

Description	Hours	This Period
Regular Earnings	68.00	1,803.36
PTO	13.00	344.76

Hours and Earnings Rates

Description	Hours	Rate	This Period
Regular	68.00		1,803.36
PTO	13.00		344.76

Basis of Pay: Hourly
Totl Hrs Worked: 81.00

Taxes

Description	This Period
Social Security Tax	133.18
Medicare Tax	31.15
CA State Worked In	18.07
CA SUI/SDI	19.33

Memos

Description	This Period
EMPLR LIFE	2.07
EMPLR LTD	5.52
EMPLR STD	0.89
MAX ELIG/COMP	2,148.12

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were

owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Provide Employee Records
Violation of Labor Code §§ 226, 432, 1174, 1198.5; IWC Wage Orders

Defendants violated Labor Code sections 226, 432, 1198.5, and 1174 with respect to the aggrieved employees.

Labor Code section 226(b) requires employers to “afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer.” Labor Code section 432 states that “[i]f an employee ... signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.” Labor Code section 1198.5 grants “[e]very current and former employee, or his or her representative, ... the right to inspect and receive a copy of the personnel files that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” Section 7(A) (Records) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates that employers maintain and make available “time records showing when the employee begins and ends each work period” as well as time records showing “[m]eal periods, split shift intervals, and daily hours worked[.]” Labor Code section 1174(d) requires these and other records be maintained for at least three years.

Defendants failed to provide all records upon Plaintiff’s request. On February 13, 2023, our office requested Plaintiff’s payroll and personnel records on his behalf. However, the records we received were incomplete as it did not contain Plaintiff’s wage statements. Only a few scattered “record of a payment issued” were provided instead.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000), 1174.5 (\$500), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also

be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is fluid and cursive, with the first name "Nicholas" and last name "Ferraro" clearly legible.

Nicholas J. Ferraro

Cc Plaintiff Irving Williams

Hortenssia Zatarain

HR Manager, West Coast Operations, Trident Maritime Systems

hortenssia.zatarain@tridentllc.com

EXHIBIT 2

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

January 16, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Trident Maritime Systems, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

US Joiner, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

Re: Amendment to LWDA Notice dated May 15, 2023
LWDA No. LWDA-CM-955148-23

Dear LWDA Officer and Company Representatives:

Plaintiff hereby encloses the attached copy of the original PAGA Notice dated May 15, 2023 (attached hereto as Exhibit 1) as well as a draft copy of the proposed First Amended Representative Action Complaint (attached hereto as Exhibit 2) to the LWDA to further inform the LWDA and Defendants named in the notice of the additional claims being prosecuted under PAGA. This action is presently pending in San Diego County Superior Court and Plaintiff provides the draft copy of the complaint to be filed upon completion of the statutory exhaustion period.

If the LWDA does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to file the First Amended Representative Action Complaint against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act.

Please contact our office if you have any questions.

Sincerely,



Nicholas J. Ferraro

Enclosure – Ex. 1 Original PAGA Notice

Enclosure – Ex. 2 Proposed First Amended Representative Action Complaint

Cc Plaintiff Irving Williams
Travis Jang-Busby

EXHIBIT 1

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

May 15, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Trident Maritime Systems, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **IRVING WILLIAMS** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

TRIDENT MARITIME SYSTEMS, LLC

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices

affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Welder from about November 2020 through March 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

Plaintiff and the aggrieved employee were required to go through a security checkpoint at the front of the shipyard prior to entering and reaching the timeclocks. Plaintiff and the aggrieved employee were required to show their work badge to the security guard at the front of the gate, then walk through the shipyard to punch in at one of the designated timeclocks. Plaintiff and the aggrieved employees were not paid for the time spent during the security check nor for the time spent walking from the security checkpoint to the timeclocks.

Additionally, at the end of the workday, Plaintiff and the aggrieved employees were required to clock out at one of the designated timeclocks in the yard, then were required to have all backpack or large bags checked before leaving the front gates. Plaintiff and the aggrieved employees were not paid for the time spent on bag checks at the end of the day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work 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;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages, as a result of the unlawful policy and practice of unpaid security checks and timeclock procedures, as set forth above.

Additionally, Plaintiff and the aggrieved employees earned an annual bonus each year, including Plaintiff’s bonus of \$2,200. This bonus is calculated and given to employees based on Defendants’ revenue for the year. As such, Plaintiff and the aggrieved employees were not properly paid all overtime wages earned, as Defendants failed to calculate properly calculate overtime using the regular rate of pay including the non-discretionary bonuses and other remunerations. These earnings were not included in such calculations.

Social Security Number: XXX-XX-9654				
Earnings	rate	hours	this period	year to date
Bonus			2,200.00	2,200.00
Regular				9,079.85
Holiday				618.00
PTO				3,042.06
Retro Pay				162.07
Gross Pay			\$2,200.00	15,101.98

Excerpt from Plaintiff’s wage statement dated April 15, 2022 for the pay period of April 06, 2022 to April 12, 2022 with the annual bonus of \$2,200.

Defendants also could have included the \$2,200 bonus in calculating Plaintiff and the aggrieved employees overtime pay for the 2022 calendar year, but also failed to do so. This is evident on Plaintiff’s wage statements as exemplified below:

Earnings	rate	hours	this period	year to date
Regular	26.5200	60.50	1,604.46	36,264.44
Overtime	39.7800	20.75	825.44	1,143.68
Double Time			148.02	148.02
Holiday	26.5200	16.00	424.32	1,678.80
Bereavement				636.48
Bonus				2,200.00
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$3,002.24	47,047.88

Excerpt from Plaintiff's wage statement dated December 02, 2022 for the pay period of November 14, 2022 to November 27, 2022.

Earnings	rate	hours	this period	year to date
Regular	26.5200	40.00	1,060.80	37,325.24
Overtime	39.7800	8.00	318.24	1,461.92
CA SPSL 22	26.5200	40.00	1,060.80	1,060.80
Bereavement				636.48
Bonus				2,200.00
Double Time				148.02
Holiday				1,678.80
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$2,439.84	49,487.72

Excerpt from Plaintiff's wage statement dated December 16, 2022 for the pay period of November 25, 2022 to December 11, 2022.

Plaintiff retains standing to pursue these claims against Defendants, as Plaintiff experienced the alleged violations, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option

of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees.

Defendants failed to provide Plaintiff and the aggrieved employees with any type of written notice of the amount of paid sick leave available to them. This information is not on Plaintiff’s wage statements nor was it provided to him in a separate writing.

An example of Plaintiff’s wage statement is below:

Earnings				rate	hours	this period	year to date	Other Benefits and Information	this period	total to date
Regular				26.5200	72.00	1,909.44	34,659.98	Ca Sup Avail	80.00	
Overtime				39.7800	8.00	318.24	318.24	Emplr Life	2.07	48.87
Bereavement							636.48	Emplr Ltd	5.52	127.68
Bonus							2,200.00	Emplr Std	0.69	15.87
Holiday							1,254.48	Totl Hrs Worked	80.00	
PTO							4,814.39			
Retro Pay							162.07			
Gross Pay						\$2,227.68	44,045.64	Important Notes		
								EMPLOYER BUSINESS PHONE#919-710-1807		
Deductions				Statutory				BASIS OF PAY: HOURLY		
Federal Income Tax				-147.28			3,875.93	EFFECTIVE THIS PAY PERIOD YOUR STATE		
Social Security Tax				-138.12			2,730.83	EXEMPTIONS/ALLOWANCES HAVE BEEN CHANGED FROM 1		
Medicare Tax				-32.30			638.66	TO 2.		
CA State Income Tax				-25.53			1,263.64	IF NO CA Spst Used IS LISTED YOU HAVE USED ZERO HRS		
CA SDI Tax				-24.50			484.50	Additional Tax Withholding Information		
Other								Taxable Marital Status:		
Safety				-120.95			241.01	CA: Single		
Garnishment							703.69	Exemptions/Allowances:		
Net Pay						\$1,739.00		CA: 2(Head of Household)		
Chkck1				-1,739.00						
Net Check						\$0.00				
Your federal taxable wages this period are \$2,227.68										

Additionally, Defendants failed to pay sick leave in accordance with one of the permissible methods in Labor Code §246(l)(1)-(3). Specifically, Defendants failed to pay paid sick leave at the regular rate by failing to factor in bonuses, commissions, and other forms of remuneration into the paid sick leave rate. The \$2,200 bonus mentioned above was an annual bonus, and as such, it should have been included in Plaintiff's regular rate of pay for one calendar year. However, it was not calculated into the 2021 nor the 2022 calendar year.

An example of Defendant's failure to calculate Plaintiff's annual bonus into his 2022 paid sick leave pay is below (or into prior pay periods in which sick pay was earned in the same pay period in which a bonus was earned):

Earnings	rate	hours	this period	year to date
Regular	26.5200	40.00	1,060.80	37,325.24
Overtime	39.7800	8.00	318.24	1,461.92
CA SPSL 22	26.5200	40.00	1,060.80	1,060.80
Bereavement				636.48
Bonus				2,200.00
Double Time				148.02
Holiday				1,678.80
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$2,439.84	49,487.72

Excerpt from Plaintiff's wage statement dated December 16, 2022 for the pay period of November 25, 2022 to December 11, 2022.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages **Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise

a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and the aggrieved employees often experienced a missed, shortened, or interrupted meal period. After a project is finished, it needed to be inspected by quality control and/or a third-party inspection service, depending on what type of project it was. The inspections can last up to two hours. During the inspections, Plaintiff and the aggrieved employees were required to be present with the inspector to answer any questions and receive feedback from the inspector. As such, Plaintiff and the aggrieved employees were unable to a timely 30-minute duty free meal break.

Despite Plaintiff’s time records showing that he clocked out for 30 minutes each day, in reality, he did not. The time records are more reflective of a work schedule as they do not show the actual time of Plaintiff’s clock in and clock outs. The time records show that Plaintiff clocked into work at 6:30am and clocked out at 10:00am then back in at 10:30am until his final clock out at 3:00pm almost every day. Occasionally he clocked in at 5:30am with a final clock out of 2:00pm. The time records demonstrate unlawful time rounding of meal periods in violation of the legal standard set forth in violation of *Donohue v. AMN Services, LLC* and further demonstrate a policy and practice of non-compliance with California’s meal period requirements.

A sample of the time record provided is below:

12/5/2022	Mon	*06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/6/2022	Tue	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/7/2022	Wed	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/8/2022	Thu	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/9/2022	Fri	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/10/2022	Sat	*05:30 AM	10:00 AM	10:30 AM	*02:00 PM	8.00	8.00

When Defendants did not provide complaint meal periods, Defendants failed to consistently pay Plaintiff and other aggrieved employees a meal period premium in violation of Labor Code section 226. The time records reflect shifts in excess of 5 and 6 hours without a corresponding 30- minute unpaid meal period or premium payment in lieu of such meal period (or second meal period premiums as applicable).

If a meal period premium was paid, Defendants underpaid Plaintiff and other aggrieved employees who earned a meal period premium in the same pay period where they earned shift differential pays, bonuses, or other forms of non-excludable remuneration because these premiums were not paid at the “regular rate of compensation” as the premiums paid did not factor in the shift differential payments and bonuses, among other forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages **Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period

for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

As explained above, Plaintiff and other employees experienced missed, shortened, or interrupted rest periods due to the same reasons they experienced missed, shortened, or interrupted meal periods. When Plaintiff and other aggrieved employees experienced these missed, shortened, or interrupted rest periods, Defendants failed to pay rest period premiums at the regular rate as required by Labor Code section 226.7.

On information and belief, Defendants had a policy and practice of not paying rest period premiums to employees who were unable to take rest periods. To the extent Defendants ever paid a rest period premium, Defendants violated Labor Code section 226.7 because such premiums were not paid at the correct regular rate of compensation to aggrieved employees, which would have factored in bonuses and other forms of compensation. As discussed throughout this correspondence, Defendants had a non-compliant policy and practice of miscalculating and underpaying the regular rate of pay applicable to overtime and other premiums. Based on this practice, Plaintiff alleges the rest period premiums were equally deficient with respect to payments made to the aggrieved employees.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each

pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Due to Defendants' failure to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages, sick leave, and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all premiums, overtime, regular, sick leave, and other earnings on time each pay day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

An illustrative example of Defendant's failure to provide accurate itemized wage statement is below:

Earnings	rate	hours	this period	year to date
Regular	26.5200	60.50	1,604.46	36,264.44
Overtime	39.7800	20.75	825.44	1,143.68
Double Time			148.02	148.02
Holiday	26.5200	16.00	424.32	1,678.80
Bereavement				636.48
Bonus				2,200.00
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$3,002.24	47,047.88

Excerpt from Plaintiff's wage statement dated December 02, 2022 for the pay period of November 14, 2022 to November 27, 2022.

Additionally, on Plaintiff's final wage statement dated April 07, 2023, Defendant failed to detail out all of Plaintiff's applicable hourly rates and the number of hours worked at each rate as well as all of Plaintiff's deductions. This format of wage statements was issued to aggrieved employees and demonstrates non-compliance in each of those respective pay periods.

Plaintiff's final wage statement is below:

THE TRUST COMPANY OF THE STATE OF CALIFORNIA
2011 CRYSTAL DR
STE 1102
ARLINGTON, VA 22202

SSN: XXX-XX-9654
Filing Status: Single or Married Filing Separately

IRVING LAVELLE WILLIAMS

Gross Pay	Deductions	Net Pay/Net Check
\$2,148.12	\$201.73	\$1,946.39

Hours and Earnings

Description	Hours	This Period
Regular Earnings	68.00	1,803.36
PTO	13.00	344.76

Hours and Earnings Rates

Description	Hours	Rate	This Period
Regular	68.00		1,803.36
PTO	13.00		344.76

Basis of Pay: Hourly
Totl Hrs Worked: 81.00

Taxes

Description	This Period
Social Security Tax	133.18
Medicare Tax	31.15
CA State Worked In	18.07
CA SUI/SDI	19.33

Memos

Description	This Period
EMPLR LIFE	2.07
EMPLR LTD	5.52
EMPLR STD	0.89
MAX ELIG/COMP	2,148.12

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were

owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Provide Employee Records
Violation of Labor Code §§ 226, 432, 1174, 1198.5; IWC Wage Orders

Defendants violated Labor Code sections 226, 432, 1198.5, and 1174 with respect to the aggrieved employees.

Labor Code section 226(b) requires employers to “afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer.” Labor Code section 432 states that “[i]f an employee ... signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.” Labor Code section 1198.5 grants “[e]very current and former employee, or his or her representative, ... the right to inspect and receive a copy of the personnel files that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” Section 7(A) (Records) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates that employers maintain and make available “time records showing when the employee begins and ends each work period” as well as time records showing “[m]eal periods, split shift intervals, and daily hours worked[.]” Labor Code section 1174(d) requires these and other records be maintained for at least three years.

Defendants failed to provide all records upon Plaintiff’s request. On February 13, 2023, our office requested Plaintiff’s payroll and personnel records on his behalf. However, the records we received were incomplete as it did not contain Plaintiff’s wage statements. Only a few scattered “record of a payment issued” were provided instead.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000), 1174.5 (\$500), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also

be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is fluid and cursive, with the first name "Nicholas" and last name "Ferraro" clearly legible.

Nicholas J. Ferraro

Cc Plaintiff Irving Williams

Hortenssia Zatarain

HR Manager, West Coast Operations, Trident Maritime Systems

hortenssia.zatarain@tridentllc.com

EXHIBIT 2

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Attorneys for Plaintiff Irving Williams

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

IRVING WILLIAMS, on behalf of aggrieved
employees and the State of California under the
Private Attorneys General Act,

Plaintiffs,

vs.

TRIDENT MARITIME SYSTEMS, LLC; US
JOINER, LLC; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2023-00030735-CU-OE-CTL

*Assigned to the Hon. Marcella O McLaughlin
Dept. C-73*

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT**

1. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff IRVING WILLIAMS, individually and on behalf of all others similarly situated and
2 the State of California under the Private Attorneys General Act (“Plaintiff”) brings this
3 REPRESENTATIVE ACTION COMPLAINT against Defendants TRIDENT MARITIME
4 SYSTEMS, LLC, US JOINER, LLC, and DOES 1 through 50, inclusive (collectively “Defendants”),
5 alleging as follows:

6 **INTRODUCTION**

7 1. This is a PAGA representative action filed for wage and hour violations of the
8 California Labor Code against Trident Maritime Systems, LLC, and US JOINER, LLC.

9 2. Defendants employed Plaintiff and aggrieved employees in San Diego County and in
10 the State of California. Defendants failed to pay minimum wage, overtime and sick pay at the regular
11 rate of pay, meal and rest period premiums for non-compliant breaks, all wages owed each pay period
12 and upon separation of employment, and provided non-compliant wage statements.

13 3. Plaintiff brings this action to recover the associated civil penalties for other aggrieved
14 employees.

15 **JURISDICTION & VENUE**

16 4. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
17 California Constitution as the causes of action are premised upon violations of California law.

18 5. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
19 the Superior Court.

20 6. This Court has jurisdiction over Defendants because, upon information and belief,
21 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
22 themselves to the California economy so as to render the exercise of jurisdiction over them by the
23 California courts consistent with traditional notions of fair play and substantial justice.

24 7. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395,
25 and/or 395.5 because, upon information and belief, Defendants conduct business and committed some
26 of the alleged violations in this county.
27
28

PARTIES

A. Plaintiff Irving Williams

8. Plaintiff is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about November 2020 to March 31, 2023. Plaintiff worked as a Welder.

9. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this 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.”])

B. Defendants

10. Defendant Trident Maritime Systems, LLC is a limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

11. Defendant US Joiner, LLC is a limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

12. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

13. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

14. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

15. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

GENERAL ALLEGATIONS

16. Plaintiff and aggrieved employees worked for Defendants and were compensated on an hourly basis as nonexempt employees. This resulted in unpaid minimum wage and overtime (as applicable).

17. Plaintiff and aggrieved employees were required to go through a security checkpoint at the front of the shipyard before they were able to clock-in for the day. They were not paid for the time spent during the security check. This resulted in unpaid minimum wage and overtime (as applicable).

18. Plaintiff and aggrieved employees were also required to go through a security bag check at the end of their workday after they already clocked-out for the day. They were equally not paid for the time spent during the security bag check.

19. Plaintiff and aggrieved employees earned an annual bonus each year that was calculated and given to them based on Defendant's revenue for the year before. Defendants failed to include employees' additional remuneration in the regular rate of pay to calculate and pay overtime, sick pay, and Labor Code § 226.7 premiums.

20. Plaintiff earned an annual bonus of \$2,200 on April 15, 2022. This bonus was not retroactively calculated into his overtime, paid sick leave pay, or premium pay nor was it calculated into any of his 2022 overtime, paid sick leave pay, or premium pay. Other aggrieved employees received the same or similar bonus or additional non-excludable forms of remuneration that were not factored into their respective pay rates.

21. Defendants failed to consistently provide compliant first and second meal periods to Plaintiff and aggrieved employees, in violation of Labor Code §§ 226.7, 512 and §11 of the applicable IWC Wage Orders. Plaintiff and the aggrieved employees often experienced late, short, missed, and interrupted meal periods as they were required be present during quality inspection checks. Despite Plaintiff's time records showing that he clocked out for 30 minutes each day, in reality, he did not.

1 The time records demonstrate an unlawful time rounding of meal periods. When Defendants did not
2 provide fully compliant meal periods, Defendants failed to pay Plaintiff and other aggrieved
3 employees a meal period premium at the lawful “regular rate of compensation” in violation of Labor
4 Code § 226.7.

5 22. Moreover, Defendants failed to authorize or permit ten-minute rest periods for every
6 four hours of work or major fraction thereof as required by Labor Code §§ 226.7, 516, and § 12 of the
7 applicable IWC Wage Order. When Defendants did not provide fully compliant rest periods,
8 Defendants failed to pay Plaintiff and other aggrieved employees a rest period premium at the lawful
9 “regular rate of compensation” in violation of Labor Code § 226.7.

10 23. When Defendants paid meal or rest break premiums, Defendants failed to pay all the
11 premiums owed at the “regular rate of compensation” because they did not factor in bonuses, stipends,
12 differentials, and other forms of remuneration, instead electing to pay aggrieved employees at the base
13 hourly rate, in violation of Labor Code § 226.7.

14 24. In periods where Plaintiff took paid sick leave, Defendants failed to properly calculate
15 and pay sick leave at the appropriate regular rate of pay by failing to include Plaintiff’s annual bonus
16 and other nonexcludable remuneration in such calculation, in violation of Labor Code §§ 246 through
17 248 *et seq.*

18 25. An illustrative example of this appears on Plaintiff’s wage statement from November
19 25, 2022 to December 11, 2022 where Plaintiff was paid his paid sick leave at his hourly rate of \$26.52
20 rather than at his regular rate of pay.

21 26. On February 13, 2023, Plaintiff’s requested his payroll and personnel records pursuant
22 to Labor Code §§ 226, 247.5, 432, 1174, 1198.5 and §7 of the IWC Wage orders. However,
23 Defendants failed to provide Plaintiff’s wage statements and instead provided a few scattered
24 “summary of a record of a payment.”

25 27. Because of these violations, Defendants failed provide accurate itemized wage
26 statements to aggrieved employees that included the accurate gross or net wages earned, as the
27 employees earned sick leave wages and premiums, which were not paid at the lawful rate in light of
28 the regular rate violations. Likewise, premium wages were paid at an inaccurate hourly wage rate

(i.e., the base rate or a multiple of the base rate for overtime instead of the regular rate) which violates the wage statement requirement to include the correct hourly rate in effect each pay period along with the correct number of hours. Additionally, certain wage statements issued to Plaintiff and aggrieved employees did not list the applicable overtime or doubletime hourly rate or hours worked, and instead simply listed the gross amount paid for that earnings category as a lump sum, in further violation of Labor Code § 226(a). Furthermore, the wage statements in fact issued to Plaintiff and aggrieved employees on a per pay period basis failed to detail the applicable hourly rates and number of hours worked at each rate, or the deductions from wages, as illustrated on Plaintiff's final wage statement issued. Therefore, Defendants have provided inaccurate and non-compliant wage statements to aggrieved employees.

28. Moreover, Defendants failed to provide all reimbursement owed to employees for necessary and reasonable work expenses, such as cell phones, uniforms, as well as all vacation time owed and accrued upon separation of employment. These violations create derivative liability for failure to pay all wages owed each payday or upon separation of employment.

29. These violations create derivative liability for failure to pay all wages owed each payday or upon separation of employment.

30. As a result of the foregoing violations, Defendants also failed to timely pay all wages as they were due to Plaintiff and aggrieved employees while they were employed and also failed to timely pay all wages due to Plaintiff and aggrieved employees at their separation of employment.

FIRST CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)

31. All outside paragraphs of this Complaint are incorporated into this section.

32. Plaintiff brings this cause of action as a proxy for the State of California on behalf of the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"), codified as Labor Code section 2698 *et seq.*:

1 a. All current and former non-exempt employees who worked for Defendants in
2 California at any time from one year prior to the postmark date of the initial
3 PAGA notice through date of trial.

4 33. Plaintiff reserves the right to amend, supplement, or add to this description of the
5 aggrieved employees, according to proof.

6 34. The State of California, via the Labor and Workforce Development Agency
7 (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
8 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
9 files suit is always the real party in interest.”])

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

16 36. Labor Code section 2699(f) provides: “For all provisions of this code except those for
17 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
18 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
19 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
20 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
21 each subsequent violation.”

22 37. Any allegations regarding violations of the IWC Wage Orders are enforceable as
23 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
24 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

25 38. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
26 penalties under the PAGA.

27 39. On or about May 15, 2023, Plaintiff paid the requisite PAGA filing fee and provided
28 written notice (by online electronic filing with the LWDA and by certified mail to Defendants) of

Defendants' alleged Labor Code violations, including the facts and theories to support the alleged violations.

40. A true and correct copy of Plaintiff's written PAGA notice, entitled "Notice of Labor Code Violations," including the amendment thereto, are attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein (the "PAGA notice").

41. To date, neither Plaintiff nor Plaintiff's counsel has received a response to Plaintiff's written PAGA notice from the LWDA.

42. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither Plaintiff nor Plaintiff's counsel has received written notice by certified mail from any defendant providing a description of any actions taken to cure the alleged violations.

43. Now that at least 65 days have passed from Plaintiff notifying Defendants of these violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

44. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this Complaint, Defendants committed the following violations and are liable for all corresponding civil penalties:

- a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders.
- b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- f. ***Unpaid Vacation Wages.*** Violation of Labor Code §§ 201, 202, 203, 227.3, 1194, and 1198.

- 1 g. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code
2 §§ 204, 204b, 210.
- 3 h. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of
4 Labor Code §§ 201, 202, 203, 256.
- 5 i. ***Failure to Reimburse Business Expenses.*** Violation of Labor Code § 2802.
- 6 j. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- 7 k. ***Failure to Provide Employee Records.*** Violation of Labor Code §§ 226, 432,
8 1174, 1198.5; IWC Wage Orders.
- 9 l. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC
10 Wage Orders.
- 11 m. ***Unlawful Deduction of Wages.*** Violations of Labor Code §§ 221 and 223

12 45. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations
13 alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants
14 pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the
15 extent permitted by law, including under Labor Code section 2699(g).

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PRAYER

Plaintiff prays for judgment as follows:

- a. For this action to be maintained as a representative action under the PAGA;
- b. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- c. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- d. For restitution and injunctive relief;
- e. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code § 2699 and Code of Civil Procedure section 1021.5; and
- f. For such other relief the Court deems just and proper.

Dated: January 16, 2024

Ferraro Vega Employment Lawyers, Inc.



Nicholas J. Ferraro

Attorney for Plaintiff Irving Williams

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
lauren@ferrarovega.com

ATTORNEYS AT LAW
3160 Camino del Rio South, Suite 308
San Diego, California 92108

619-693-7727
619-350-6855 fax
ferrarovega.com

January 16, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Trident Maritime Systems, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

US Joiner, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

Re: Amendment to LWDA Notice dated May 15, 2023
LWDA No. LWDA-CM-955148-23

Dear LWDA Officer and Company Representatives:

Plaintiff hereby encloses the attached copy of the original PAGA Notice dated May 15, 2023 (attached hereto as Exhibit 1) as well as a draft copy of the proposed First Amended Representative Action Complaint (attached hereto as Exhibit 2) to the LWDA to further inform the LWDA and Defendants named in the notice of the additional claims being prosecuted under PAGA. This action is presently pending in San Diego County Superior Court and Plaintiff provides the draft copy of the complaint to be filed upon completion of the statutory exhaustion period.

If the LWDA does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to file the First Amended Representative Action Complaint against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act.

Please contact our office if you have any questions.

Sincerely,



Nicholas J. Ferraro

Enclosure – Ex. 1 Original PAGA Notice

Enclosure – Ex. 2 Proposed First Amended Representative Action Complaint

Cc Plaintiff Irving Williams
Travis Jang-Busby

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

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619-350-6855 fax
ferrarovega.com

May 15, 2023

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Trident Maritime Systems, LLC
2011 Crystal Drive Suite 1102
Arlington, VA 22202-3603

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **IRVING WILLIAMS** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

TRIDENT MARITIME SYSTEMS, LLC

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79.

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices

affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Welder from about November 2020 through March 2023. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

Plaintiff and the aggrieved employee were required to go through a security checkpoint at the front of the shipyard prior to entering and reaching the timeclocks. Plaintiff and the aggrieved employee were required to show their work badge to the security guard at the front of the gate, then walk through the shipyard to punch in at one of the designated timeclocks. Plaintiff and the aggrieved employees were not paid for the time spent during the security check nor for the time spent walking from the security checkpoint to the timeclocks.

Additionally, at the end of the workday, Plaintiff and the aggrieved employees were required to clock out at one of the designated timeclocks in the yard, then were required to have all backpack or large bags checked before leaving the front gates. Plaintiff and the aggrieved employees were not paid for the time spent on bag checks at the end of the day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work 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;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages, as a result of the unlawful policy and practice of unpaid security checks and timeclock procedures, as set forth above.

Additionally, Plaintiff and the aggrieved employees earned an annual bonus each year, including Plaintiff’s bonus of \$2,200. This bonus is calculated and given to employees based on Defendants’ revenue for the year. As such, Plaintiff and the aggrieved employees were not properly paid all overtime wages earned, as Defendants failed to calculate properly calculate overtime using the regular rate of pay including the non-discretionary bonuses and other remunerations. These earnings were not included in such calculations.

Social Security Number: XXX-XX-9854				
Earnings	rate	hours	this period	year to date
Bonus			2,200.00	2,200.00
Regular				9,079.85
Holiday				618.00
PTO				3,042.06
Retro Pay				162.07
Gross Pay			\$2,200.00	15,101.98

Excerpt from Plaintiff’s wage statement dated April 15, 2022 for the pay period of April 06, 2022 to April 12, 2022 with the annual bonus of \$2,200.

Defendants also could have included the \$2,200 bonus in calculating Plaintiff and the aggrieved employees overtime pay for the 2022 calendar year, but also failed to do so. This is evident on Plaintiff’s wage statements as exemplified below:

Earnings	rate	hours	this period	year to date
Regular	26.5200	60.50	1,604.46	36,264.44
Overtime	39.7800	20.75	825.44	1,143.68
Double Time			148.02	148.02
Holiday	26.5200	16.00	424.32	1,678.80
Bereavement				636.48
Bonus				2,200.00
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$3,002.24	47,047.88

Excerpt from Plaintiff's wage statement dated December 02, 2022 for the pay period of November 14, 2022 to November 27, 2022.

Earnings	rate	hours	this period	year to date
Regular	26.5200	40.00	1,060.80	37,325.24
Overtime	39.7800	8.00	318.24	1,461.92
CA SPSL 22	26.5200	40.00	1,060.80	1,060.80
Bereavement				636.48
Bonus				2,200.00
Double Time				148.02
Holiday				1,678.80
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$2,439.84	49,487.72

Excerpt from Plaintiff's wage statement dated December 16, 2022 for the pay period of November 25, 2022 to December 11, 2022.

Plaintiff retains standing to pursue these claims against Defendants, as Plaintiff experienced the alleged violations, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / "Penalties" section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave **Violation of Labor Code §§ 246 through 248.7**

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option

of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees.

Defendants failed to provide Plaintiff and the aggrieved employees with any type of written notice of the amount of paid sick leave available to them. This information is not on Plaintiff’s wage statements nor was it provided to him in a separate writing.

An example of Plaintiff’s wage statement is below:

Earnings				rate	hours	this period	year to date
Regular				26.5200	72.00	1,909.44	34,659.98
Overtime				39.7800	8.00	318.24	318.24
Bereavement							636.48
Bonus							2,200.00
Holiday							1,254.48
PTO							4,814.39
Retro Pay							162.07
Gross Pay						\$2,227.68	44,045.64
Deductions							
Statutory							
Federal Income Tax						-147.28	3,875.93
Social Security Tax						-138.12	2,730.83
Medicare Tax						-32.30	638.66
CA State Income Tax						-25.53	1,263.64
CA SDI Tax						-24.50	484.50
Other							
Safety						-120.95	241.01
Garnishment							703.69
Net Pay						\$1,739.00	
Chkck1						-1,739.00	
Net Check						\$0.00	
Your federal taxable wages this period are \$2,227.68							

Other Benefits and Information			this period	total to date
Ca Sup Avail			80.00	
Emplr Life			2.07	48.87
Emplr Ltd			5.52	127.68
Emplr Std			0.69	15.87
Totl Hrs Worked			80.00	
Important Notes				
EMPLOYER BUSINESS PHONE#919-710-1807				
BASIS OF PAY: HOURLY				
EFFECTIVE THIS PAY PERIOD YOUR STATE EXEMPTIONS/ALLOWANCES HAVE BEEN CHANGED FROM 1 TO 2.				
IF NO CA Spst Used IS LISTED YOU HAVE USED ZERO HRS				
Additional Tax Withholding Information				
Taxable Marital Status:				
CA: Single				
Exemptions/Allowances:				
CA: 2(Head of Household)				

Additionally, Defendants failed to pay sick leave in accordance with one of the permissible methods in Labor Code §246(l)(1)-(3). Specifically, Defendants failed to pay paid sick leave at the regular rate by failing to factor in bonuses, commissions, and other forms of remuneration into the paid sick leave rate. The \$2,200 bonus mentioned above was an annual bonus, and as such, it should have been included in Plaintiff's regular rate of pay for one calendar year. However, it was not calculated into the 2021 nor the 2022 calendar year.

An example of Defendant's failure to calculate Plaintiff's annual bonus into his 2022 paid sick leave pay is below (or into prior pay periods in which sick pay was earned in the same pay period in which a bonus was earned):

Earnings	rate	hours	this period	year to date
Regular	26.5200	40.00	1,060.80	37,325.24
Overtime	39.7800	8.00	318.24	1,461.92
CA SPSL 22	26.5200	40.00	1,060.80	1,060.80
Bereavement				636.48
Bonus				2,200.00
Double Time				148.02
Holiday				1,678.80
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$2,439.84	49,487.72

Excerpt from Plaintiff's wage statement dated December 16, 2022 for the pay period of November 25, 2022 to December 11, 2022.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages **Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise

a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

Plaintiff and the aggrieved employees often experienced a missed, shortened, or interrupted meal period. After a project is finished, it needed to be inspected by quality control and/or a third-party inspection service, depending on what type of project it was. The inspections can last up to two hours. During the inspections, Plaintiff and the aggrieved employees were required to be present with the inspector to answer any questions and receive feedback from the inspector. As such, Plaintiff and the aggrieved employees were unable to a timely 30-minute duty free meal break.

Despite Plaintiff’s time records showing that he clocked out for 30 minutes each day, in reality, he did not. The time records are more reflective of a work schedule as they do not show the actual time of Plaintiff’s clock in and clock outs. The time records show that Plaintiff clocked into work at 6:30am and clocked out at 10:00am then back in at 10:30am until his final clock out at 3:00pm almost every day. Occasionally he clocked in at 5:30am with a final clock out of 2:00pm. The time records demonstrate unlawful time rounding of meal periods in violation of the legal standard set forth in violation of *Donohue v. AMN Services, LLC* and further demonstrate a policy and practice of non-compliance with California’s meal period requirements.

A sample of the time record provided is below:

12/5/2022	Mon	*06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/6/2022	Tue	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/7/2022	Wed	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/8/2022	Thu	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/9/2022	Fri	06:30 AM	10:00 AM	10:30 AM	03:00 PM	8.00	8.00
12/10/2022	Sat	*05:30 AM	10:00 AM	10:30 AM	*02:00 PM	8.00	8.00

When Defendants did not provide complaint meal periods, Defendants failed to consistently pay Plaintiff and other aggrieved employees a meal period premium in violation of Labor Code section 226. The time records reflect shifts in excess of 5 and 6 hours without a corresponding 30- minute unpaid meal period or premium payment in lieu of such meal period (or second meal period premiums as applicable).

If a meal period premium was paid, Defendants underpaid Plaintiff and other aggrieved employees who earned a meal period premium in the same pay period where they earned shift differential pays, bonuses, or other forms of non-excludable remuneration because these premiums were not paid at the “regular rate of compensation” as the premiums paid did not factor in the shift differential payments and bonuses, among other forms of remuneration.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages **Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period

for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

As explained above, Plaintiff and other employees experienced missed, shortened, or interrupted rest periods due to the same reasons they experienced missed, shortened, or interrupted meal periods. When Plaintiff and other aggrieved employees experienced these missed, shortened, or interrupted rest periods, Defendants failed to pay rest period premiums at the regular rate as required by Labor Code section 226.7.

On information and belief, Defendants had a policy and practice of not paying rest period premiums to employees who were unable to take rest periods. To the extent Defendants ever paid a rest period premium, Defendants violated Labor Code section 226.7 because such premiums were not paid at the correct regular rate of compensation to aggrieved employees, which would have factored in bonuses and other forms of compensation. As discussed throughout this correspondence, Defendants had a non-compliant policy and practice of miscalculating and underpaying the regular rate of pay applicable to overtime and other premiums. Based on this practice, Plaintiff alleges the rest period premiums were equally deficient with respect to payments made to the aggrieved employees.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment **Violation of Labor Code §§ 204, 204b, 210**

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of "all wages" for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid "not more than seven calendar days following the close of the payroll period." Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides "every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each

pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice.

Due to Defendants' failure to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages, sick leave, and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all premiums, overtime, regular, sick leave, and other earnings on time each pay day.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, "an accurate itemized statement in writing showing:" (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct "gross wages earned" or "net wages earned," as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of "gross wages earned" on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

An illustrative example of Defendant's failure to provide accurate itemized wage statement is below:

Earnings	rate	hours	this period	year to date
Regular	26.5200	60.50	1,604.46	36,264.44
Overtime	39.7800	20.75	825.44	1,143.68
Double Time			148.02	148.02
Holiday	26.5200	16.00	424.32	1,678.80
Bereavement				636.48
Bonus				2,200.00
PTO				4,814.39
Retro Pay				162.07
Gross Pay			\$3,002.24	47,047.88

Excerpt from Plaintiff's wage statement dated December 02, 2022 for the pay period of November 14, 2022 to November 27, 2022.

Additionally, on Plaintiff's final wage statement dated April 07, 2023, Defendant failed to detail out all of Plaintiff's applicable hourly rates and the number of hours worked at each rate as well as all of Plaintiff's deductions. This format of wage statements was issued to aggrieved employees and demonstrates non-compliance in each of those respective pay periods.

Plaintiff's final wage statement is below:

THE TRUSTEES MARITIME CO
2011 CRYSTAL DR
STE 1102
ARLINGTON, VA 22202

SSN: XXX-XX-9654
Filing Status: Single or Married Filing Separately

IRVING LAVELLE WILLIAMS

Earnings Statement
Period Beginning Date: 03/20/2023
Period Ending: 04/07/2023
Pay Date: 04/01/2023

Gross Pay	Deductions	Net Pay/Net Check
\$2,148.12	\$201.73	\$1,946.39

Hours and Earnings

Description	Hours	This Period
Regular Earnings	68.00	1,803.36
PTO	13.00	344.76

Hours and Earnings Rates

Description	Hours	Rate	This Period
Regular	68.00		1,803.36
PTO	13.00		344.76

Basis of Pay: Hourly
Totl Hrs Worked: 81.00

Taxes

Description	This Period
Social Security Tax	133.18
Medicare Tax	31.15
CA State Worked In	18.07
CA SUI/SDI	19.33

Memos

Description	This Period
EMPLR LIFE	2.07
EMPLR LTD	5.52
EMPLR STD	0.89
MAX ELIG/COMP	2,148.12

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were

owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Provide Employee Records
Violation of Labor Code §§ 226, 432, 1174, 1198.5; IWC Wage Orders

Defendants violated Labor Code sections 226, 432, 1198.5, and 1174 with respect to the aggrieved employees.

Labor Code section 226(b) requires employers to “afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer.” Labor Code section 432 states that “[i]f an employee ... signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.” Labor Code section 1198.5 grants “[e]very current and former employee, or his or her representative, ... the right to inspect and receive a copy of the personnel files that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” Section 7(A) (Records) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates that employers maintain and make available “time records showing when the employee begins and ends each work period” as well as time records showing “[m]eal periods, split shift intervals, and daily hours worked[.]” Labor Code section 1174(d) requires these and other records be maintained for at least three years.

Defendants failed to provide all records upon Plaintiff’s request. On February 13, 2023, our office requested Plaintiff’s payroll and personnel records on his behalf. However, the records we received were incomplete as it did not contain Plaintiff’s wage statements. Only a few scattered “record of a payment issued” were provided instead.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000), 1174.5 (\$500), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’ written employment and payroll policies and handbooks; the aggrieved employees’ personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also

be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas J. Ferraro". The signature is written in a cursive, flowing style.

Nicholas J. Ferraro

Cc Plaintiff Irving Williams

Hortenssia Zatarain

HR Manager, West Coast Operations, Trident Maritime Systems

hortenssia.zatarain@tridentllc.com