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**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; and
DOES 1 through 50, inclusive,

Defendants.

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

**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 and DOES 1 through 50, inclusive (collectively “Defendants”), alleging as follows:

5 **INTRODUCTION**

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

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

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

14 **JURISDICTION & VENUE**

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

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

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

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

12. 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.

13. 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.

14. 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

15. 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).

16. 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).

17. 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.

18. 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.

19. 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.

20. 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. 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 aggrieved

employees a meal period premium at the lawful “regular rate of compensation” in violation of Labor Code § 226.7.

21. 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 aggrieved employees a rest period premium at the lawful “regular rate of compensation” in violation of Labor Code § 226.7.

22. 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 aggrieved employees at the base hourly rate, in violation of Labor Code § 226.7.

23. 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.*

24. 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.

25. 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.”

26. Because of these violations, Defendants failed provide accurate itemized wage statements to aggrieved employees 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

1 the correct number of hours. Additionally, certain wage statements issued to Plaintiff and aggrieved
2 employees did not list the applicable overtime or doubletime hourly rate or hours worked, and instead
3 simply listed the gross amount paid for that earnings category as a lump sum, in further violation of
4 Labor Code § 226(a). Furthermore, the wage statements in fact issued to Plaintiff and aggrieved
5 employees on a per pay period basis failed to detail the applicable hourly rates and number of hours
6 worked at each rate, or the deductions from wages, as illustrated on Plaintiff's final wage statement
7 issued. Therefore, Defendants have provided inaccurate and non-compliant wage statements to
8 aggrieved employees.

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

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

14 **FIRST CAUSE OF ACTION**

15 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

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

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

18 29. All outside paragraphs of this Complaint are incorporated into this section.

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

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

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

27 32. The State of California, via the Labor and Workforce Development Agency
28 ("LWDA"), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*

1 *Int'l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
2 files suit is always the real party in interest.”])

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

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

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

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

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

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

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

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

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

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

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

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

PRA YER

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: July 20, 2023

Ferraro Vega Employment Lawyers, Inc.

Nicholas J. Ferraro

Nicholas J. Ferraro
Attorneys for Plaintiff Irving Williams

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

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