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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
07/20/2023 at 04:14:00 PM
Clerk of the Superior Court
By Brenda Ramirez, Deputy Clerk

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

NATHANAEL TAYLOR, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

HALLCON CORPORATION;
RENZENBERGER, INC.; and DOES 1 through
50, inclusive,

Defendants.

Case No. 37-2023-00021029-CU-OE-CTL

*Assigned to the Hon. Carolyn Caietti
Department C-70*

CLASS ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Meal Period Violations
2. Rest Period Violations
3. Unpaid Vacation Wages
4. Untimely Payment of Wages
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Business Expenses
8. Unfair Competition
9. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff NATHANAEL TAYLOR, individually and on behalf of all others similarly situated
2 and the State of California under the Private Attorneys General Act (“Plaintiff”), brings this FIRST
3 AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants
4 HALLCON CORPORATION; RENZENBERGER, INC.; and DOES 1 through 50, inclusive
5 (collectively “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This is a class action filed for wage and hour violations of the California Labor Code
8 against Hallcon Corporation and Renzenberger, Inc.

9 2. Defendants employed Plaintiff and class members in the State of California.
10 Defendants failed to pay Labor Code § 226.7 premiums at the regular rate of pay due to a failure to
11 include differentials and other forms of remuneration into the calculation. Additionally, Defendants
12 failed to pay all meal and rest period premiums for non-compliant breaks and failed to reimburse
13 business expenses. Defendants furthermore failed to pay out all wages upon separation of
14 employment, including vested PTO.

15 3. Plaintiff brings this action to recover the damages and penalties, plus interest,
16 attorneys’ fees, and cost.

17 **JURISDICTION & VENUE**

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

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

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

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

PARTIES

A. Plaintiff Nathanael Taylor

8. Plaintiff Taylor is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about 2018 to May 2023. Plaintiff worked as a Lead driver.

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 Hallcon Corporation is a corporation that maintains operations and conducts business throughout the State of California, including in this county.

11. Defendant Renzenberger, Inc. is a corporation 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

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

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

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

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

18 **GENERAL ALLEGATIONS**

19 20. Plaintiff and class members worked for Defendants and were compensated on an hourly
20 basis as nonexempt employees.

21 21. Plaintiff earned different hourly wages depending on whether he was making a regular
22 load drive or whether he was making an "administrative" drive to take vehicles to get serviced.
23 Plaintiff also earned shift differential pay. Defendants failed to include employees' additional
24 remuneration in the regular rate of pay to calculate and pay Labor Code § 226.7 premiums.

25 22. Defendants failed to consistently provide compliant first and second meal periods to
26 Plaintiff and class members, in violation of Labor Code §§ 226.7, 512 and §11 of the applicable IWC
27 Wage Orders. Plaintiff and the class members often experienced late, short, missed, and interrupted
28 meal periods as they were required to get to a certain destination by a specific time.

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

5 24. An illustrative example of this practice appears on Plaintiff’s wage statement dated
6 March 17, 2023 for the pay period of February 26, 2023 to March 11, 2023, where Plaintiff was not
7 paid his meal period premium pay at his regular rate of pay.

8 25. Additional examples of Defendants’ failure to pay Labor Code § 226.7 premiums
9 according to Plaintiff’s regular rate of pay is exemplified on Plaintiff’s wage stated dated March 3,
10 2023, for the pay period of February 12, 2023 to February 25, 2023 and his wage statement dated
11 February 17, 2023 for the pay period of January 29, 2023 to February 11, 2023.

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

17 27. Plaintiff and class members were also required to use their personal cell phones to
18 communicate with dispatch. Defendants failed to fully reimburse Plaintiff and class members for the
19 cost of usage of their personal phones, instead electing to pay a nominal sum of a few dollars or cents
20 per pay period.

21 28. Because of these violations, Defendants failed provide accurate itemized wage
22 statements to class members that included the accurate gross or net wages earned, as the employees
23 earned premiums, which were not paid at the lawful rate in light of the regular rate violations.
24 Likewise, premium wages were paid at an inaccurate hourly wage rate (i.e., the base rate or a multiple
25 of the base rate for overtime instead of the regular rate) which violates the wage statement requirement
26 to include the correct hourly rate in effect each pay period along with the correct number of hours.
27 Therefore, Defendants have provided inaccurate and non-compliant wage statements to class
28 members.

29. These violations create derivative liability for failure to pay all wages owed each payday or upon separation of employment, including vacation/PTO wages as Plaintiff did not receive all accrued PTO upon separation of employment, which Plaintiff alleges on information and belief was a matter of common payroll and corporate policy and practice.

30. 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.

FIRST CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

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

32. 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.

33. 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).

34. 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).

35. 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.

SECOND CAUSE OF ACTION

REST PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 516

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

37. 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.

38. 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).

39. 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.

THIRD CAUSE OF ACTION

UNPAID VACATION WAGES

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

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

41. This cause of action is brought by the Unpaid Vacation Wages Class 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

1 which further provide a private right of action for an employer's timely failure to pay all vacation
2 compensation upon termination.

3 42. Defendant offered Plaintiff and class members an employment contract or policy
4 providing for the accrual of vacation and/or paid time off. Plaintiff and class members accrued
5 vacation and/or PTO pursuant to the contract or policy.

6 43. Upon separation of Plaintiff and class members, Defendants willfully failed in their
7 affirmative obligation to timely pay Plaintiff and class members all accrued but unused vacation at
8 their final rate during their employment with Defendants, in violation of Labor Code sections 201(a),
9 202(a), and 227.3.

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

13 **FOURTH CAUSE OF ACTION**

14 **UNTIMELY PAYMENT OF WAGES**

15 **Violation of Labor Code §§ 204, 210, 218**

16 45. All outside paragraphs of this Complaint are incorporated into this section.

17 46. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
18 §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay
19 period, and which further provide a private right of action for an employer's failure to comply with
20 this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due
21 under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

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

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

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226

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

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

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

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

53. 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).

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1 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
2 Code section 2802.

3 **EIGHTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

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

6 61. All outside paragraphs of this Complaint are incorporated into this section.

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

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

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

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

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

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

NINTH 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)

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

68. 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.

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

70. 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.”])

71. 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. “

72. 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.”

73. 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.”

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

75. 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.

76. 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”).

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

78. 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.

79. 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.*

80. 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 Vacation Wages.*** Violation of Labor Code § 227.3.

- b. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- c. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- d. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- e. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor Code §§ 201, 202, 203, 256.
- f. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- g. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- h. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

81. 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).

PRAYER

Plaintiff prays for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the class representative;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
- d. For division of class members into appropriate classes and/or subclasses according to proof;
- e. For recovery of damages in amount according to proof;
- f. For all recoverable pre- and post-judgment interest;
- g. For recovery of all civil and statutory penalties and liquidated damages;
- h. For disgorgement of all amounts wrongfully obtained;

- 1 i. For this action to be maintained as a representative action under the PAGA;
2 j. For Plaintiff and counsel of record to be provided with all enforcement capability as if
3 the action were brought by the State of California or the California Division of Labor
4 Enforcement;
5 k. For recovery of all civil penalties and other recoverable amounts under the PAGA;
6 l. For restitution and injunctive relief;
7 m. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
8 permitted by law, including (without limitation) under Labor Code §§ 218.5, 226,
9 2802, 2699, and Code of Civil Procedure section 1021.5; and
10 n. For such other relief the Court deems just and proper.

11 Dated: July 20, 2023

Ferraro Vega Employment Lawyers, Inc.

13 

14 Nicholas J. Ferraro

15 *Attorneys for Plaintiff Nathanael Taylor*

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
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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 -

Halcon Corporation
14325 West 95th Street
Lenexa, KS 66215

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

Renzenberger, Inc.
PO. Box 14610
Lenexa, KS 66285

Dear LWDA Officer and Company Representatives:

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

**HALLCON CORPORATION
REZENBERGER INC.**

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 Lead Driver from about October 2018 to May 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 Vacation Wages **Violation of Labor Code § 227.3**

Defendants violated Labor Code section 227.3 with respect to the aggrieved employees.

Labor Code section 227.3 requires “whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.”

Defendants maintained an unlawful policy and practice of failing to pay all accrued and unused vacation wages upon separation of employment at the lawful rate of pay, resulting in forfeiture of vested vacation time and wages.

Plaintiff's employment ended on May 6, 2023 and he received his final wage statement on May 12, 2023. Plaintiff had 24 hours of accrued PTO that was not paid out at the end of his employment. This is evident on Plaintiff's final wage statement below:

Accruals & Balances	
Sick - Current Year Balance:	Hours
Sick - Carry Over Balance:	Hours
PTO/VAC Balance:	24 Hours
Sick - Supplemental Balance:	Hours

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 periods due to understaffing and the nature of the job. In order to get to certain destinations in time, Plaintiff and the aggrieved employees were not able to pull off the road to take a duty-free meal period of at least 30 minutes. Therefore, Defendants owe Plaintiff and other aggrieved employees the balance of the unpaid meal period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations. Plaintiff’s time records demonstrate liability, as illustrated below:

Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	Cell Phone Reimbursement	Cell Phone		0.400
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	MMP	Prem	1.000	17.100
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD ADMIN	Reg	7:00:00 AM 10:00:00 AM	3.000 53.910
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD MEAL	DailyOT	8:12:00 PM 8:42:00 PM	0.500 14.349
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD MEAL	DT2.0	11:43:00 PM 12:00:00 AM	0.283 10.766
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	DailyOT	6:54:00 PM 8:12:00 PM	1.300 37.046
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	DailyOT	8:42:00 PM 10:54:00 PM	2.200 62.694
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	DT2.0	10:54:00 PM 11:43:00 PM	0.817 31.030
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	ROAD WRK	Reg	1:54:00 PM 6:54:00 PM	5.000 87.350
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	SDIF	Prem	9:00:00 PM 11:43:00 PM	2.717 8.816
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	SDIF	Prem	11:43:00 PM 12:00:00 AM	0.283 0.086
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-20	TRIPID	Unpaid		0.000
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	Cell Phone Reimbursement	Cell Phone		0.400
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	MMP	Prem	1.000	17.100
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	ROAD ADMIN	Reg	7:00:00 AM 11:00:00 AM	4.000 71.880
Taylor, Nathanael 90094187	Keddie CA BNSF Road 20	Road	Lead Driver	22 00 10/09/2022 - 10/12/2022	2022-10-19	ROAD MEAL	DailyOT	7:38:00 PM 7:58:00 PM	0.500 14.349

To the extent any meal period premiums were paid, Plaintiff alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration. Plaintiff and the aggrieved employees were paid a different rate whether they were making a regular load drive or whether they were making an “administrative drive” which is when they take the truck to get maintenance done. Plaintiff and the aggrieved employees also earned shift differential pay. Defendants failed to properly calculate Plaintiff’s premium

pay by failing to include the different hourly pay and shift differential pay into Plaintiff's meal period premium pay as illustrated below:

	Current 2/26/2023 - 3/11/2023			YTD As of 3/11/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	106.3165		\$2,158.59	552.5827	\$12,393.02
Regular	55.5500	17.4700	\$970.46	257.9664	\$4,499.01
OT	2.0832	26.7088	\$55.64	83.6674	\$2,329.66
OT	12.6168	27.3811	\$345.46		
CA Meal	2.0000	17.1000	\$34.20	23.0000	\$394.11
Double Time	4.7833	36.5081	\$174.63	21.2832	\$801.40
Holiday OT				30.6664	\$913.33
Overtime Adjust				3.0668	\$89.21
Settlement					\$419.28
Shift Differential	25.3010	0.3000	\$7.59	225.6376	\$67.70
Administrative	22.0167	17.9700	\$395.64	135.5989	\$2,438.72
PTO	8.0000	17.9700	\$143.76	8.0000	\$143.76
Meal Paid				1.0000	\$17.47
Trip Guar TopUp	0.2833	17.4700	\$4.95	3.1835	\$55.13
Admin Overtime	0.9832	26.7088	\$26.26	8.1501	\$226.24

Excerpt of Plaintiff's wage statement dated March 17, 2023 for the pay period of February 26, 2023 to March 11, 2023.

	Current 2/12/2023 - 2/25/2023			YTD As of 2/25/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	86.5502		\$1,714.19	446.2662	\$10,234.43
Regular	12.2000	17.1000	\$208.62	202.4164	\$3,528.55
Regular	41.0000	17.4700	\$716.27		
OT	7.4334	26.2758	\$195.32	68.9674	\$1,928.56
OT	6.8170	27.6243	\$188.31		
CA Meal	2.0000	17.1000	\$34.20	21.0000	\$359.91
Double Time	0.7832	35.0344	\$27.44	16.4999	\$626.77
Double Time	0.3000	36.8324	\$11.05		
Holiday OT				30.6664	\$913.33
Overtime Adjust				3.0668	\$89.21
Settlement					\$419.28
Shift Differential	30.7667	0.3000	\$9.23	200.3366	\$60.11
Administrative	18.0000	17.9700	\$323.46	113.5822	\$2,041.08
Meal Paid				1.0000	\$17.47
Trip Guar TopUp	0.0166	17.4700	\$0.29	2.9002	\$50.18
Admin Overtime				7.1669	\$199.98

Excerpt of Plaintiff's wage statement dated March 03, 2023 for the pay period of February 12, 2023 to February 25, 2023.

	Current 1/29/2023 - 2/11/2023			YTD As of 2/11/2023	
	Hours/Units	Rate	Amount	Hours/Units	Amount
Earnings	43.2498		\$823.48	337.0659	\$8,051.02
Regular	8.5164	17.1000	\$145.63	133.2164	\$2,324.14
Regular	8.0000	17.4700	\$139.76		
OT	3.7334	27.2996	\$101.92	54.7169	\$1,544.93
CA Meal	1.0000	17.1000	\$17.10	18.0000	\$308.61
Double Time				15.4167	\$588.28
Holiday OT				30.6664	\$913.33
Overtime Adjust				-2.5832	(\$65.40)
Settlement					\$419.28
Shift Differential	19.2000	0.3000	\$5.76	167.8530	\$50.36
Administrative	23.0000	17.9700	\$413.31	95.5822	\$1,717.62
Trip Guar TopUp				2.8836	\$49.89
Admin Overtime				7.1669	\$199.98
Taxes			\$77.26		\$1,261.46

Excerpt of Plaintiff's wage statement dated February 17, 2023 for the pay period of January 29, 2023 to February 11, 2023.

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 discussed above with respect to meal periods, Plaintiff and the aggrieved employees were unable to take a rest period for the same reasons they were unable to take a meal period. Similarly, Defendants also failed to pay Plaintiff and the aggrieved employees a rest period premium for the rest period violations. Defendants simply maintained a steadfast policy and practice of not paying rest period premiums, despite California's lawful mandate. Therefore, Defendants owe Plaintiff and other aggrieved employees the balance of the unpaid rest period premiums due. Furthermore, Defendants are liable for civil penalties for the underlying violations.

To the extent any meal period premiums were paid, Plaintiff alleges on information and belief they were not paid at the lawful regular rate of compensation, inclusive of all forms of remuneration, based on the same practice illustrated above with respect to meal period premiums.

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 the Defendant’s failure to properly pay Plaintiff and the aggrieved employees all wages owed at the lawful rates, Defendants failed to timely pay Plaintiff and the aggrieved employees their 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 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.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

Plaintiff's employment ended on May 6, 2023. However, he did not receive his final wage statement until May 12, 2023. Additionally, as mentioned above, Plaintiff still has 24 hours of PTO that Defendants failed to pay out at the end of Plaintiff's employment.

As a result, Plaintiff may recover civil penalties on behalf of aggrieved employees and the State of California 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.

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.

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.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to “indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that “[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

Plaintiff and the aggrieved employees were required to use their personal cell phone for work activities. They regularly needed their cell phones to communicate with dispatch. Occasionally, they received a nominal cell phone reimbursement ranging from a few cents up to a couple dollars. This is substantially less than the approximately \$100 a month Plaintiff pays for his cell phone bill.

Some examples of this nominal reimbursement are shown below:

Reimbursements				\$0.40
US Cell Phone Reimbursement				\$0.40
	Routing #	Account #	Amount	

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 of 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,



Nicholas J. Ferraro

Cc Plaintiff Nathanael Taylor
Brooke Coleman – HR Assistant
bcoleman@hallcon.com