

Robert Drexler (SBN 119119)
Robert.Drexler@CapstoneLawyers.com
Molly DeSario (SBN 230763)
Molly.DeSario@CapstoneLawyers.com
Jonathan Lee (SBN 267146)
Jonathan.Lee@CapstoneLawyers.com
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Attorneys for Plaintiff Jorge Lopez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JORGE LOPEZ, individually, and on behalf
of other members of the general public
similarly situated, and as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"),

Plaintiff,

vs.

PACIFIC UTILITY INSTALLATION,
INC., a California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: CVRI2302834

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, *ET
SEQ.***

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11160 Subdivision 5(B) (Failure to Provide Reporting Time Pay);

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- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Jorge Lopez, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court because Defendants employ persons in this
5 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
6 and occurrences related to this action occurred in this county.

7 THE PARTIES

8 4. Plaintiff Jorge Lopez is a resident of Riverside, in Riverside County, California.
9 Defendants employed Plaintiff as an hourly paid, non-exempt Laborer from approximately
10 May 2018 to August 2022. During his employment, Plaintiff typically worked eleven (11)
11 hours or more per day and five (5) days per week. Plaintiff's primary job duties included,
12 without limitation, digging and cleaning trenches, operating backhoes, and cleaning up
13 jobsites.

14 5. PACIFIC UTILITY INSTALLATION, INC. was and is, upon information and
15 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
16 employees are engaged throughout this county and the State of California.

17 6. Plaintiff is unaware of the true names or capacities of the Defendants sued
18 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
19 amend the complaint and serve such fictitiously named Defendants once their names and
20 capacities become known.

21 7. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
22 were the partners, agents, owners, or managers of PACIFIC UTILITY INSTALLATION,
23 INC. at all relevant times.

24 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the
25 acts and omissions alleged herein was performed by, or is attributable to, PACIFIC UTILITY
26 INSTALLATION, INC. and/or DOES 1 through 10 (collectively, "Defendants" or "PUI"),
27 each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert
28 with, each of the other co-Defendants and was acting within the course and scope of such

1 agency, employment, joint venture, or concerted activity with legal authority to act on the
2 others' behalf. The acts of any and all Defendants were in accordance with, and represent, the
3 official policy of Defendants.

4 9. At all relevant times, Defendants, and each of them, ratified each and every act
5 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
6 and abetted the acts and omissions of each and all the other Defendants in proximately causing
7 the damages herein alleged.

8 10. Plaintiff is informed and believes, and thereon alleges, that each of said
9 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
10 omissions, occurrences, and transactions alleged herein.

11 **GENERAL ALLEGATIONS**

12 11. Defendants are a full-service underground utilities contractor, providing high
13 voltage electrical services for land developers, residential builders, and commercial builders,
14 as well as municipalities and government agencies. Upon information and belief, Defendants
15 maintain a single, centralized Human Resources ("HR") department at their company
16 headquarters in Corona, California, which is responsible for the recruiting and hiring of new
17 employees, and communicating and implementing Defendants' company-wide policies,
18 including timekeeping policies and meal and rest period policies, to employees throughout
19 California.

20 12. In particular, Plaintiff and class members, on information and belief, received
21 the same standardized documents and/or written policies. Upon information and belief, the
22 usage of standardized documents and/or written policies, including new-hire documents,
23 indicate that Defendants dictated policies at the corporate level and implemented them
24 company-wide, regardless of their employees' assigned locations or positions. Upon
25 information and belief, Defendants set forth uniform policies and procedures in several
26 documents provided at an employee's time of hire.

27 13. Upon information and belief, Defendants maintain a centralized Payroll
28 department at their company headquarters in Corona, California, which processes payroll for

1 all non-exempt, hourly paid employees working for Defendants at their various locations and
2 jobsites in California, including Plaintiff and class members. Based upon information and
3 belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid
4 employees in California, irrespective of their work locations. Upon information and belief,
5 Defendants process payroll for departing employees in the same manner throughout the State
6 of California, regardless of the manner in which each employee's employment ends.

7 14. Defendants continue to employ non-exempt or hourly paid employees in
8 California.

9 15. Plaintiff is informed and believes, and thereon alleges, that at all times herein
10 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
11 and advisors knowledgeable about California labor and wage law, employment and personnel
12 practices, and about the requirements of California law.

13 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
14 members were not paid for all hours worked because all hours worked were not recorded.

15 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and class members were entitled to receive certain wages for
17 overtime compensation and that they were not receiving certain wages for overtime
18 compensation.

19 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to receive at least minimum
21 wages for compensation and that they were not receiving at least minimum wages for work
22 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
23 and class members were not paid at least minimum wages for work done off-the-clock.

24 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to meal periods in
26 accordance with the California Labor Code and applicable IWC Wage Order or payment of
27 one (1) additional hour of pay at their regular rates of pay when they were not provided with
28 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members

1 were not provided with all meal periods or payment of one (1) additional hour of pay at their
2 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
3 period.

4 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and class members were entitled to rest periods in
6 accordance with the California Labor Code and applicable IWC Wage Order or payment of
7 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
8 permitted to take a compliant rest period and that Plaintiff and class members were not
9 authorized and permitted to take compliant rest periods or provided with payment of one (1)
10 additional hour of pay at their regular rates of pay when they were not authorized and
11 permitted to take a compliant rest period.

12 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to receive complete and
14 accurate wage statements in accordance with California law. In violation of the California
15 Labor Code, Plaintiff and class members were not provided complete and accurate wage
16 statements.

17 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that they had a duty to maintain accurate and complete payroll records in
19 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
20 knowingly, and intentionally failed to do so.

21 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and class members were entitled to timely payment of all
23 wages earned upon termination of employment. In violation of the California Labor Code,
24 Plaintiff and class members did not receive payment of all wages due, including, but not
25 limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting
26 time pay, within permissible time periods.

27 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to timely payment of wages

1 during their employment. In violation of the California Labor Code, Plaintiff and class
2 members did not receive payment of all wages, including, but not limited to, overtime wages,
3 minimum wages, meal and rest period premiums, and/or reporting time pay, within
4 permissible time periods.

5 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to receive all reporting time
7 pay when Plaintiff and class members were required to report to work but were put to work
8 for less than half of their usual or scheduled shift. In violation of the California Labor Code
9 and applicable IWC Wage Order, Plaintiff and class members were not paid all reporting time
10 pay.

11 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and class members were entitled to receive full
13 reimbursement for all business-related expenses and costs they incurred during the course and
14 scope of their employment and that they did not receive full reimbursement of applicable
15 business-related expenses and costs incurred.

16 27. Plaintiff is informed and believes, and thereon alleges, that at all times herein
17 mentioned, Defendants knew or should have known that Defendants had a duty to provide
18 Plaintiff and class members with written notice of the material terms of their employment with
19 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

20 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
21 mentioned, that Defendants knew or should have known that they had a duty to provide
22 Plaintiff and class members with safety devices and safeguards to protect their life, health, and
23 safety in the workplace, but failed to do so.

24 29. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants knew or should have known that they had a duty to compensate
26 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
27 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
28 falsely represented to Plaintiff and class members that they were properly denied wages, all in

1 order to increase Defendants' profits.

2 **PAGA REPRESENTATIVE ALLEGATIONS**

3 30. At all times herein set forth, PAGA provides that any provision of law under
4 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
5 assessed and collected by the LWDA for violations of the California Labor Code and
6 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
7 civil action brought on behalf of themselves and other current or former employees pursuant
8 to procedures outlined in California Labor Code section 2699.3.

9 31. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
10 person who was employed by the alleged violator and against whom one or more of the
11 alleged violations was committed."

12 32. Plaintiff and other current and former employees of Defendants are "aggrieved
13 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
14 or former employees and one or more of the alleged violations were committed against them.

15 33. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
16 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
17 following requirements have been met:

18 (a) The aggrieved employee or representative shall give written notice by
19 online filing with the LWDA and by certified mail to the employer of
20 the specific provisions of the California Labor Code alleged to have
21 been violated, including the facts and theories to support the alleged
22 violation.

23 (b) An aggrieved employee's notice filed with the LWDA pursuant to
24 2699.3(a) and any employer response to that notice shall be
25 accompanied by a filing fee of seventy-five dollars (\$75).

26 (c) The LWDA shall notify the employer and the aggrieved employee or
27 representative by certified mail that it does not intend to investigate the
28 alleged violation ("LWDA Notice") within sixty (60) calendar days of

1 the postmark date of the aggrieved employee's notice. Upon receipt of
2 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
3 (65) calendar days of the postmark date of the aggrieved employee's
4 notice, the aggrieved employee may commence a civil action pursuant
5 to California Labor Code section 2699 to recover civil penalties.

6 34. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
7 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
8 provision other than those listed in Section 2699.5 after the following requirements have been
9 met:

- 10 (a) The aggrieved employee or representative shall give written notice by
11 online filing with the LWDA and by certified mail to the employer of
12 the specific provisions of the California Labor Code alleged to have
13 been violated (other than those listed in Section 2699.5), including the
14 facts and theories to support the alleged violation.
- 15 (b) An aggrieved employee's notice filed with the LWDA pursuant to
16 2699.3(c) and any employer response to that notice shall be
17 accompanied by a filing fee of seventy-five dollars (\$75).
- 18 (c) The employer may cure the alleged violation within thirty-three (33)
19 calendar days of the postmark date of the notice sent by the aggrieved
20 employee or representative. The employer shall give written notice
21 within that period of time by certified mail to the aggrieved employee or
22 representative and by online filing with the LWDA if the alleged
23 violation is cured, including a description of actions taken, and no civil
24 action pursuant to Section 2699 may commence. If the alleged violation
25 is not cured within the 33-day period, the aggrieved employee may
26 commence a civil action pursuant to Section 2699.

27 35. On June 28, 2023, Plaintiff provided written notice by online filing to the
28 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor

1 Code alleged to have been violated, including facts and theories to support the alleged
2 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
3 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
4 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
5 Plaintiff PAGA Case Number LWDA-CM-965100-23. On June 29, 2023, Plaintiff filed an
6 amended written notice by online filing to the LWDA and by certified mail to Defendants of
7 the specific provisions of the California Labor Code alleged to have been violated,
8 supplementing and/or clarifying the facts and theories to support the alleged violations set
9 forth in his original LWDA notice, in accordance with California Labor Code section 2699.3.
10 True and correct copies of Plaintiff's written notices to the LWDA and Defendants dated June
11 28, 2023, and June 29, 2023, are attached hereto as "Exhibit 1."

12 36. As of the filing date of this amended complaint, over 65 days have passed since
13 Plaintiff sent the written notices described above to the LWDA, and the LWDA has not
14 responded that it intends to investigate Plaintiff's claims and Defendants have not cured the
15 violations.

16 37. Thus, Plaintiff has satisfied the administrative prerequisites under California
17 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
18 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
19 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5, 6401, and 6403.

20 38. Labor Code section 558(a) provides "[a]ny employer or other person acting on
21 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
22 provision regulating hours and days of work in any order of the Industrial Welfare
23 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
24 dollars (\$50) for each underpaid employee for each pay period for which the employee was
25 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
26 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
27 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
28 to any other civil or criminal penalty provided by law."

39. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff's and other aggrieved employees' rights by violating various sections of the California Labor Code as set forth above.

40. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

41. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5, 6401, and 6403.

CLASS ACTION ALLEGATIONS

42. Plaintiff brings this action on his own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

43. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

44. Plaintiff's proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California, within four years prior to the filing of the initial complaint until the date of trial ("Class").

45. Plaintiff's proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial ("Subclass").

46. Members of the Class and Subclass are referred to herein as "class members."

47. Plaintiff reserves the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific

1 theories of liability.

2 48. There are common questions of law and fact as to class members that
3 predominate over questions affecting only individual members, including, but not limited to:

- 4 (a) Whether Defendants required Plaintiff and class members to work over
5 eight (8) hours per day, over twelve (12) hours per day, or over forty
6 (40) hours per week and failed to pay all legally required overtime
7 compensation to Plaintiff and class members;
- 8 (b) Whether Defendants failed to pay Plaintiff and class members at least
9 minimum wages for all hours worked;
- 10 (c) Whether Defendants failed to provide Plaintiff and class members with
11 meal periods;
- 12 (d) Whether Defendants failed to authorize and permit Plaintiff and class
13 members to take rest periods;
- 14 (e) Whether Defendants provided Plaintiff and class members with
15 complete and accurate wage statements as required by California Labor
16 Code section 226(a);
- 17 (f) Whether Defendants maintained accurate payroll records as required by
18 California Labor Code section 1174(d);
- 19 (g) Whether Defendants failed to pay earned overtime wages, minimum
20 wages, meal and rest period premiums, and/or reporting time pay due to
21 Plaintiff and class members upon their discharge;
- 22 (h) Whether Defendants failed to timely pay overtime wages, minimum
23 wages, meal and rest period premiums, and/or reporting time pay due to
24 Plaintiff and class members during their employment;
- 25 (i) Whether Defendants required Plaintiff and class members to report to
26 work, but failed to provide them with work or provided them with less
27 than half their usual or scheduled day's work, without properly
28 compensating them as required by California Code of Regulations, Title

8, section 11160(5);

- (j) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (k) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;
- (l) Whether Defendants failed to provide Plaintiff and class members with safety devices and safeguards, such as personal protective equipment;
- (m) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (n) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

49. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members as demonstrated herein.
- (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-defined community of interest and typicality of claims, as demonstrated

1 herein. Plaintiff acknowledges that he has an obligation to make known
2 to the Court any relationship, conflicts or differences with any class
3 member. Plaintiff's attorneys, the proposed class counsel, are versed in
4 the rules governing class action discovery, certification, and settlement.
5 Plaintiff has incurred, and throughout the duration of this action, will
6 continue to incur costs and attorneys' fees that have been, are, and will
7 be necessarily expended for the prosecution of this action for the
8 substantial benefit of each class member.

9 (d) Superiority: The nature of this action makes the use of class action
10 adjudication superior to other methods. A class action will achieve
11 economies of time, effort, and expense as compared with separate
12 lawsuits, and will avoid inconsistent outcomes because the same issues
13 can be adjudicated in the same manner and at the same time for the
14 entire class.

15 (e) Public Policy Considerations: Employers in the State of California
16 violate employment and labor laws every day. Current employees are
17 often afraid to assert their rights out of fear of direct or indirect
18 retaliation. Former employees are fearful of bringing actions because
19 they believe their former employers might damage their future
20 endeavors through negative references and/or other means. Class
21 actions provide the class members who are not named in the complaint
22 with a type of anonymity that allows for the vindication of their rights
23 while simultaneously protecting their privacy.

24 **FIRST CAUSE OF ACTION**

25 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

26 **(Against all Defendants)**

27 50. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

1 51. Labor Code section 1198 makes it illegal to employ an employee under
2 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
3 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
4 shall be the . . . standard conditions of labor for employees. The employment of any employee
5 . . . under conditions of labor prohibited by the order is unlawful.”

6 52. California Labor Code section 1198 and the applicable IWC Wage Order
7 provide that it is unlawful to employ persons without compensating them at a rate of pay
8 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
9 number of hours worked by the person on a daily or weekly basis.

10 53. Specifically, the applicable IWC Wage Order provides that Defendants are and
11 were required to pay Plaintiff and class members working more than eight (8) hours in a day
12 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
13 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
14 workweek.

15 54. The applicable IWC Wage Order further provides that Defendants are and were
16 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
17 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
18 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
19 employee, including nondiscretionary bonuses and incentive pay.

20 55. California Labor Code section 510 codifies the right to overtime compensation
21 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
22 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
23 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate
24 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
25 in a day on the seventh (7th) day of work.

26 56. During the relevant time period, Defendants willfully failed to pay all overtime
27 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
28 class members were not paid overtime premiums for all of the hours they worked in excess of

1 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
2 hours in a week, because all hours worked were not recorded.

3 57. First, during the relevant period, on information and belief, Defendants had a
4 company-wide policy and/or practice of improperly rounding employee clock-in and/or clock-
5 out times in their timekeeping system to the start and/or end of their scheduled hours worked,
6 rather than their actual hours worked. Moreover, on information and belief, Defendants'
7 timekeeping system rounded employees' clock-in and clock-out duration times to the nearest
8 quarter (0.25) of an hour. Defendants' rounding policy resulted in the failure to compensate
9 Plaintiff and class members fully for all hours worked, causing Plaintiff and class members to
10 not be paid overtime wages for all of the overtime hours they actually worked. Upon
11 information and belief, Defendants' rounding policy was, and continues to be, unfair and has,
12 over time, resulted in the underpayment of wages to Plaintiff and class members. To the
13 extent Defendants' rounding policy took away time worked that was eligible for overtime,
14 Plaintiff and class members were denied overtime pay for all hours worked.

15 58. Alternatively, Defendants had, and continue to have, a company-wide policy
16 and/or practice of failing to correctly record hours worked by their employees. Instead, on
17 information and belief, Defendants' policy and/or practice is to simply pay employees,
18 including Plaintiff and class members, for the hours they are scheduled to work (*see infra*).
19 Because Defendants failed to accurately record their actual hours worked, Plaintiff and class
20 members were not paid for all hours worked before or after their scheduled shifts.

21 59. Second, during the relevant period, Defendants had a company-wide policy
22 and/or practice of failing to compensate Plaintiff and class members for travel to or from
23 jobsites. Plaintiff and class members usually reported to Defendants' location in Corona,
24 California, one hour and thirty minutes before their scheduled shift to carpool in company
25 vehicle(s) to the jobsite. Further, at the end of their scheduled shifts, Plaintiff and class
26 members travelled back to Corona from the jobsites for at least two (2) hours, time for which
27 they were not compensated. However, Plaintiff and class members were not allowed to clock-
28 in until arriving at the jobsite and/or at the start of their scheduled shifts, and were required to

1 clock-out when leaving the jobsite and/or at the end of their scheduled shifts (*see supra*), and
2 thus were not paid for any time spent traveling to or from the jobsites. Thus, Plaintiff and
3 class members were not compensated for this travel time, despite being under the direction
4 and control of Defendants.

5 60. Moreover, during the relevant time period, Defendants had, and continue to
6 have, a company-wide policy and/or practice of requiring Plaintiff and class members to
7 perform work-related tasks while off-the-clock outside of their shifts. For example,
8 Defendants' management contacted Plaintiff on his personal cellular phone to discuss work
9 deadlines, progress on projects, and other work-related tasks before and after his shifts, on his
10 days off, and during meal periods, but did not compensate him for this time spent working.

11 61. Third, Defendants had, and continue to have, company-wide policies and/or
12 practices of understaffing their jobsites while assigning heavy workloads, including pressuring
13 employees to meet project deadlines and productivity requirements. Defendants' policies
14 and/or practices resulted in a failure to provide Plaintiff and class members with adequate
15 meal period coverage, and thus, Plaintiff and class members were not always afforded
16 uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal
17 period. Defendants also had a practice of failing to schedule meal periods which, in
18 conjunction with the assignment of heavy workloads, further caused Plaintiff and class
19 members to not be relieved of their duties for compliant meal periods. For example, about
20 four (4) times per month, Plaintiff worked through his meal periods to keep up with the
21 demands of work and complete his assigned duties in time for inspectors to visit the jobsite.
22 Additionally, about once every other week, Defendants' supervisors interrupted or cut short
23 Plaintiff's and class members' meal periods to pressure them to get back to work in order to
24 meet work deadlines. Defendants did not compensate Plaintiff and class members for the time
25 they spent working off the clock during unpaid meal periods.

26 62. Furthermore, on information and belief, because Defendants frowned upon
27 employees accruing meal period penalties, Defendants' management pressured employees to
28 clock out for meal periods, on threat of discipline, in order to limit the meal penalties that

1 Defendants would otherwise owe. Thus, Defendants did not record all hours worked during
2 meal periods, and Plaintiff and class members performed work during meal periods for which
3 they were not paid.

4 63. Defendants knew or should have known that, as a result of these company-wide
5 practices and/or policies, Plaintiff and class members were performing their assigned duties
6 off-the-clock before and after their shifts, on their days off, and during meal periods, and were
7 suffered or permitted to perform work for which they were not paid. Because Plaintiff and
8 class members worked shifts of eight (8) hours a day or more, or forty (40) hours a week or
9 more, some of this off-the-clock work qualified for overtime premium pay. Therefore,
10 Plaintiff and class members were not paid overtime wages for all of the overtime hours they
11 actually worked.

12 64. Defendants' failure to pay Plaintiff and class members the balance of overtime
13 compensation, as required by California law, violates the provisions of California Labor Code
14 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
15 members are entitled to recover from Defendants their unpaid overtime compensation, as well
16 as interest, costs, and attorneys' fees.

17 **SECOND CAUSE OF ACTION**

18 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 19 **Minimum Wages** 20 **(Against all Defendants)**

21 65. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 66. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
24 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
25 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
26 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 16-2001 as
27 "the time during which an employee is subject to the control of an employer, and includes all
28 the time the employee is suffered or permitted to work, whether or not required to do so."

1 Cal. Code Regs. Tit. 8, § 11160(2)(J) (defining “Hours Worked”).

2 67. As set forth above, Defendants had a company-wide policy and/or practice of
3 rounding Plaintiff’s and class members’ clock-in and clock-out times in their timekeeping
4 system to the start and/or end of their scheduled shift times and/or to the nearest quarter hour,
5 resulting in the failure to compensate Plaintiff and class members fully for all hours worked.
6 Alternatively, Defendants had a company-wide policy and/or practice of only paying Plaintiff
7 and class members for their scheduled shifts, rather than their actual hours worked, because
8 Defendants failed to track hours worked outside of their scheduled shifts.

9 68. Moreover, due to Defendants’ company-wide policies and/or practices of
10 failing to compensate for travel time and not permitting employees to record all their hours
11 worked, Defendants failed to record all hours worked outside of scheduled shifts, including
12 time spent traveling to and from jobsites. Also, as stated above, Defendants maintained a
13 policy and/or practice requiring Plaintiff and class members to perform work off-the-clock
14 prior to clocking in at the start of their shifts, after the end of their shifts, and on their days off.

15 69. Further, as also stated above, due to Defendants’ policies and/or practices of
16 understaffing their jobsites while assigning heavy workloads, failing to schedule meal periods,
17 and subsequent lack of meal period coverage, Plaintiff and class members were impeded from
18 taking all uninterrupted meal periods to which they were entitled and were required to work
19 off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise
20 not relieved of all duties during unpaid meal periods. Also, as stated, in order to prevent
21 employees from accruing meal period penalties, upon information and belief, Defendants’
22 management pressured employees, on threat of discipline, to record compliant meal periods
23 when meal periods were missed, short, and/or interrupted. Thus, Defendants systematically
24 failed to pay Plaintiff and class members for actual hours worked during unpaid meal periods
25 because these hours were not always correctly recorded.

26 70. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
27 and class members. To the extent that these off-the-clock hours did not qualify for overtime
28 premium payment, Defendants did not pay at least minimum wages for those hours worked

1 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
2 1198.

3 71. As result, Defendants regularly failed to pay at least minimum wages to
4 Plaintiff and class members for all of the hours they worked in violation of California Labor
5 Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code
6 section 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated
7 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

8 **THIRD CAUSE OF ACTION**

9 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**

10 **Violations**

11 **(Against all Defendants)**

12 72. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 73. At all relevant times herein set forth, California Labor Code section 512(a)
15 provides that an employer may not require, cause, or permit an employee to work for a period
16 of more than five (5) hours per day without providing the employee with a meal period of not
17 less than thirty (30) minutes, except that if the total work period per day of the employee is
18 not more than six (6) hours, the meal period may be waived by mutual consent of both the
19 employer and the employee. Under California law, first meal periods must start after no more
20 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

21 74. At all relevant times herein set forth, California Labor Code sections 226.7,
22 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
23 meal period mandated by an applicable order of the IWC.

24 75. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
25 the applicable IWC Wage Order also require employers to provide a second meal period of
26 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
27 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
28 hours worked is no more than twelve (12) hours, the second meal period may be waived by

1 mutual consent of the employer and the employee only if the first meal period was not waived.

2 76. First, as stated, during the relevant time period, Defendants had, and continue
3 to have, company-wide policies and/or practices of understaffing while assigning heavy
4 workloads, including pressure to meet project deadlines and productivity requirements, which
5 resulted in a lack of meal period coverage and prevented Plaintiff and class members from
6 taking all timely, uninterrupted meal periods to which they were entitled. Further, as also
7 stated, Defendants had company-wide practices and/or policies of failing to schedule meal
8 periods, which further caused Plaintiff and class members to not be relieved of their duties for
9 compliant meal periods.

10 77. As a result, Plaintiff and class members have had to work through all or part of
11 their meal periods, had their meal periods interrupted, and/or had to wait extended periods of
12 time before taking meal periods. For example, as stated, approximately four (4) times per
13 month, Plaintiff worked through his meal periods to complete his assigned duties in time for
14 inspectors to visit the jobsite. Additionally, Plaintiff frequently took his meal periods late,
15 after having worked in excess of five (5) hours into his shift, in order to complete his assigned
16 tasks or to travel to the next jobsite before taking his meal period. As a further example, about
17 once every other week, Defendants' supervisors interrupted or cut short Plaintiff's meal
18 periods to pressure him to get back to work in order to meet deadlines.

19 78. Second, as stated above, on information and belief, because Defendants
20 frowned upon employees accruing meal period penalties, Defendants' management pressured
21 Plaintiff and class members to clock out for meal periods, upon threat of discipline, regardless
22 of whether they had received a compliant meal period or not, in order to strictly limit the meal
23 penalties that would need to be paid by Defendants. For example, Plaintiff was required to
24 clock out for his first meal periods to record that he had received compliant meal periods on
25 shifts when he had not, in fact, received these timely, uninterrupted meal periods.

26 79. Third, Defendants had a policy and/or practice of requiring that Plaintiff and
27 class members respond to calls from supervisors on their personal mobile devices or personal
28 cellular phones at all times, even during unpaid meal periods. For example, Plaintiff's meal

1 periods were interrupted by Defendants' management calling him to discuss progress on
2 projects or other work-related tasks. Thus, Plaintiff and class members had meal periods
3 interrupted attending to work-related matters.

4 80. Fourth, Defendants did not provide Plaintiff and class members with second 30-
5 minute meal periods on days that they worked in excess of ten (10) hours in one day. During
6 his employment, Plaintiff worked shifts in excess of ten (10) or more hours per day but was
7 never provided a second 30-minute meal period. Plaintiff and class members did not sign
8 valid meal period waivers on days that they were entitled to meal periods and were not
9 relieved of all duties.

10 81. At all times mentioned herein, Defendants knew or should have known that, as
11 a result of their policies, Plaintiff and class members were not actually relieved of all duties to
12 take timely, uninterrupted meal periods. Defendants further knew or should have known that
13 they did not pay Plaintiff and class members meal period premiums when meal periods were
14 late, interrupted, shortened, and/or missed. Further, to the extent that Defendants' rounding
15 policy reported that Plaintiff and class members were provided with timely, full 30-minute
16 meal periods when, in fact, the meal periods were taken after the fifth hour of work or were
17 less than 30 minutes, Plaintiff and class members did not receive meal period penalties for
18 these improperly rounded meal periods.

19 82. Furthermore, Defendants engaged in a company-wide practice and/or policy of
20 not paying all meal period premiums owed when compliant meal periods are not provided.
21 Because of this practice and/or policy, Plaintiff and class members have not received premium
22 pay for all missed, late, and interrupted meal periods. As a result, Defendants failed to
23 provide Plaintiff and class members compliant meal periods in violation of California Labor
24 Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

25 83. Defendants' conduct violates the applicable IWC Wage Order, and California
26 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
27 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
28 rate of compensation for each work day that the meal period was not provided.

1 **FOURTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations**
3 **(Against all Defendants)**

4 84. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 85. At all relevant times herein set forth, the applicable IWC Wage Order and
7 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
8 members' employment by Defendants.

9 86. At all relevant times, the applicable IWC Wage Order provides that "[e]very
10 employer shall authorize and permit all employees to take rest periods, which insofar as
11 practicable shall be in the middle of each work period" and that the "rest period time shall be
12 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
13 hours or major fraction thereof" unless the total daily work time is less than three and one-half
14 (3 ½) hours.

15 87. At all relevant times, California Labor Code section 226.7 provides that no
16 employer shall require an employee to work during any rest period mandated by an applicable
17 order of the California IWC. To comply with its obligation to authorize and permit rest
18 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
19 employer must "relinquish any control over how employees spend their break time, and
20 relieve their employees of all duties—including the obligation that an employee remain on
21 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
22 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
23 Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from
24 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
25 required rest period was not authorized and permitted.

26 88. During the relevant time period, Defendants regularly failed to authorize and
27 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
28 period worked or major fraction thereof. As with meal periods, Defendants' company-wide

1 practices, including understaffing and assigning heavy workloads, including pressure to meet
2 deadlines and productivity requirements prevented Plaintiff and class members from being
3 relieved of all duty to take rest periods. Additionally, Defendants' management erroneously
4 informed Plaintiff and class members that they were only entitled to two (2) 15-minute rest
5 periods per shift, regardless of shift length, which were to be combined with their 30-minute
6 meal period, for a total of a 60-minute block "lunch" per shift. Thus, Defendants also wholly
7 failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate
8 rest period coverage, further led to Plaintiff and class members not being authorized and
9 permitted to take compliant rest periods.

10 89. As a result of Defendants' practices and policies, Plaintiff and class members
11 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
12 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
13 Plaintiff missed nearly all of his rest periods because of the lack of coverage offered and due
14 to Defendants' policy of incorrectly combining rest periods with meal periods.

15 90. Defendants have also engaged in a systematic, company-wide practice and/or
16 policy of not paying rest period premiums owed when rest periods are not authorized and
17 permitted. Because of this practice and/or policy, Plaintiff and class members have not
18 received premium pay for all missed rest periods. As a result, Defendants denied Plaintiff and
19 class members rest periods and failed to pay them rest period premiums due, in violation of
20 Labor Code sections 226.7 and 516, and the applicable IWC Wage Order.

21 91. Defendants' conduct violates the applicable IWC Wage Order and California
22 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
23 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
24 compensation for each work day that a compliant rest period was not authorized and
25 permitted.

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1 **FIFTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
3 **Statements and Failure to Maintain Accurate Payroll Records**
4 **(Against all Defendants)**

5 92. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 93. At all relevant times herein set forth, California Labor Code section 226(a)
8 provides that every employer shall furnish each of his or her employees an accurate and
9 complete itemized wage statement in writing, including, but not limited to, the name and
10 address of the legal entity that is the employer, the inclusive dates of the pay period, total
11 hours worked, and all applicable rates of pay.

12 94. At all relevant times, Defendants have knowingly and intentionally provided
13 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
14 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
15 that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
16 applicable hourly rates in effect during the pay period, including rates of pay for overtime
17 wages, and the corresponding number of hours worked at each hourly rate. Specifically,
18 Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

19 95. Because Defendants did not accurately record the time Plaintiff and Subclass
20 members spent working off-the-clock, improperly rounded Plaintiff's and class members'
21 total hours worked, and deducted time from their records for meal periods that were
22 interrupted and/or missed (and therefore time for which they should have been paid),
23 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff
24 and Subclass members in compliance with sections 226(a)(1) and 226(a)(5). For the same
25 reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and
26 Subclass members in violation of section 226(a)(2), and failed to list the applicable hourly
27 rates of pay in effect during the pay period and corresponding accurate number of work hours
28 worked at each hourly rate in violation of section 226(a)(9).

1 96. The wage statement deficiencies also include, without limitation, failing to list
2 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
3 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
4 for which employees were paid; failing to list the name of the employee and only the last four
5 digits of his or her social security number or an employee identification number other than a
6 social security number; failing to list the name and address of the legal entity that is the
7 employer; and/or failing to state all hours worked as a result of not recording or stating hours
8 worked off-the-clock.

9 97. California Labor Code section 1174(d) provides that “[e]very person employing
10 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
11 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
12 plants or establishments at which employees are employed, payroll records showing the hours
13 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
14 applicable piece rate paid to, employees employed at the respective plants or
15 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
16 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
17 members showing the daily hours they worked and the wages paid thereto as a result of failing
18 to record the off-the-clock hours that they worked and improperly rounding Plaintiff’s and
19 Subclass members’ total hours worked.

20 98. California Labor Code section 1198 provides that the maximum hours of work
21 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
22 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
23 employment of any employees for longer hours than those fixed by the order or under
24 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
25 Wage Order, employers are required to keep accurate time records showing when the
26 employee begins and ends each work period. During the relevant time period, Defendants
27 engaged in company-wide practices and/or policies of failing to record actual hours worked,
28 and thereby failed to keep accurate records of work period and meal period start and end times

1 for Plaintiff and Subclass members, in violation of section 1198. Also, in light of Defendants'
2 failure to provide Plaintiff and Subclass members with second 30-minute meal periods to
3 which they were entitled, Defendants kept no records of meal start and end times for second
4 meal periods.

5 99. Plaintiff and Subclass members are entitled to recover from Defendants the
6 greater of their actual damages caused by Defendants' failure to comply with California Labor
7 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
8 employee.

9 **SIXTH CAUSE OF ACTION**

10 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 11 **Termination** 12 **(Against all Defendants)**

13 100. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

15 101. This cause of action is dependent upon, and wholly derivative of, the overtime
16 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
17 not timely paid to Plaintiff and those class members no longer employed by Defendants upon
18 their termination.

19 102. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
20 that if an employer discharges an employee, the wages earned and unpaid at the time of
21 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
22 her employment, his or her wages shall become due and payable not later than seventy-two
23 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
24 his or her intention to quit, in which case the employee is entitled to his or her wages at the
25 time of quitting.

26 103. Defendants willfully failed to pay Plaintiff and class members who are no
27 longer employed by Defendants the earned and unpaid wages set forth above, including but
28 not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or

1 reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their
2 leaving Defendants' employ.

3 104. Defendants' failure to pay Plaintiff and class members who are no longer
4 employed by Defendants their wages earned and unpaid at the time of discharge, or within
5 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
6 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
7 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
8 thirty (30) day maximum pursuant to California Labor Code section 203.

9 SEVENTH CAUSE OF ACTION

10 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 11 **Employment** 12 **(Against all Defendants)**

13 105. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

15 106. This cause of action is dependent upon, and wholly derivative of, the overtime
16 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
17 not timely paid to Plaintiff and class members during their employment.

18 107. At all times relevant herein set forth, Labor Code section 204 provides that all
19 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
20 days, inclusive, of any calendar month, other than those wages due upon termination of an
21 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
22 the month during which the labor was performed.

23 108. At all times relevant herein, Labor Code section 204 provides that all wages
24 earned by any person in any employment between the sixteenth (16th) and the last day,
25 inclusive, of any calendar month, other than those wages due upon termination of an
26 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
27 month.

28 109. At all times relevant herein, Labor Code section 204 provides that all wages

1 earned for labor in excess of the normal work period shall be paid no later than the payday for
2 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
3 204 provides that the requirements of this section are deemed satisfied by the payment of
4 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
5 seven (7) calendar days following the close of the payroll period.

6 110. During the relevant time period, Defendants willfully failed to pay Plaintiff and
7 class members all wages due including, but not limited to, overtime wages, minimum wages,
8 meal and rest period premiums, and/or reporting time pay, within the time periods specified
9 by California Labor Code section 204.

10 111. Defendants' failure to timely pay Plaintiff and class members all wages due
11 violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover
12 from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

13 **EIGHTH CAUSE OF ACTION**

14 **Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section** 15 **11160 Subdivision 5(B)—Failure to Provide Reporting Time Pay** 16 **(Against all Defendants)**

17 112. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
18 and every allegation set forth above.

19 113. California Labor Code section 1198 dictates that no employer may employ an
20 employee under conditions of labor that are prohibited by the applicable IWC wage order.
21 California Labor Code section 1198 further requires that “. . . the standard conditions of labor
22 fixed by the commission shall be the . . . standard conditions of labor for employees. The
23 employment of any employee . . . under conditions of labor prohibited by the order is
24 unlawful.”

25 114. The applicable IWC Wage Order, California Code of Regulations, Title 8,
26 section 11160(5)(B), provides that “[e]ach workday that an employee is required to report to
27 the work site and does report, but is not put to work, or is furnished less than half of his or her
28 usual or scheduled day's work, the employer shall be pay him or her for half the usual or

1 scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours,
2 at the employee's regular rate of pay which shall not be less than the minimum wage." The
3 "primary purpose of the reporting time regulation" is "to guarantee at least partial
4 compensation for employees who report to work expecting to work a specified number of
5 hours, and who are deprived of that amount because of inadequate scheduling or lack of
6 proper notice by the employer." *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

7 115. During the relevant time period, Defendants violated California Labor Code
8 section 1198 and California Code of Regulations, Title 8, section 11160(5)(B), because
9 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
10 work for their usual or scheduled shift but were put to work for less than half of their usual or
11 scheduled day's work.

12 116. Defendants had a company-wide practice and/or policy of sending Plaintiff and
13 class members home early from their shifts, including before they had worked at least half of
14 their usual or scheduled shift, but would not pay Plaintiff and class members for half of their
15 scheduled shift. For example, when scheduled to work an eight (8) hour shift, Defendants'
16 managers sent Plaintiff home before he had an opportunity to work at least half of his
17 scheduled shift a few times throughout his employment, due to inclement weather. However,
18 on information and belief, Plaintiff was only paid for the time he had worked. Although
19 Plaintiff and class members reported to work based on the schedule that was provided to them,
20 Defendants would send them home before they worked at least half of their usual or scheduled
21 shifts. When this occurred, Defendants did not pay Plaintiff and class members for at least
22 half of their scheduled day's work or the minimum reporting time pay.

23 117. Accordingly, Plaintiff and class members were not properly compensated with
24 reporting time pay in violation of California Labor Code section 1198 and California Code of
25 Regulations, Title 8, section 11160(5)(B). Plaintiff and class members are therefore entitled
26 to recover from Defendants unpaid wages and interest.

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28 //

1 **NINTH CAUSE OF ACTION**

2 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses**

3 **(Against all Defendants)**

4 118. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 119. At all times herein set forth, California Labor Code section 2802 provides that
7 an employer must reimburse employees for all necessary expenditures and losses incurred by
8 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
9 to prevent employers from passing off their cost of doing business and operating expenses on
10 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
11 (2014). The applicable wage order, IWC Wage Order No. 16-2001, provides that: “[w]hen the
12 employer requires the use of tools or equipment or are necessary to the performance of a job,
13 such tools and equipment shall be provided and maintained by the employer, except that an
14 employee whose wages are at least two (2) times the minimum wage provided herein may
15 provide and maintain hand tools and equipment customarily required by the trade or craft . . .
16 .” IWC Wage Order No. 16-2001 further provides that: “[w]hen the employer requires
17 uniforms to be worn by the employee as a condition of employment, such uniforms shall be
18 provided and maintained by the employer.”

19 120. First, during the relevant time period, Defendants, on a company-wide basis,
20 required Plaintiff and class members to use their personal mobile devices, including, but not
21 limited to, cellular phones, and/or mobile data to carry out their job duties but failed to
22 reimburse them for the costs of their work-related mobile device and/or mobile data expenses.
23 For example, Plaintiff was required to use his personal cellular phone and mobile data to
24 download and use a timekeeping application called Timerack, use GPS navigation when he
25 drove himself to from one jobsite to another, and communicate with his foreman about work-
26 related matters. Although Defendants required Plaintiff and class members to use their
27 personal mobile devices and mobile data to carry out their work-related duties, Defendants
28 failed to reimburse them for their costs incurred.

1 121. Second, during the relevant time period, Defendants, on a company-wide basis,
2 required Plaintiff and class members to use their own personal vehicles to carry out company
3 business, but failed to reimburse them for all costs of travel, including mileage. For example,
4 Plaintiff was sometimes required to drive his personal vehicle from the jobsite to the
5 Defendants' location in Corona, California, to pick up supplies, which was between 40 to 60
6 miles roundtrip. Although Defendants required Plaintiff and class members to utilize their
7 personal vehicles to carry out their work-related responsibilities, Defendants failed to
8 reimburse them for their mileage or travel expenses.

9 122. Third, during the relevant time period, Defendants required Plaintiff and class
10 members to purchase supplies and equipment necessary for the performance of their duties,
11 but failed to reimburse them for their out-of-pocket costs. For example, during his
12 employment, Plaintiff spent about \$230 to purchase safety equipment (\$170 on steel-toed
13 boots and about \$60 on a hard hat) because Defendants failed to provide him with the
14 necessary supplies and/or equipment which were required to perform his duties. Although
15 Defendants required Plaintiff and class members to purchase and use their own supplies
16 and/or equipment in the performance of their duties, Defendants did not reimburse them for
17 these expenses.

18 123. Fourth, during the relevant time period, Defendants had a company-wide policy
19 of requiring Plaintiff and class members to wear uniforms bearing the "Pacific Utility
20 Installation, Inc." company logo, including shirts. Due to the nature of the work they
21 performed, Plaintiff's and class members' uniform items would become stained with dirt,
22 soiled, and/or acquire an unpleasant odor such that they were unable to mix these clothes in
23 with other laundry. As a result, Plaintiff had to wash his uniform items separately from his
24 regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms.
25 Thus, Defendants failed to maintain uniforms they required Plaintiff and class members to
26 wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

27 124. Defendants could have provided Plaintiff and class members with the actual
28 tools for use on the job, such as company mobile devices, company vehicles, and supplies and

1 equipment, as well as an adequate number of uniform items and access to laundering services.
2 Or, Defendants could have reimbursed employees for their mobile device usage, travel,
3 mileage, supplies and equipment, and laundering expenses or provided a uniform maintenance
4 allowance.

5 125. Defendants' company-wide policy and/or practice of passing on their operating
6 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
7 have intentionally and willfully failed to reimburse Plaintiff and class members for necessary
8 business-related expenses and costs.

9 126. Plaintiff and class members are entitled to recover from Defendants their
10 business-related expenses incurred during the course and scope of their employment, plus
11 interest.

12 **TENTH CAUSE OF ACTION**

13 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

14 **(Against all Defendants)**

15 127. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
16 and every allegation set forth above.

17 128. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
18 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
19 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
20 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
21 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
22 those Labor Code sections not found in section 2699.5, including sections 516, 1182.12,
23 2810.5, 6401, and 6403.

24 129. Defendants' conduct, as alleged herein, violates numerous sections of the
25 California Labor Code, including, but not limited to, the following:

- 26 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
27 Wage Order for Defendants' failure to compensate Plaintiff and other
28 aggrieved employees with all required overtime pay, as alleged herein;

- 1 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
2 1198, and the applicable IWC Wage Order for Defendants' failure to
3 compensate Plaintiff and other aggrieved employees with at least
4 minimum wages for all hours worked, as alleged herein;
- 5 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
6 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
7 and other aggrieved employees with meal periods, as alleged herein;
- 8 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
9 applicable IWC Wage Order for Defendants' failure to authorize and
10 permit Plaintiff and other aggrieved employees to take rest periods, as
11 alleged herein;
- 12 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
13 IWC Wage Order for failure to provide accurate and complete wage
14 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 15 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
16 IWC Wage Order for failure to maintain payroll records, as alleged
17 herein;
- 18 (g) Violation of Labor Code sections 201 and 202 for failure to pay all
19 earned wages upon termination, as alleged herein;
- 20 (h) Violation of Labor Code section 204 for failure to pay all earned wages
21 during employment, as alleged herein;
- 22 (i) Violation of Labor Code section 1198 and the applicable IWC Wage
23 Order for failure to pay reporting time pay when Plaintiff and other
24 aggrieved employees were put to work for less than half of their usual or
25 scheduled shifts, as alleged herein;
- 26 (j) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
27 and other aggrieved employees for all business expenses necessarily
28 incurred, as alleged herein;

- 1 (k) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
2 provide written notice of information material to Plaintiff's and other
3 aggrieved employees' employment with Defendants, as set forth below;
4 and
- 5 (l) Violation of Labor Code sections 6401 and 6401 for failure to provide
6 Plaintiff and other aggrieved employees with safety devices and
7 safeguards for the workplace, as set forth below.

8 130. At all relevant times herein, California's Wage Theft Prevention Act was
9 enacted to ensure that employers provide employees with basic information material to their
10 employment relationship at the time of hiring, and to ensure that employees are given written
11 and timely notice of any changes to basic information material to their employment. Codified
12 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
13 time of hiring, an employer must provide written notice to employees containing basic and
14 material payroll information, including, among other things, the rate(s) of pay and basis
15 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
16 including any rates for overtime, the regular payday designated by the employer, and any
17 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
18 Code § 2810.5(a)(1)(A)-(C).

19 131. At all relevant times, on information and belief, Defendants failed, on a
20 company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that
21 lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
22 Defendants' failure to provide Plaintiff and other aggrieved employees with written notice of
23 basic information regarding their employment with Defendants is in violation of Labor Code
24 section 2810.5. Plaintiff and other aggrieved employees are therefore entitled to recover civil
25 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

26 132. At all relevant times herein, California Labor Code section 6401 provides that
27 employers must furnish and use safety devices and safeguards, and adopt and use practices,
28 means, methods, operations, and processes which are reasonably adequate to render the

1 employment and place of employment safe and healthy. California Labor Code Section 6401
2 further provides that an employer must do everything reasonably necessary to protect the life,
3 safety and health of their employees.

4 133. During the relevant period, Defendants failed to provide Plaintiff and other
5 aggrieved employees with personal protective equipment, such as steel-toed boots and hard
6 hats, to keep them safe in the workplace. Despite the fact that Defendants required Plaintiff
7 and other aggrieved employees to wear certain personal protective equipment, including steel-
8 toed boots and hard hats, while engaged in their work-related duties, Defendants failed to
9 provide such reasonably necessary equipment to Plaintiff and other aggrieved employees to
10 keep them safe.

11 134. Defendants' failure to provide Plaintiff and other aggrieved employees with
12 safety devices and safeguards for the workplace violates Labor Code sections 6401 and 6403.
13 Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties
14 pursuant to Labor Code section 2699(a), (f), and (g).

15 **ELEVENTH CAUSE OF ACTION**

16 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

17 **Unlawful Business Practices**

18 **(Against all Defendants)**

19 135. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 136. Defendants are "persons" as defined by California Business & Professions
22 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
23 and/or associations.

24 137. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
25 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
26 suffered injury in fact and has lost money as a result of Defendants' unlawful business
27 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
28 meaning of Code of Civil Procedure section 1021.5.

1 138. Defendants' activities, as alleged herein, are violations of California law, and
2 constitute unlawful business acts and practices in violation of California Business &
3 Professions Code sections 17200, *et seq.*

4 139. A violation of California Business & Professions Code sections 17200, *et seq.*
5 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
6 policies and practices have violated state law in at least the following respects:

- 7 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
8 class members, to work overtime without paying them proper
9 compensation in violation of California Labor Code sections 510 and
10 1198, and the applicable IWC Wage Order, as alleged herein;
- 11 (b) Failing to pay at least minimum wage to Plaintiff and class members in
12 violation of California Labor Code sections 1182.12, 1194, 1197,
13 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
14 herein;
- 15 (c) Failing to provide all meal periods to Plaintiff and class members in
16 violation of California Labor Code sections 226.7, 512(a), 516, and
17 1198, and the applicable IWC Wage Order, as alleged herein;
- 18 (d) Failing to authorize and permit Plaintiff and class members to take all
19 rest periods in violation of California Labor Code sections 226.7, 516,
20 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 21 (e) Failing to provide Plaintiff and class members with accurate wage
22 statements and failing to maintain accurate payroll records in violation
23 of California Labor Code sections 226(a), 1174(d), and 1198, and the
24 applicable IWC Wage Order, as alleged herein;
- 25 (f) Failing to timely pay all earned wages to Plaintiff and class members in
26 violation of California Labor Code section 204, as alleged herein;
- 27 (g) Failing to pay reporting time pay in violation of California Labor Code
28 section 1198 and the applicable IWC Wage Order, as alleged herein;

- 1 (h) Failing to reimburse Plaintiff and class members for all business
2 expenses necessarily incurred in violation of California Labor Code
3 section 2802, as alleged herein;
- 4 (i) Failing to provide written notice of information material to Plaintiff's
5 and class members' employment with Defendants in violation of
6 California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below;
7 and
- 8 (j) Failing to provide Plaintiff and class members with safety devices and
9 safeguards, such as personal protective equipment, in violation of
10 California Labor Code sections 6401 and 6403 as set forth below.

11 140. At all relevant times herein, California's Wage Theft Prevention Act was
12 enacted to ensure that employers provide employees with basic information material to their
13 employment relationship at the time of hiring, and to ensure that employees are given written
14 and timely notice of any changes to basic information material to their employment. Codified
15 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
16 time of hiring, an employer must provide written notice to employees containing basic and
17 material payroll information, including, among other things, the rate(s) of pay and basis
18 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
19 including any rates for overtime, the regular payday designated by the employer, and any
20 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
21 Code § 2810.5(a)(1)(A)-(C).

22 141. At all relevant times, on information and belief, Defendants failed, on a
23 company-wide basis, to provide written notice to Plaintiff and class members that lists the
24 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
25 to provide Plaintiff and class members with written notice of basic information regarding their
26 employment with Defendants is in violation of California Labor Code section 2810.5.

27 142. At all relevant times herein, California Labor Code section 6401 provides that
28 employers must furnish and use safety devices and safeguards, and adopt and use practices,

1 means, methods, operations, and processes which are reasonably adequate to render the
2 employment and place of employment safe and healthy. California Labor Code Section 6401
3 further provides that an employer must do everything reasonably necessary to protect the life,
4 safety, and health of their employees. California Labor Code section 6403(a) requires that
5 employers provide and use safety devices and safeguards reasonably adequate to render the
6 employment and place of employment safe.

7 143. During the relevant period, as stated above, Defendants failed to provide
8 Plaintiff and class members with personal protective equipment, such as steel-toed boots and
9 hard hats, to keep them safe in the workplace. Despite the fact that Defendants required
10 Plaintiff and class members to wear certain personal protective equipment, including steel-
11 toed boots and hard hats, while engaged in their work-related duties, Defendants failed to
12 provide such reasonably necessary equipment to Plaintiff and class members to keep them
13 safe. Thus, Defendants' failure to provide Plaintiff and class members with safety devices and
14 safeguards for the workplace violates Labor Code sections 6401 and 6403.

15 144. As a result of the violations of California law herein described, Defendants
16 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
17 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
18 herein.

19 145. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
20 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
21 Defendants during a period that commences four years prior to the filing of this complaint; a
22 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
23 class members; and an award of attorneys' fees pursuant to California Code of Civil
24 Procedure section 1021.5 and other applicable laws; and an award of costs.

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1 **TWELFTH CAUSE OF ACTION**

2 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

3 **Unfair Business Practices**

4 **(Against all Defendants)**

5 146. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 147. Defendants are “persons” as defined by California Business & Professions
8 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
9 and/or associations.

10 148. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
11 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
12 injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff
13 seeks to enforce important rights affecting the public interest within the meaning of Code of
14 Civil Procedure section 1021.5.

15 149. Defendants’ activities, namely Defendants’ company-wide practice and/or
16 policy of not paying Plaintiff and class members all meal and rest period premiums due to
17 them under California Labor Code section 226.7, deprived Plaintiff and class members of the
18 compensation guarantee and enhanced enforcement implemented by section 226.7. The
19 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
20 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v.*
21 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
22 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
23 and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an
24 unfair business practice in violation of California Business & Professions Code sections
25 17200, *et seq.* (*Id.*)

26 150. A violation of California Business & Professions Code sections 17200, *et seq.*
27 may be predicated on any unfair business practice. In the instant case, Defendants’ policies
28 and practices have violated the spirit of California’s meal and rest period laws and constitute

1 acts against the public policy behind these laws.

2 151. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
3 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
4 benefits implemented by section 226.7 withheld and retained by Defendants during a period
5 that commences four years prior to the filing of this complaint; a permanent injunction
6 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
7 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
8 Procedure section 1021.5 and other applicable laws; and an award of costs.

9 **REQUEST FOR JURY TRIAL**

10 Plaintiff requests a trial by jury.

11 **PRAYER FOR RELIEF**

12 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
13 against Defendants, jointly and severally, as follows:

14 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
15 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
16 reserves the right to amend his prayer for relief to seek a different amount.

17 **Class Certification**

- 18 2. That this case be certified as a class action;
19 3. That Plaintiff be appointed as the representative of the Class and Subclass;
20 4. That counsel for Plaintiff be appointed as class counsel.

21 **As to the First Cause of Action**

22 5. That the Court declare, adjudge, and decree that Defendants violated California
23 Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to
24 pay all overtime wages due to Plaintiff and class members;

25 6. For general unpaid wages at overtime wage rates and such general and special
26 damages as may be appropriate;

27 7. For pre-judgment interest on any unpaid overtime compensation commencing
28 from the date such amounts were due, or as otherwise provided by law;

1 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
2 California Labor Code section 1194(a); and

3 9. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Second Cause of Action**

6 10. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
8 Order by willfully failing to pay minimum wages to Plaintiff and class members;

9 11. For general unpaid wages and such general and special damages as may be
10 appropriate;

11 12. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due, or as otherwise provided by law;

13 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
14 California Labor Code section 1194(a);

15 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

16 15. For such other and further relief as the Court may deem equitable and
17 appropriate.

18 **As to the Third Cause of Action**

19 16. That the Court declare, adjudge, and decree that Defendants violated California
20 Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order by
21 willfully failing to provide all meal periods to Plaintiff and class members;

22 17. That the Court make an award to the Plaintiff and class members of one (1)
23 hour of pay at each employee's regular rate of pay for each workday that a meal period was
24 not provided;

25 18. For all actual, consequential, and incidental losses and damages, according to
26 proof;

27 19. For premiums pursuant to California Labor Code section 226.7(c);

28 20. For pre-judgment interest on any unpaid meal period premiums from the date

1 such amounts were due, or as otherwise provided by law;

2 21. For attorneys' fees pursuant to California Code of Civil Procedure section
3 1021.5, or as otherwise provided by law; and

4 22. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Fourth Cause of Action**

7 23. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully
9 failing to authorize and permit Plaintiff and class members to take all rest periods;

10 24. That the Court make an award to the Plaintiff and class members of one (1) hour
11 of pay at each employee's regular rate of pay for each workday that a rest period was not
12 authorized and permitted;

13 25. For all actual, consequential, and incidental losses and damages, according to
14 proof;

15 26. For premiums pursuant to California Labor Code section 226.7(c);

16 27. For pre-judgment interest on any unpaid rest period premiums from the date
17 such amounts were due, or as otherwise provided by law;

18 28. For attorneys' fees pursuant to California Code of Civil Procedure section
19 1021.5, or as otherwise provided by law; and

20 29. For such other and further relief as the Court may deem equitable and
21 appropriate.

22 **As to the Fifth Cause of Action**

23 30. That the Court declare, adjudge and decree that Defendants violated the
24 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
25 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate
26 itemized wage statements thereto;

27 31. For all actual, consequential, and incidental losses and damages, according to
28 proof;

- 1 32. For injunctive relief pursuant to California Labor Code section 226(h);
2 33. For statutory penalties pursuant to California Labor Code section 226(e);
3 34. For attorneys' fees and costs pursuant to California Labor Code section
4 226(e)(1); and
5 35. For such other and further relief as the Court may deem equitable and
6 appropriate.

7 **As to the Sixth Cause of Action**

8 36. That the Court declare, adjudge and decree that Defendants violated California
9 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
10 meal and rest period premiums, and/or reporting time pay owed at the time of termination of
11 the employment of Plaintiff and other terminated class members;

12 37. For all actual, consequential and incidental losses and damages, according to
13 proof;

14 38. For waiting time penalties according to proof pursuant to California Labor
15 Code section 203 for all employees who have left Defendants' employ;

16 39. For pre-judgment interest on any unpaid wages from the date such amounts
17 were due, or as otherwise provided by law;

18 40. For attorneys' fees pursuant to California Code of Civil Procedure section
19 1021.5, or as otherwise provided by law; and

20 41. For such other and further relief as the Court may deem equitable and
21 appropriate.

22 **As to the Seventh Cause of Action**

23 42. That the Court declare, adjudge and decree that Defendants violated California
24 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
25 overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay
26 during their employment;

27 43. For all actual, consequential and incidental losses and damages, according to
28 proof;

1 44. For statutory penalties according to proof pursuant to California Labor Code
2 section 210;

3 45. For pre-judgment interest on any unpaid wages from the date such amounts
4 were due, or as otherwise provided by law;

5 46. For attorneys' fees pursuant to California Code of Civil Procedure section
6 1021.5, or as otherwise provided by law; and

7 47. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 **As to the Eighth Cause of Action**

10 48. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code section 1198 and California Code of Regulations, Title 8, section 11160(5)(B) by
12 failing to provide Plaintiff and class members with reporting time pay;

13 49. For all actual, consequential and incidental losses and damages, according to
14 proof;

15 50. For pre-judgment interest on any unpaid wages from the date such amounts
16 were due, or as otherwise provided by law; and

17 51. For such other and further relief as the Court may deem equitable and
18 appropriate.

19 **As to the Ninth Cause of Action**

20 52. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
22 related expenses and costs incurred by Plaintiff and class members;

23 53. For unpaid business-related expenses and such general and special damages as
24 may be appropriate;

25 54. For pre-judgment interest on any unpaid business-related expenses from the
26 date such amounts were due, or as otherwise provided by law;

27 55. For all actual, consequential, and incidental losses and damages, according to
28 proof;

1 56. For attorneys' fees and costs pursuant to California Labor Code section
2 2802(c), or as otherwise provided by law; and

3 57. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Tenth Cause of Action**

6 58. That the Court declare, adjudge and decree that Defendants violated the
7 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
8 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and
9 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
10 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
11 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
12 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
13 earned wages upon termination); 204 (by failing to timely pay all earned wages during
14 employment); 1198 and the applicable IWC Wage Order (by failing to provide reporting time
15 pay); 2802 (by failing to reimburse business expenses); 2810.5 (by failing to provide notice of
16 material terms of employment); and 6401 and 6403 (by failing to provide safety devices and
17 safeguards);

18 59. For civil penalties pursuant to the California Labor Code, including sections
19 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code
20 sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1,
21 1198, 2802, 2810.5, 6401, and 6403;

22 60. For attorneys' fees and costs pursuant to California Labor Code section
23 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
24 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
25 1197, 1197.1, 1198, 2802, 2810.5, 6401, and 6403;

26 61. For pre-judgment and post-judgment interest as provided by law; and

27 62. For such other and further relief as the Court may deem equitable and
28 appropriate.

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1 69. For restitution of the statutory benefits under California Labor Code section
2 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the
3 day such amounts were due and payable;

4 70. For the appointment of a receiver to receive, manage and distribute any and all
5 funds disgorged from Defendants and determined to have been wrongfully acquired by
6 Defendants as a result of violations of California Business & Professions Code sections
7 17200, *et seq.*;

8 71. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
9 California Code of Civil Procedure section 1021.5;

10 72. For pre-judgment and post-judgment interest as provided by law; and

11 73. For such other and further relief as the Court may deem equitable and
12 appropriate.
13

14 Dated: March 13, 2024

Respectfully submitted,

Capstone Law APC

17 By: 

18 Robert Drexler
19 Molly DeSario
Jonathan Lee

20 Attorneys for Plaintiff Jorge Lopez
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EXHIBIT “1”

SAIRAH BUDHWANI
310.929.5455 Direct
Sairah.Budhwani@capstonelawyers.com

June 28, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Jorge Lopez v. Pacific Utility Installation, Inc.*

Dear PAGA Administrator:

This office represents Jorge Lopez in connection with his claims under the California Labor Code. Mr. Lopez was an employee of PACIFIC UTILITY INSTALLATION, INC. ("PUI").

The employer may be contacted directly at the address below:

PACIFIC UTILITY INSTALLATION, INC.
510 MALLOY COURT
CORONA, CA 92878

Mr. Lopez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Lopez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by PUI as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PUI employed Mr. Lopez as an hourly paid, non-exempt employee from approximately May 2018 to August 2022. Mr. Lopez worked for PUI as a Laborer based out of its location in Corona, California. During his employment, Mr. Lopez typically worked eleven (11) hours or more per day and five (5) days per week. At the time his employment ended, Mr. Lopez was compensated approximately \$23.00 per hour. Mr. Lopez's primary job duties included, without limitation, digging and cleaning trenches, operating backhoes, and cleaning up jobsites.

PUI committed one or more of the following Labor Code violations against Mr. Lopez, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

PUI’s Company-Wide and Uniform Payroll and HR Practices

PACIFIC UTILITY INSTALLATION, INC. is a California corporation. PUI is a full-service underground utilities contractor that provides high voltage electrical services for land developers, residential builders, and commercial builders, as well as municipalities and government agencies. Upon information and belief, PUI maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Corona, California, for all non-exempt, hourly paid employees working for PUI in California, including Mr. Lopez and other aggrieved employees. At all relevant times, PUI issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Lopez and other aggrieved employees, regardless of their location or position.

Upon information and belief, PUI maintains a centralized Payroll department at its corporate headquarters in Corona, California, which processes payroll for all non-exempt, hourly paid employees working for PUI in California, including Mr. Lopez and other aggrieved employees. Further, PUI issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Lopez and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, PUI utilized the same methods and formulas when calculating wages due to Mr. Lopez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

PUI willfully failed to pay all overtime wages owed to Mr. Lopez and other aggrieved employees. During the relevant time period, Mr. Lopez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve

¹ These facts, theories, and claims are based on Mr. Lopez’s experience and counsel’s review of those records currently available relating to Mr. Lopez’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Lopez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

(12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, PUI had a company-wide policy and/or practice of improperly rounding employees' clock-in and/or clock-out times in its timekeeping system to the start and/or end of their scheduled hours worked, rather than their actual hours worked. Moreover, on information and belief, PUI's timekeeping system rounded employees' clock-in and clock-out duration times to the nearest quarter (0.25) of an hour. PUI's rounding policy resulted in the failure to compensate Mr. Lopez and other aggrieved employees fully for all hours worked, causing Mr. Lopez and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, PUI's policy of rounding was, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Mr. Lopez and other aggrieved employees. To the extent PUI's rounding policy has taken away time worked that was eligible for overtime, Mr. Lopez and other aggrieved employees were denied overtime pay for all hours worked.

Alternatively, PUI had, and continues to have, a company-wide policy and/or practice of failing to correctly record hours worked by its employees. Instead, on information and belief, PUI's policy and/or practice is to simply pay employees, including Mr. Lopez and other aggrieved employees, for the hours they are scheduled to work (*see infra*). Because PUI failed to accurately record their actual hours worked, Mr. Lopez and other aggrieved employees were not paid for all hours worked before or after their scheduled shifts.

Second, during the relevant period, PUI had a company-wide policy and/or practice of failing to compensate Mr. Lopez and other aggrieved employees for travel to or from jobsites. Mr. Lopez and other aggrieved employees usually reported to PUI's location in Corona, California, one hour and thirty minutes before their scheduled shift to carpool in company vehicle(s) to the jobsite. Further, at the end of their scheduled shifts, Mr. Lopez and other aggrieved employees travelled back to Corona from the jobsites for at least two (2) hours, time for which they were not compensated. However, Mr. Lopez and other aggrieved employees were not allowed to clock-in until arriving at the jobsite and/or at the start of their scheduled shifts, and were required to clock-out when leaving the jobsite and/or at the end of their scheduled shifts (*see supra*), and thus were not paid for any time spent traveling to or from the jobsites. Thus, Mr. Lopez and other aggrieved employees were not compensated for this travel time, despite being under the direction and control of PUI.

Moreover, PUI had, and continues to have, a company-wide policy and/or practice of requiring Mr. Lopez and other aggrieved employees to perform various work-related tasks while off-the-clock outside of their shifts. For example, PUI's management contacted Mr. Lopez on his personal cellular phone to discuss work deadlines, progress on projects, and other work-related tasks before and after his shifts, on his days off, and during meal periods, but did not compensate him for this time spent working.

Third, PUI's policies and/or practices of understaffing its worksites while assigning heavy workloads, including pressuring employees to meet project deadlines and productivity requirements, resulted in a failure to provide Mr. Lopez and other aggrieved employees with adequate meal period coverage, and thus, Mr. Lopez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. PUI also had a practice of failing to schedule meal periods, which, in conjunction with the assignment of heavy workloads, further caused Mr. Lopez and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, about four (4) times per month, Mr.

Lopez worked through his meal periods to keep up with the demands of work and complete his assigned duties in time for inspectors to visit the jobsite. Additionally, about once every other week, PUI's supervisors interrupted or cut short Mr. Lopez's and other aggrieved employees' meal periods to pressure them to get back to work in order to meet work deadlines. PUI did not compensate Mr. Lopez and other aggrieved employees for the time they spent working off the clock during meal periods.

Furthermore, on information and belief, because PUI frowned upon employees accruing meal period penalties, PUI's management pressured employees to clock out for meal periods, on threat of discipline, regardless of whether they had received a compliant meal period or not, in order to limit the meal penalties that PUI would otherwise owe. Thus, PUI did not record all hours worked during meal periods, and Mr. Lopez and other aggrieved employees performed work during meal periods for which they were not paid.

PUI knew or should have known that as a result of these company-wide practices and/or policies, Mr. Lopez and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts, on days off, and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Lopez and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Lopez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, PUI did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, on information and belief, PUI paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, PUI failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, PUI failed to pay all overtime wages by paying a lower overtime rate than required.

PUI's failure to pay Mr. Lopez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 16-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11160(2)(J) (defining "Hours Worked").

As set forth above, PUI had a company-wide policy and/or practice of rounding Mr. Lopez's and other aggrieved employees' hourly clock-in and clock-out times in its timekeeping system to the start and/or end of their scheduled shift times and/or to the nearest quarter hour, resulting in the failure to compensate them for all hours worked. Alternatively, PUI had a company-wide policy and/or practice of only paying Mr. Lopez and other aggrieved employees for their scheduled shifts, rather than their actual hours worked, because PUI failed to track hours worked outside of their scheduled shifts.

Moreover, due to PUI's company-wide policies and/or practices of failing to compensate for travel time and not permitting employees to record all their hours worked, PUI failed to record all hours worked outside of scheduled shifts, including time spent traveling to and from jobsites. Also, as stated above, PUI maintained a policy and/or practice requiring Mr. Lopez and other aggrieved employees to perform work off-the-clock prior to clocking in at the start of their shifts, after the end of their shifts, and on days off.

Further, as also stated above, due to PUI's policies and/or practices of understaffing its worksites while assigning heavy workloads, failing to schedule meal periods, and subsequent lack of meal period coverage, Mr. Lopez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Also, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, PUI's management pressured employees, on threat of discipline, to record compliant meal periods when meal periods were missed, short, and/or interrupted. Thus, PUI systematically failed to pay Mr. Lopez and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, PUI did not pay at least minimum wages for all hours worked by Mr. Lopez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, PUI did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, PUI regularly failed to pay at least minimum wages to Mr. Lopez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law,

first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as stated, during the relevant time period, PUI had, and continues to have, company-wide policies and/or practices of understaffing while assigning heavy workloads, including pressure to meet project deadlines and productivity requirements, which resulted in a lack of meal period coverage and prevented Mr. Lopez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as also stated, PUI had company-wide practices and/or policies of failing to schedule meal periods, which further caused Mr. Lopez and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Lopez and other aggrieved employees have had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, approximately four (4) times per month, Mr. Lopez worked through his meal periods to complete his assigned duties in time for inspectors to visit the jobsite. Additionally, Mr. Lopez frequently took his meal periods late, after having worked in excess of five (5) hours into his shift, in order to complete his assigned tasks or to travel to the next jobsite before taking his meal period. As a further example, about once every other week, PUI's supervisors interrupted or cut short Mr. Lopez's meal periods to pressure him to get back to work in order to meet deadlines.

Second, as stated above, on information and belief, because PUI frowned upon employees accruing meal period penalties, PUI's management pressured Mr. Lopez and other aggrieved employees to clock out for meal periods, upon threat of discipline, regardless of whether they had received a compliant meal period or not, in order to strictly limit the meal penalties that would need to be paid by PUI. For example, Mr. Lopez was required to clock out for his first meal periods to record that he had received compliant meal periods on shifts when he had not, in fact, received these timely, uninterrupted meal periods.

Third, as also stated, PUI had a policy and/or practice of requiring that Mr. Lopez and other aggrieved employees respond to calls from supervisors on their personal mobile devices or personal cellular phones at all times, even during unpaid meal periods. For example, Mr. Lopez's meal periods were interrupted by PUI's management calling him to discuss progress on projects or other work-related tasks. Thus, Mr. Lopez and other aggrieved employees had meal periods interrupted attending to work-related matters.

Fourth, PUI did not provide Mr. Lopez and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During his employment, Mr. Lopez worked shifts in excess of ten (10) hours or more hours per day but was never provided an uninterrupted second 30-minute meal period. Mr. Lopez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, PUI knew or should have known that, as a result of these policies, Mr. Lopez and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. PUI further knew or should have known that it did not pay Mr. Lopez and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed. Further, to the extent that PUI's rounding policy reported that Mr. Lopez and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Mr. Lopez and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Moreover, PUI engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Lopez and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that PUI did pay other aggrieved employees for missed, late, interrupted, and shortened meal periods, PUI did not pay other aggrieved employees at the correct rate of pay for premiums because PUI systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PUI failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Lopez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, PUI regularly failed to authorize and permit Mr. Lopez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, PUI's company-wide practices, including understaffing and assigning heavy workloads, including pressure to meet deadlines and productivity requirements, prevented Mr. Lopez and other aggrieved employees from being relieved of all duty to

take rest periods. Additionally, PUI's management erroneously informed Mr. Lopez and other aggrieved employees that they were only entitled to two (2) 15-minute rest periods per shift, regardless of shift length, which were to be combined with their 30-minute meal period, for a total of a 60-minute block "lunch" per shift. Thus, PUI also wholly failed to schedule rest periods, which, coupled with PUI's failure to provide adequate rest period coverage, further led to Mr. Lopez and other aggrieved employees not being authorized and permitted to take compliant rest periods.

As a result of PUI's practices and policies, Mr. Lopez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Lopez missed nearly all of his rest periods because of the lack of coverage offered and due to PUI's policy of incorrectly combining rest periods with meal periods.

PUI has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Lopez and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that PUI did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, PUI did not pay other aggrieved employees at the correct rate of pay for premiums because PUI failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PUI failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Lopez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PUI has not provided Mr. Lopez and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PUI has knowingly and intentionally provided Mr. Lopez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PUI issued uniform wage statements to Mr. Lopez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, PUI violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PUI did not record the time Mr. Lopez and other aggrieved employees spent working off-the-clock, improperly rounded Mr. Lopez's and other aggrieved employees' total hours worked, and deducted time from its records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), PUI did not list the correct amount of gross wages and net wages earned by Mr. Lopez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, PUI failed to accurately list the total number of hours worked by Mr. Lopez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Moreover, because PUI did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, PUI did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, PUI failed to list the correct amount of net wages in violation of section 226(a)(5). PUI also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, 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. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PUI willfully failed to maintain accurate payroll records for Mr. Lopez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Mr. Lopez's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, PUI engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and stop times for Mr. Lopez and other aggrieved employees, in violation of section 1198. Furthermore, in light of PUI's failure to provide Mr. Lopez and other aggrieved employees

with second 30-minute meal periods to which they were entitled, PUI kept no records of meal start and end times for second meal periods.

Because PUI failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Lopez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Lopez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PUI failed to pay Mr. Lopez and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

PUI willfully failed to pay Mr. Lopez and other aggrieved employees who are no longer employed by PUI all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and

rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving PUI's employ.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11160 Subdivision 5(B) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11160(5)(B) provides that “[e]ach workday that an employee is required to report to the work site and does report, but is not put to work, or is furnished less than half of his or her usual or scheduled day's work, the employer shall be pay him or her for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, PUI violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11160(5)(B), because PUI failed to pay Mr. Lopez and other aggrieved employees reporting time pay when they reported to work for their usual or scheduled shift but were put to work for less than half of their usual or scheduled day's work.

PUI had a company-wide practice of sending Mr. Lopez and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Lopez and other aggrieved employees for half of their usual or scheduled shift. For example, when scheduled to work an eight (8) hour shift, PUI's managers sent Mr. Lopez home before he had an opportunity to work at least half of his scheduled shift a few times throughout his employment, due to inclement weather. Although Mr. Lopez and other aggrieved employees reported to work based on the schedule that was provided to them, PUI would send them home before they had worked at least half of their usual or scheduled shifts. On information and belief, when this occurred, PUI did not pay Mr. Lopez and other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay.

Accordingly, Mr. Lopez and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11160(5)(B).

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 16-2001, provides that: “[w]hen the employer requires the use of tools or equipment or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may provide and maintain hand tools and equipment customarily required by the trade or craft” IWC Wage Order No. 16-2001 further provides that: “[w]hen the employer requires uniforms to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

First, during the relevant time period, Mr. Lopez and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but PUI failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Lopez was required to use his personal cellular phone and mobile data to download and use a timekeeping application called Timerack, use GPS navigation when he drove himself to from one jobsite to another, and communicate with his foreman about work-related matters. Although PUI required Mr. Lopez and other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, PUI failed to reimburse them for their costs incurred.

Second, during the relevant time period, PUI, on a company-wide basis, required Mr. Lopez and other aggrieved employees to use their own personal vehicles to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, Mr. Lopez was sometimes required to drive his personal vehicle from the jobsite to the PUI's location in Corona, California, to pick up supplies, which was between 40 to 60 miles roundtrip. Although PUI required Mr. Lopez and other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, PUI failed to reimburse them for their mileage or travel expenses.

Third, during the relevant time period, PUI required Mr. Lopez and other aggrieved employees to purchase supplies and/or equipment necessary for the performance of their work-related duties. For example, during his employment, Mr. Lopez spent about \$230 to purchase safety equipment (\$170 on steel-toed boots and about \$60 on a hard hat) because PUI failed to provide him with these necessary supplies and/or equipment which were required to perform his duties. Although PUI required Mr. Lopez and other aggrieved employees to purchase and use their own tools, supplies, and/or equipment in the performance of their duties, it did not reimburse them for these expenses.

Fourth, during the relevant time period, PUI had a company-wide policy of requiring Mr. Lopez and other aggrieved employees to wear uniforms bearing the “Pacific Utility Installation, Inc.” company logo, including shirts. Due to the nature of the work they performed, Mr. Lopez's and other aggrieved employees' uniform items would be stained with dirt, become soiled, and/or acquire an unpleasant odor such that they were unable to mix these clothes in with other laundry. As a result, Mr. Lopez had to wash his uniform items separately from his regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms. Thus, PUI failed to maintain the uniforms it required Mr. Lopez and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

PUI could have provided Mr. Lopez and other aggrieved employees with the actual tools for use on the job, such as company mobile devices, company vehicles, and supplies and equipment, as well as an adequate number of uniform items and access to laundering services. Or, PUI could have reimbursed employees for their mobile device usage, travel, mileage, supplies and equipment, and laundering expenses or provided a uniform maintenance allowance. Instead, PUI passed these operating costs off onto Mr. Lopez and other aggrieved employees.

Thus, PUI had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

At all relevant times, on information and belief, PUI failed, on a company-wide basis, to provide written notice to Mr. Lopez and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). PUI's failure to provide Mr. Lopez and other aggrieved employees with written notice of basic information regarding their employment with PUI is in violation of Labor Code section 2810.5.

Mr. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." PUI, at all relevant times, was an employer or person acting on behalf of an employer(s) who

violated Mr. Lopez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Lopez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, Mr. Lopez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against PUI for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Lopez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Sairah Budhwani
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in cursive script that reads "Sairah Budhwani".

Sairah Budhwani

Copy: PACIFIC UTILITY INSTALLATION, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

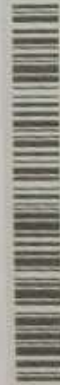


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INSTALLATION, INC.
510 MALLOY COURT
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1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

SAIRAH BUDHWANI
310.929.5455 Direct
Sairah.Budhwani@capstonelawyers.com

June 29, 2023

VIA ONLINE SUBMISSION

Division of Occupational Safety and Health
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/310>)

Subject: *Jorge Lopez v. Pacific Utility Installation, Inc.*
LWDA Case No. LWDA-CM-965100-23 - AMENDED NOTICE

Dear PAGA Administrator:

This office represents Jorge Lopez in connection with his claims under the California Labor Code. Mr. Lopez was an employee of PACIFIC UTILITY INSTALLATION, INC. ("PUI"). We previously provided notice of Mr. Lopez's claims to the California Labor and Workforce Development Agency ("LWDA") on June 28, 2023, and submitted the applicable filing fee pursuant to Labor Code section 2699.3(a)(1)(B). This amended notice supplements Mr. Lopez's prior LWDA notice and adds an additional claim.

The employer may be contacted directly at the address below:

PACIFIC UTILITY INSTALLATION, INC.
510 MALLOY COURT
CORONA, CA 92878

Mr. Lopez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Lopez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by PUI in California as a non-exempt, hourly paid employee and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PUI employed Mr. Lopez as an hourly paid, non-exempt employee from approximately May 2018 to August 2022. Mr. Lopez worked for PUI as a Laborer based out of its location in Corona, California. During his employment, Mr. Lopez typically worked eleven (11) hours or more per day and five (5) days per week. At the time his employment ended, Mr. Lopez was compensated approximately \$23.00 per hour. Mr. Lopez's primary job duties included, without limitation, digging and cleaning trenches, operating backhoes, and cleaning up jobsites.

PUI has committed one or more of the following Labor Code violations against Mr. Lopez, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

Violation of California Labor Code §§ 6401 and 6403 – Failure to Provide Safety Devices and Safeguards

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

During the relevant period, PUI failed to provide Mr. Lopez and other aggrieved employees with personal protective equipment, such as steel-toed boots and hard hats, to keep them safe in the workplace. Despite the fact that PUI required Mr. Lopez and other aggrieved employees to wear certain personal protective equipment, including steel-toed boots and hard hats, while engaged in their work-related duties, PUI failed to provide such reasonably necessary equipment to Mr. Lopez and other aggrieved employees to keep them safe.

PUI’s failure to provide Mr. Lopez and other aggrieved employees with safety devices and safeguards for the workplace violates Labor Code sections 6401 and 6403. Mr. Lopez and other aggrieved employees are entitled to recover penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Accordingly, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a)-(c), and 2699.5, Mr. Lopez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against PUI for violations of California Labor Code sections 6401 and 6403.

Therefore, on behalf of all aggrieved employees, Mr. Lopez seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

¹ These facts, theories, and claims are based on Mr. Lopez’s experience and counsel’s review of those records currently available relating to Mr. Lopez’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Lopez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Sairah Budhwani
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink that reads "Sairah Budhwani". The signature is fluid and cursive, with a small dot at the end.

Sairah Budhwani

Copy: PACIFIC UTILITY INSTALLATION, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **March 13, 2024**, I served the document described **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Paul S. Fleck
David M. Lester
Michele L. Collender
ATKINSON, ANDELSON, LOYA, RUUD
& ROMO
12800 Center Court Drive South, Suite 300
Cerritos, California 90703-9364

Attorneys for Defendants
PACIFIC UTILITY INSTALLATION, INC.

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via OneLegal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **March 13, 2024**, at Los Angeles, California.

Sophia Flores

Type/Print Name



Signature