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9 Attorneys for All Plaintiffs

11 IN THE SUPERIOR COURT OF CALIFORNIA

12 IN AND FOR THE COUNTY OF VENTURA

14 ALFONSO CEJA RUIZ, individually)
and on behalf of all others similarly)

15 situated; and THE CALIFORNIA)

16 LABOR AND WORKFORCE)

DEVELOPMENT AGENCY, a)

17 California governmental agency, *ex rel.*)

18 ALFONSO CEJA RUIZ)

19 Plaintiffs,)

20 v.)

21 AUTOMOTIVE RACING)

22 PRODUCTS, INC., a California)

23 corporation; RICHARD JACKSON, an)

24 individual; and DOES 1-15, inclusive,)

25 Defendants.)

Case No.: 2023CUOE011192

DESIGNATED COMPLEX

*Assigned for all purposes to the Hon. Jeffrey G.
Bennett, Dept. 21*

FIRST AMENDED COMPLAINT

CLASS ACTION CLAIMS:

1. **FAILURE TO REIMBURSE
NECESSARY BUSINESS EXPENSES
(LAB. CODE § 2802);**
2. **FAILURE TO PAY MINIMUM,
OVERTIME, AND CONTRACTUAL
WAGES (LAB. CODE §§ 1194, 1197,
510, 218.5);**
3. **FAILURE TO PROVIDE ACCURATE
WAGE STATEMENTS (LAB. CODE §
226);**
4. **FAILURE TO PAY ALL WAGES DUE
AT SEPARATION (LAB. CODE § 203);**
5. **RESTITUTION OF WAGES (BUS. &**

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) **PROFS. CODE § 17200, *ET SEQ.*);**
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)
) **INDIVIDUAL CLAIMS:**
) **6. ASSAULT;**
) **7. BATTERY;**
) **8. NEGLIGENT RETENTION;**
) **9. WHISTLEBLOWER RETALIATION**
) **(LAB. CODE § 1102.5);**
) **10. PUBLIC INJUNCTIVE RELIEF (BUS.**
) **& PROFS. CODE § 17200, *ET SEQ.*);**
) **AND**
)
) **REPRESENTATIVE CLAIMS:**
) **11. VIOLATIONS OF THE CALIFORNIA**
) **PRIVATE ATTORNEYS GENERAL**
) **ACT (LAB. CODE §§ 2698 *ET SEQ.*).**
)
)
) **DEMAND FOR JURY TRIAL**

1 Plaintiff is informed and believes and thereupon allege the following:

2 **I. INTRODUCTION**

3 1. Plaintiff Alfonso Ruiz (“Plaintiff”) brings these claims against Defendant ARP
4 Automotive Racing Products, Inc., Richard Jackson, and Does 1-15, inclusive.

5 2. Plaintiff brings class action claims for Defendants’ failure to reimburse necessary
6 business expenses in violation of Labor Code section 2802; Defendants’ failure to pay
7 minimum, contractual, and overtime wages in violation of Labor Code sections 1194, 1197,
8 510, and 218.5; Defendants’ failure to provide accurate wage statements in violation of Labor
9 Code section 226; Defendants’ failure to pay all wages due at separation in violation of Labor
10 Code sections 201, 202, and 203; and Defendants’ acts of unfair competition in violation of the
11 California Unfair Competition Law (Bus. & Profs. Code § 17200, *et seq.*). These claims are
12 primarily predicated on Defendants’ deducting from its employees’ wages the employer-
13 mandated cost of renting and maintaining uniform clothing items.

14 3. Plaintiff also brings individual claims for Defendants’ assault and battery of his
15 person, for Defendant Automotive Racing Products, Inc.’s negligent retention of Richard
16 Jackson despite having actual or constructive knowledge of his demonstrated propensity for
17 violence and making violent threats in the workplace, and for whistleblower retaliation for
18 Defendant Automotive Racing Product, Inc.’s retaliatory constructive discharge of Plaintiff
19 after he reported Defendant Jackson’s threats, assault, and battery.

20 4. Plaintiff also brings a claim for public injunctive relief for these violations of
21 California law, which constitute unfair competition in violation of the California Unfair
22 Competition Law (Bus. & Profs. Code § 17200, *et seq.*).

23 5. Plaintiff also, as lawfully delegated representative of the California Labor and
24 Workforce Development Agency (“LWDA”), brings a claim for violations of the California
25 Labor Code under the Private Attorneys General Act (Cal. Lab. Code §§ 2698 *et seq.*;
26 “PAGA”).

27 6. For these claims and the resulting injuries, Plaintiff seeks compensatory
28 damages, statutory penalties, civil penalties, punitive damages, and public injunctive relief, as

1 well as prejudgment interest, reasonable attorney's fees, and reasonable costs (including
2 expert-witness fees).

3 7. Plaintiff seeks to recover his reasonable attorneys' fees and costs pursuant to
4 Labor Code sections 203, 218.5, 226, 1194, 1197, 2802, 2699, and 1102.5; California Code of
5 Civil Procedure section 1021.5; and the common law doctrines of common fund, substantial
6 benefit, private attorneys general, and the catalyst theory.

7 II. PARTIES

8 8. Plaintiff is an individual and a resident of Ventura County, California.

9 9. Defendant Automotive Racing Products, Inc. ("ARP") is a California
10 corporation, registered to and conducting business in California, with its principal executive
11 office in California located in Ventura, California.

12 10. Defendant Richard Jackson is an individual and of unknown residence.

13 11. Plaintiff is ignorant of the true names or capacities of Defendants named herein
14 as Does 1 through 15, inclusive, and therefore sues these Defendants by these fictitious names.
15 When the names and capacities of these Defendants are ascertained, Plaintiff will amend this
16 complaint accordingly. Each of the Defendants named herein or designated as a Doe is liable
17 or in some manner legally responsible for the events alleged herein.

18 12. At all relevant times, each of the Defendants was the agent or employee of each
19 of the remaining Defendants and, in doing the things alleged herein, was acting within the
20 course and scope of such agency or employment.

21 13. Each of the Defendants' actions or omissions as alleged herein was ratified by
22 each of the remaining Defendants.

23 14. Each of the acts or omissions of a defendant's agents as alleged herein was
24 ratified by that defendant, as well as by each of the remaining Defendants.

25 15. Each of the acts or omissions of a defendant as alleged herein was done with the
26 knowledge each of the remaining Defendants, and done in furtherance of a conspiratorial
27 agreement with each of the remaining Defendants.

28 16. As used herein, "Defendant ARP" includes both Defendant Automotive Racing

1 Products, Inc., and Does 1 through 7, inclusive.

2 17. As used herein, “Defendant Jackson” includes both Defendant Richard Jackson
3 and Does 8 through 15, inclusive.

4 III. JURISDICTION AND VENUE

5 18. This Court has subject matter jurisdiction over this action under California Code
6 of Civil Procedure section 410.10 and the California Constitution, article VI, section 10.

7 19. This Court has specific and general personal jurisdiction over Defendant ARP,
8 Inc., because it has significant contacts with California by virtue of its extensive business
9 operations in California, and has purposefully availed itself of the privileges and immunities of
10 conducting business in California.

11 20. This Court has specific and general personal jurisdiction over Defendant Jackson
12 because, on information and belief, he is a California resident.

13 21. Venue is proper in the County of Ventura pursuant to California Code of Civil
14 Procedure section 395 because Defendant ARP resides in that county, the injuries alleged
15 occurred within that county, and the relevant contracts were formed in that county; and
16 pursuant to Code of Civil Procedure section 395.5 because the relevant contracts were formed
17 and the contractual breaches occurred within that county.

18 IV. COMMON ALLEGATIONS

19 22. Defendant ARP operates what it has described as “seven operational entities in
20 Southern California with a combined area in excess of 200,000 square feet. These include
21 forging, heat treating, machining, quality control finishing and packaging/warehousing
22 facilities in Santa Paula and Ventura, California.” Defendant ARP also operates a “unique
23 racing-themed restaurant at the main Santa Paula facility.” *See*, [https://arp-](https://arp-bolts.com/p/about.php)
24 [bolts.com/p/about.php](https://arp-bolts.com/p/about.php) (as of May 16, 2023).

25 23. Defendant ARP primarily participates in the manufacturing industry by
26 manufacturing automotive fasteners and parts. Accordingly, IWC Wage Order No. 1 (“Wage
27 Order”) governs the employments at issue here. *See*, 8 C.C.R. 11010.

28 24. Defendant ARP is a person a who directly or indirectly, or through an agent or

1 any other person, employed or exercised control over the wages, hours, or working conditions
2 of Plaintiff and the putative class. *See*, 8 C.C.R. 11010 § 2(E-F).

3 25. Defendant ARP employed Plaintiff as a machine operator at its facility in Santa
4 Paula, California from approximately 2011 through May 2023.

5 26. At all relevant times, Defendant ARP also employed Defendant Jackson at the
6 same facility as Plaintiff.

7 27. At all relevant times, Defendant ARP has required employees to wear uniforms
8 as a condition of employment, and/or to pay the cost of renting and maintaining those
9 uniforms. Defendant ARP unilaterally deducted from employees' wages each paycheck a fee
10 for the provision and maintenance of uniforms. Plaintiff was at all relevant times charged a
11 \$3.52 fee per weekly payperiod, and believes that same fee is charged to all other employees of
12 Defendant ARP and deducted from their wages earned and due each payperiod.

13 28. Defendant ARP thereby failed to provide and maintain uniforms required to be
14 worn by Defendant ARP's employees as a condition of employment, thereby failed to
15 reimburse Defendant ARP's employees for necessary business expenses, thereby pushed
16 Defendant ARP's employees' wages below the applicable legal minimum, overtime, and
17 contractual rates of pay, thereby forced Defendant ARP's employees to pay a portion of wages
18 previously paid, and thereby paid Defendant ARP's employees a lower, secret wage than was
19 agreed or is statutorily required.

20 29. At all relevant times, Defendant ARP has also failed to provide Defendant ARP's
21 employees with accurate, itemized wage statements. The wage statements provided by
22 Defendant ARP fail to conform to California law because those wage statements do not display
23 all wages earned by Defendant ARP's employees, including by failing to include additional
24 wages required to counteract the unlawful uniform deductions. As a direct and proximate result
25 of Defendant ARP's failure to provide Defendant ARP's employees with accurate, itemized
26 wage statements, they have suffered injury and damage to their statutorily protected rights, and
27 have been injured because they were denied both their legal right to receive, and their protected
28 interest in receiving, accurate, itemized wage statements.

1 30. At all relevant times, Defendant ARP's failure to provide Defendant ARP's
2 employees with accurate, itemized wage statements is and was knowing and intentional.

3 31. At all relevant times, Defendant ARP has also failed to pay all wages to those
4 Defendant ARP's employees who separated from Defendant ARP's employment. Some of
5 Defendant ARP's employees, including Plaintiff, were constructively discharged or have
6 resigned from their employments or were terminated by Defendant ARP. Defendant ARP then
7 willfully failed to pay said employees of Defendant ARP all wages due upon termination or
8 within 72 hours of resignation. Defendant ARP failed to pay said employees of Defendant
9 ARP all wages due because they were not provided with underpaid wages arising from
10 unlawful uniform deductions and unreimbursed business expenses. Defendant ARP's failure to
11 pay all wages due to Defendant ARP's employees at their separation or termination was and is
12 willful.

13 32. Defendant ARP also negligently retained Defendant Jackson as an employee,
14 despite Defendant Jackson's repeatedly demonstrated propensity for violence, and despite
15 having actual notice of his threatened, attempted, and actual acts of violence against Defendant
16 ARP's employees.

17 33. In or around 2015 or 2016, Defendant Jackson threatened to kill Plaintiff in the
18 presence of his then-supervisor Michael Thorson, yet on information and belief Mr. Thorson
19 and Defendant ARP did nothing to discipline, restrain, train, punish, or terminate Defendant
20 Jackson. In any event, Defendant ARP thereafter failed to take actions reasonably necessary to
21 conform his workplace behavior to the requirements of California law, failed to recognize that
22 retention of Defendant Jackson was inconsistent with the requirements of California law,
23 and/or failed to terminate Defendant Jackson.

24 34. In 2021, and again in the presence and in full view of supervisor Joe Wheeler,
25 Defendant Jackson picked up a wrench (approximately 2" in diameter and 2' long, weighing
26 approximately 5lbs), brandished it at Plaintiff while standing in close proximity to Plaintiff,
27 and said, "I'm going to kill this motherfucker right here." In response, Mr. Wheeler conducted
28 a cursory investigation that demonstrated Defendant Jackson was the aggressor and acted

1 without provocation, and directed Plaintiff and Defendant Jackson to stay away from each
2 other.

3 35. The next day, Plaintiff submitted to Mr. Wheeler and the facility manager a
4 formal written complaint detailing the incident and the threat. After reviewing the written
5 complaint, Mr. Wheeler and the manager told Plaintiff that if he insisted on submitting the
6 complaint, then they would suspend Plaintiff for a week without pay, in addition to doing the
7 same to the aggressor, Defendant Jackson.

8 36. In response to Defendant Jackson's brandishing of a deadly weapon in
9 connection with assaulting Plaintiff, Defendant ARP neither disciplined, restrained, trained,
10 punished, nor terminated Defendant Jackson. In any event, Defendant ARP thereafter failed to
11 take actions reasonably necessary to conform his workplace behavior to the requirements of
12 California law, failed to recognize that retention of Defendant Jackson was inconsistent with
13 the requirements of California law, and/or failed to terminate Defendant Jackson.

14 37. Starting in December 2022, Defendant Jackson began to make regular threats of
15 physical violence, including death threats, against Plaintiff, which culminated on April 6, 2023,
16 when—without provocation—Defendant Jackson followed Plaintiff out of the facility and into
17 the parking lot, where he first attempted and failed to sucker punch Plaintiff, and then on the
18 second attempt, punched Plaintiff in the temple, thereby causing Plaintiff to suffer numerous
19 symptoms of concussion. Mr. Wheeler came outside shortly after this punch, and despite
20 learning of the assault and battery, permitted Defendant Jackson to return to the workplace.

21 38. In response to this incident, Defendant ARP placed Plaintiff, but not Defendant
22 Jackson, on unpaid leave, and ordered Plaintiff, but not Defendant Jackson, to undergo a drug
23 test. Defendant Jackson was permitted to continue working without interruption. Only once
24 Plaintiff's drug test came back negative for the suspected intoxicants was Plaintiff permitted to
25 return to work, and only then was Defendant Jackson suspended without leave for a period of
26 two days (compared with the 5-day suspension his victim, Plaintiff, received). Plaintiff was
27 never paid for the time he spent on leave in response to the unprovoked act of intentional
28 workplace violence committed against him by a co-employee on Defendant ARP's premises.

1 39. In response to Defendant Jackson's brandishing of a deadly weapon in
2 connection with assaulting Plaintiff, and in response to Defendant Jackson's assault and battery
3 of Plaintiff with his fist, Defendant ARP otherwise did not discipline, restrain, train, punish, or
4 terminate Defendant Jackson. In any event, Defendant ARP thereafter failed to take actions
5 reasonably necessary to conform his workplace behavior to the requirements California law,
6 failed to recognize that retention of Defendant Jackson was inconsistent with the requirements
7 of California law, and/or failed to terminate Defendant Jackson.

8 40. Within one week after Defendant Jackson punched Plaintiff in the face, Plaintiff
9 filed a police report regarding the incident, and then went to his workplace to disclose the
10 police report. Plaintiff requested copies of video footage of the incident for the police
11 investigation, but was told none was available.

12 41. In response to Plaintiff's repeated complaints of credible threats of workplace
13 violence, and actual workplace violence, by Defendant Jackson, and in response to Plaintiff's
14 report of the assault and battery to law enforcement, Defendant ARP constructively discharged
15 Relator by refusing to accept his written complaint regarding the first assault, by punishing
16 Relator by placing him on unpaid leave for a week after the second assault and battery, by
17 retaining Defendant Jackson, by permitting Defendant Jackson to remain in Plaintiff's
18 workplace, by refusing Plaintiff's reasonable requests to be assigned to a different work
19 location, and by generally taking no actions whatsoever to remedy Plaintiff's complaints or
20 otherwise protect Plaintiff from the present threat of further workplace violence. Defendant
21 ARP thereby intentionally or knowingly created or permitted Plaintiff's working conditions to
22 become so intolerable that a reasonable person in Plaintiff's position would have had no
23 reasonable alternative except to resign, and Plaintiff did so resign because of those working
24 conditions, which were a substantial factor in causing Plaintiff's harm.

25 V. CLASS ACTION ALLEGATIONS

26 42. Plaintiff brings this action, as to the First through Fifth Causes of Action, on
27 behalf of himself and all others similarly situated as a class action pursuant to Code of Civil
28 Procedure section 382.

1 43. The class that Plaintiff seeks to represent is defined as follows:

2 All non-exempt hourly employees of Defendant ARP working
3 within California at any time from four years prior to the filing of
4 this action, through entry of final judgment.

5 44. As set forth herein, the claims alleged may properly be maintained as a class
6 action pursuant to California Code of Civil Procedure section 382 because there is a well-
7 defined community of interest among ascertainable class members regarding the claims
8 asserted in this action.

9 45. The total number of members of the putative class is believed to be several
10 hundred persons. Accordingly, joinder of all class members would be impractical.

11 46. Questions of law and fact common to the putative class predominate over
12 questions of law and fact affecting only individual members of the class. Common questions of
13 law and fact include, but are not limited to:

14 (1) Whether class members had uniform rental and maintenance fees
15 deducted from their wages as a direct consequence of discharging their
16 job duties or obeying the directions of Defendant ARP (First Cause;
17 CACI 2750);

18 (2) Whether class members' payment of uniform rental and maintenance
19 fees, via deductions mandated and carried out unilaterally by
20 Defendant ARP, was necessary and reasonable (First Cause; CACI
21 2750);

22 (3) Whether Defendant ARP failed to reimburse class members for those
23 uniform rental and maintenance fees (First Cause; CACI 2750);

24 (4) The amount of damages required to be paid to compensate class
25 members for unreimbursed business expenses (First Cause; CACI
26 2750);

27 (5) Whether Defendant ARP's mandated and unilateral deductions from
28 class members' wages caused those wages to fall below the rates

1 mandated by applicable minimum wage rates, applicable overtime
2 wage rates, and applicable contractual wage rates, for class members'
3 actual hours worked each payperiod, and thereby resulted in the
4 payment of a lower, secret wage than was agreed or is statutorily
5 required (Second Cause; CACI 2700-2703);

6 (6) Whether Defendant ARP's knowing and intentional unlawful
7 deduction of uniform fees from wages caused class members' wage
8 statements to be inaccurate by failing to include additional actual
9 wages earned as required to counteract the unlawful uniform
10 deductions (Third Cause);

11 (7) The amount of damages or statutory penalties required to compensate
12 class members for injuries caused by inaccurate wage statements
13 (Third Cause);

14 (8) Whether Defendant ARP willfully failed to pay separated or
15 terminated employees all wages due at the time of separation as
16 required by statute (Fourth Cause; CACI 2704);

17 (9) Each separated or terminated class member's daily wage rate at the
18 time of separation (Fourth Cause; CACI 2704); and

19 (10) That Defendant ARP never paid each separated or terminated class
20 member all wages due (Fourth Cause; CACI 2704).

21 47. The identities of class members are ascertainable from records maintained by
22 Defendant ARP.

23 48. Plaintiff's claims are typical of the putative class because he was subjected to
24 each of the unlawful practices alleged to be common to the putative class. Defendant ARP's
25 common course of conduct has caused Plaintiff to sustain the same, or substantially similar,
26 injuries and damages. Plaintiff's claims are therefore representative of the putative class.

27 49. Counsel who represent Plaintiff are competent and experienced in litigating
28 complex actions pertaining to employment practices, including many class actions involving

1 California employment law.

2 50. Plaintiff and his counsel will fairly and adequately represent and protect the
3 interests of members of the putative class.

4 51. As used herein, "Plaintiffs" refers to both Plaintiff and the members of the
5 putative class.

6 VI. CAUSES OF ACTION

7 8 FIRST CAUSE OF ACTION 9 Failure To Reimburse Necessary Business Expenses 10 (Lab. Code § 2802) 11 Brought by Plaintiffs 12 As to Defendant ARP

13 52. Plaintiff incorporates by reference all preceding paragraphs as though fully set
14 forth herein.

15 53. California Labor Code section 2802 requires employers to indemnify employees
16 for all necessary expenditures incurred by the employees in performing their job duties.

17 54. Defendant ARP failed to provide, and failed to reimburse Plaintiffs for the
18 reasonable cost of purchasing, equipment and materials necessary to perform the duties
19 assigned to them.

20 55. This includes, but is not limited to, the cost of uniform deductions unilaterally
21 made by Defendant ARP from Plaintiffs' wages.

22 56. Defendant ARP's deduction of uniform rental and maintenance fees from
23 Plaintiffs' wages was a direct consequence of discharging Plaintiffs' job duties or obeying the
24 directions of Defendant ARP.

25 57. Plaintiffs' forced payment of those uniform rental and maintenance fees, via
26 deductions mandated and carried out unilaterally by Defendant ARP, was necessary and
27 reasonable.

28 58. Defendant ARP failed to reimburse Plaintiffs for those uniform mental and
maintenance fees deducted from their paychecks.

1 59. As a direct and proximate result of Defendant ARP's failure to reimburse
2 Plaintiffs for these necessary expenditures, Plaintiffs have been injured in an amount to be
3 proved at trial.

4 60. Plaintiffs are therefore entitled to recover reimbursement for these necessary
5 expenditures, and also, to recover costs, interest, and attorneys' fees as provided by California
6 law, including Labor Code § 2802(c).

7
8 **SECOND CAUSE OF ACTION**
9 **Failure To Pay Minimum, Overtime, And Contractual Wages**
10 **(Lab. Code § 1194, 1197, 510, 218.5)**
11 **Brought by Plaintiffs**
12 **As to Defendant ARP**

13 61. Plaintiff incorporates by reference all preceding paragraphs as though fully set
14 forth herein.

15 62. California law, including but not limited to California Labor Code sections 1194,
16 1197 and the Wage Order, requires Defendant ARP to pay employees at least the minimum
17 wage for all hours worked.

18 63. California law, including but not limited to Labor Code sections 1198 and 510
19 and the Wage Order, requires Defendant ARP to pay employees required overtime wages for
20 all hours worked past specified daily and weekly limits.

21 64. California law requires Defendant ARP to pay employees the agreed regular
22 contractual rate of pay for all hours actually worked.

23 65. Defendant ARP's mandated and unilateral deductions from Plaintiffs' wages
24 caused those wages to fall below the rates mandated by applicable minimum wage rates,
25 applicable overtime wage rates, and applicable contractual wage rates, for Plaintiffs' actual
26 hours worked each payperiod, and thereby resulted in the payment of a lower, secret wage than
27 was agreed or is statutorily required.

28 66. As a direct and proximate result of Defendant ARP's failure to pay Plaintiffs all
wages owed for all hours worked, Plaintiffs have sustained damages, including loss of wages

1 and unpaid interest on wages, in an amount according to proof at trial.

2 67. Pursuant to Labor Code sections 1194 and 218.5, Plaintiffs are, therefore,
3 entitled to recover lost wages in an amount according to proof at trial, and also to recover
4 interest, costs, and reasonable attorney's fees.

5 68. Additionally, Plaintiffs are entitled to recover liquidated damages pursuant to
6 California Labor Code § 1194.2.

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9 **THIRD CAUSE OF ACTION**
10 **Failure To Provide Accurate Wage Statements**
11 **(Lab. Code § 226)**
 Brought by Plaintiffs
 As to Defendant ARP

12 69. Plaintiff incorporates by reference all preceding paragraphs as though fully set
13 forth herein.

14 70. California Law, including but not limited to California Labor Code section 226,
15 subdivision (a), requires employers to furnish employees, with each payment of wages,
16 accurate, itemized wage statements displaying, as is relevant here, all hours actually worked,
17 all wages actually earned and due to the employee.

18 71. Defendant ARP has failed to provide Plaintiffs with accurate, itemized wage
19 statements. The wage statements provided by Defendant ARP fail to conform to California law
20 because those wage statements do not display all hours actually worked and all wages actually
21 earned by Plaintiffs, because Defendant ARP's knowing and intentional unlawful deduction of
22 uniform fees from wages caused class members' wage statements to be inaccurate by failing to
23 include additional actual wages earned as required to counteract the unlawful uniform
24 deductions.

25 72. As alleged herein, the wage statements Defendant ARP provided to Plaintiffs do
26 not include accurate information as required by California law, including but not limited to
27 California Labor Code section 226, subdivision (a).

28 73. Plaintiffs' ability to calculate their incomes has been harmed by the absence of

1 information required by Labor Code section 226, subdivision (a).

2 74. As a direct and proximate result of Defendant ARP's failure to provide Plaintiffs
3 with accurate wage statements, Plaintiffs have suffered injury and damage to their statutorily
4 protected rights, and have been injured because they have been denied both their legal right to
5 receive, and their protected interest in receiving accurate wage statements.

6 75. Defendant ARP's failure to provide accurate wage statements to Plaintiffs was
7 knowing and intentional.

8 76. Accordingly, Plaintiffs are entitled to recover statutory penalties in an amount
9 according to proof at trial, costs, and reasonable attorneys' fees pursuant to California Labor
10 Code section 226, subdivision (e).

11
12 **FOURTH CAUSE OF ACTION**
13 **Failure to Pay All Wages Due at Separation**
14 **(Lab. Code § 203)**
15 **Brought by Plaintiffs**
 As to Defendant ARP

16 77. Plaintiff incorporates by reference all preceding paragraphs as though fully set
17 forth herein.

18 78. California Labor Code sections 201 and 202 require employers to pay
19 employees, upon the termination of employment, all wages due within the time specified by
20 those statutes.

21 79. California Labor Code section 203 provides that where an employer willfully
22 fails to timely pay such wages, the employer must continue to pay the subject employee's
23 wages until back wages are paid in full or an action is commenced, up to a maximum of thirty
24 days of wages.

25 80. Defendant ARP has failed to pay to separated, terminated, and constructively
26 discharged Plaintiffs all wages due upon termination or within 72 hours of resignation.

27 81. Defendant ARP failed to pay Plaintiffs all wages due because Defendant ARP's
28 mandated and unilateral deductions from Plaintiffs' wages caused those wages to fall below

1 the rates mandated by applicable minimum wage rates, applicable overtime wage rates, and
2 applicable contractual wage rates, for Plaintiffs' actual hours worked each payperiod, and
3 thereby resulted in the payment of a lower, secret wage than was agreed or is statutorily
4 required. The amount of underpaid wages was not then paid within the periods provided in
5 sections 201 and 202, and remain unpaid.

6 82. Defendant ARP's failure to pay all wages due Plaintiffs at separation or
7 termination was willful.

8 83. As a direct and proximate result of Defendant ARP's failure to pay Plaintiffs all
9 wages when due upon separation, termination, or discharge from employment, such Plaintiffs
10 have been injured in an amount to be proved at trial.

11 84. Accordingly, such Plaintiffs are entitled to payment of thirty days' wages,
12 interest, costs, and attorney's fees pursuant to California Labor Code section 203.
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14 **FIFTH CAUSE OF ACTION**
15 **Restitution of Wages**
16 **(Bus. & Profs. Code § 17200, *et seq.*)**
17 **Brought by Plaintiffs**
As to Defendant ARP

18 85. Plaintiff incorporates by reference all preceding paragraphs as though fully set
19 forth herein.

20 86. Defendant ARP has engaged in unfair competition within the meaning of
21 California Business and Professions Code section 17200 *et seq.* because Defendant ARP's
22 conduct is unfair and unlawful as herein alleged.

23 87. As a direct and proximate result of Defendant ARP's prohibited unfair and
24 unlawful business practices as alleged herein, Plaintiffs have been injured in an amount to be
25 proved at trial.

26 88. Plaintiffs are entitled to restitution of all amounts which Defendant ARP was
27 obligated to provide to Plaintiffs and, through the unfair and unlawful practices alleged herein,
28 Defendant ARP did not pay to which Plaintiffs.

89. Plaintiffs are additionally entitled to recovery of interest, costs, and attorney's fees according to law.

SIXTH CAUSE OF ACTION

Assault

Brought by Plaintiff Ruiz

As to Defendant Jackson

90. Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

91. Defendant Jackson attempted to punch Plaintiff in the face, and thereby intended to cause harmful contact with Plaintiff.

92. Plaintiff reasonably believed he was about to be touched in a harmful manner.

93. Plaintiff did not consent to Defendant Jackson's conduct.

94. Plaintiff was harmed and continues to suffer harm, including in the form of fear and apprehension he suffered in anticipation of the threatened punch, as well as humiliation, mental anguish, and emotional distress.

95. Defendant Jackson's conduct as alleged was a substantial factor in causing Plaintiff's harm.

96. Defendant Jackson's conduct in assaulting Plaintiff also constitutes malice, oppression, and fraud within the meaning of Civil Code section 3294(a), insofar as Defendant Jackson caused Plaintiff physical harm, Defendant Jackson disregarded the health and safety of Plaintiff, Defendant Jackson knowingly and intentionally took advantage of Plaintiff's vulnerability by seeking to punch him unexpectedly from behind, Defendant Jackson his conduct involved a pattern or practice of threats of physical violence, and Defendant Jackson acted with trickery and deceit.

97. For these harms, Plaintiff seeks compensatory damages, and punitive damages, each in amounts according to proof.

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1 **SEVENTH CAUSE OF ACTION**

2 **Battery**

3 **Brought by Plaintiff Ruiz**

4 **As to Defendant Jackson**

5 98. Plaintiff incorporates by reference all preceding paragraphs as though fully set
6 forth herein.

7 99. Defendant Jackson punched Plaintiff in the face, and with the intent to harm him.

8 100. Plaintiff did not consent to being punched in the face.

9 101. Plaintiff was harmed and continues to suffer harm, including in the form of fear
10 and apprehension he suffered in anticipation of the punch, pain and suffering resulting from the
11 punch, as well as humiliation, mental anguish, and emotional distress.

12 102. Defendant Jackson's conduct as alleged was a substantial factor in causing
13 Plaintiff's harm.

14 103. Defendant Jackson's conduct in battering Plaintiff also constitutes malice,
15 oppression, and fraud within the meaning of Civil Code section 3294(a), insofar as Defendant
16 Jackson caused Plaintiff physical harm, Defendant Jackson disregarded the health and safety of
17 Plaintiff, Defendant Jackson knowingly and intentionally took advantage of Plaintiff's
18 vulnerability by seeking to punch him unexpectedly from behind, Defendant Jackson his
19 conduct involved a pattern or practice of threats of physical violence, and Defendant Jackson
20 acted with trickery and deceit.

21 104. For these harms, Plaintiff seeks compensatory damages, and punitive damages,
22 each in amounts according to proof.

23 **EIGHTH CAUSE OF ACTION**

24 **Negligent Supervision or Retention of Employee**

25 **Brought by Plaintiff Ruiz**

26 **As to Defendant ARP**

27 105. Plaintiff incorporates by reference all preceding paragraphs as though fully set
28 forth herein.

106. Defendant ARP hired Defendant Jackson.

1 107. Defendant Jackson either was, or became, unfit or incompetent to be retained in
2 employment, due to Defendant Jackson's demonstrated propensity for workplace violence
3 against other employees and documented history of threatening severe workplace violence
4 against other employees.

5 108. Defendant ARP knew or should have known that Defendant Jackson was unfit or
6 incompetent and that this unfitness or incompetence created a particular risk of workplace
7 violence against other employees.

8 109. Defendant Jackson in fact harmed Plaintiff by punching him in the face while on
9 Defendant ARP's premises and while on the clock.

10 110. Defendant ARP's negligence in supervising or retaining Defendant Jackson was
11 a substantial factor in causing Plaintiff's harm.

12 111. Defendant ARP's conduct in negligently supervising or retaining Defendant
13 Jackson, and thereby causing harm to Plaintiff, also constitutes malice, oppression, and fraud
14 within the meaning of Civil Code section 3294(a), insofar as Defendant ARP's conduct caused
15 Plaintiff physical harm, Defendant ARP disregarded the health and safety of Plaintiff, and
16 Defendant ARP ignored a pattern or practice of threats of physical violence by Defendant
17 Jackson.

18 112. For these harms, Plaintiff seeks compensatory damages, and punitive damages,
19 each in amounts according to proof.

20
21 **NINTH CAUSE OF ACTION**
22 **Whistleblower Retaliation**
23 **(Lab. Code § 1102.5)**
24 **Brought by Plaintiff Ruiz**
 As to Defendant ARP

25 113. Plaintiff incorporates by reference all preceding paragraphs as though fully set
26 forth herein.

27 114. Pursuant to Labor Code section 1102.5, it is unlawful for an employer, or any
28 person acting on behalf of the employer, to retaliate against an employee who discloses, to a

1 person with authority over the employee or another employee with authority to investigate,
2 discover, or correct the violation, or to a law enforcement agency, information that the
3 employee has reasonable cause to believe discloses a violation of state or federal statute, or a
4 violation of or noncompliance with a local, state, or federal rule or regulation.

5 115. At all relevant times, California law prohibited employees from assaulting,
6 battering, brandishing deadly weapons at, or threatening to kill other employees in the
7 workplace.

8 116. At all relevant times, California law required Defendant ARP to exercise
9 reasonable care in supervising and retaining employees as to whom it knew or should have
10 known posed a risk of engaging in physical violence against other employees in the workplace.

11 117. At all relevant times, California law required Defendant ARP to provide
12 employees with employments and places of employments that are safe and healthful for the
13 employees therein.

14 118. At all relevant times, California law required Defendant ARP to discipline,
15 restrain, train, punish, or terminate employees who brandish deadly weapons at, assault,
16 threaten to kill, or batter other employees in the workplace.

17 119. Plaintiff disclosed to Defendant ARP, including employees with authority to
18 investigate, discover, or correct legal violations or non-compliance, and to a law enforcement
19 agency, information that Plaintiff had reasonable cause to believe disclosed one or more
20 violations of the requirements of California law detailed above.

21 120. Defendant ARP knew of the report to a law enforcement agency.

22 121. Defendant ARP thereafter intentionally created or knowingly permitted working
23 conditions to exist that were so intolerable that a reasonable person in Plaintiff's position
24 would have no reasonable alternative except to resign, and Plaintiff did so resign because of
25 those intolerable working conditions.

26 122. Plaintiff's disclosure to Defendant ARP, as alleged above, was a contributing
27 factor in Defendant ARP's decision to constructively discharge Plaintiff.

28 123. Plaintiff's disclosure to law enforcement, as alleged above, was a contributing

1 factor in Defendant ARP's decision to constructively discharge Plaintiff.

2 124. Plaintiff suffered harm that includes, but is not limited to, lost wages, lost
3 benefits, lost earning capacity, humiliation, mental anguish, and emotional distress.

4 125. Defendant ARP's constructive discharge of Plaintiff was and is a substantial
5 factor in causing Plaintiff's harm.

6 126. Defendant ARP's conduct in constructively discharging Plaintiff in retaliation for
7 his whistleblowing activities, constitutes malice, oppression, and fraud within the meaning of
8 Civil Code section 3294(a), insofar as Defendant ARP disregarded the health and safety of
9 Plaintiff, Defendant ARP knowingly and intentionally took advantage of Plaintiff's financial
10 vulnerability, Defendant ARP willfully ignored if not ratified a pattern or practice of threats of
11 physical violence, and Defendant ARP acted with trickery and deceit by constructively
12 discharging Plaintiff rather than actually discharging Plaintiff.

13 127. For these harms, Plaintiff seeks compensatory damages, and punitive damages,
14 each in amounts according to proof.

15
16 **TENTH CAUSE OF ACTION**
17 **Public Injunctive Relief**
18 **(Bus. & Profs. Code § 17200, *et seq.*)**
19 **Brought by Plaintiff Ruiz**
As to Defendant ARP

20 128. Plaintiff incorporates by reference all preceding paragraphs as though fully set
21 forth herein.

22 129. Defendant ARP has engaged in unfair competition within the meaning of
23 California Business and Professions Code section 17200 *et seq.* because Defendant ARP's
24 conduct is unfair and illegal as herein alleged. The Defendant ARP's conduct as alleged
25 constituted, and constitutes, a continuing course of conduct of unfair competition because
26 Defendant ARP is engaging in employment practices on an ongoing basis that violate
27 California law.

28 130. As a direct, proximate, and foreseeable result of Defendant ARP's conduct as

1 alleged above, Defendant ARP has caused injury to Plaintiffs and to the general public.

2 131. Plaintiff and the public are entitled to relief, including public injunctive relief.

3 132. Defendant ARP's conduct as alleged above is a serious and continuing threat to
4 Plaintiffs and the public. If Defendant ARP is allowed to continue those ongoing violations of
5 California law, Plaintiffs and the public will suffer further immediate and irreparable injury,
6 loss, and damage.

7 133. In the absence of a temporary restraining order and preliminary and permanent
8 injunctions as prayed for below, Defendant ARP will continue to engage in unfair business
9 practices.

10 134. Unless Defendant ARP is restrained by this Court, Plaintiffs and members of the
11 general public will have no adequate remedy at law in that individual suits for restitution will
12 not be economically justified due to the relatively small amounts that would be due to each
13 employee, competitor, and consumer, while additional suits under California's Unfair
14 Competition Law would lead to a multiplicity of judicial proceedings.

15 135. Accordingly, Plaintiff is entitled to public injunctive relief in the form of a
16 temporary restraining order, preliminary injunction, and permanent injunction, each enjoining
17 Defendant ARP from further violations of California law as alleged.

18
19 **ELEVENTH CAUSE OF ACTION**
20 **Violations of the California Private Attorneys General Act**
21 **(Lab. Code §§ 2698 *et seq.*)**
22 **Brought by Plaintiff LWDA *ex rel.* Ruiz,**
As to Defendant ARP

23 136. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
24 forth herein.

25 137. Plaintiffs bring this cause of action in a representative capacity on behalf of the
26 California LWDA.

27 138. Civil penalties under PAGA are sought as to Labor Code violations occurring
28 within the period commencing June 13, 2022 and concluding at the entry of final judgment in

1 this action (“PAGA Period”).

2 139. Civil penalties under PAGA are sought as all employees of Defendants working
3 within California at any time during the PAGA Period (“Aggrieved Employees”). As used
4 herein, Aggrieved Employees includes Plaintiff Ruiz.

5 140. Plaintiffs seek to redress violations of the California Labor Code committed by
6 Defendants against Aggrieved Employees as set out in the Private Attorneys General Act
7 (“PAGA”) notice document submitted to the Labor and Workforce Development Agency and
8 to the California Division of Occupational Safety and Health on June 13, 2023, a true and
9 correct copy of which is attached as Exhibit A, and the contents of which are incorporated here
10 by reference, and as set out in the second PAGA notice document submitted to the Labor and
11 Workforce Development Agency on September 8, 2023, a true and correct copy of which is
12 attached as Exhibit B, and the contents of which are incorporated here by reference

13 141. Plaintiffs have fully complied with notice requirements under PAGA by giving
14 written notice to both the Labor and Workforce Development Agency, California Division of
15 Occupational Safety and Health, and Defendant ARB pursuant to Labor Code section 2699.3,
16 and by paying the filing fees required by the same.

17 142. Sixty-five calendar days have now passed since Plaintiffs gave the LWDA and
18 CalOSHA notice of their PAGA claims, the LWDA has not responded or taken any position as
19 to those claims, and CalOSH failed to conduct an investigation or inspection of those claims.
20 Accordingly, Plaintiffs now have the right to pursue those claims through a representative civil
21 suit pursuant to Labor Code section 2699.3.

22 143. For the violations of the Labor Code alleged, Plaintiffs have no administrative
23 remedies to exhaust.

24 144. Plaintiff Ruiz has personally suffered at least one of the violations of the Labor
25 Code set out in Exhibits A and B, and has been injured as a direct and proximate result.

26 145. Pursuant to Labor Code section 2699, subdivisions (a) and (f), Plaintiff Ruiz
27 accordingly seek to recover civil penalties against Defendants for the specified Labor Code
28 violations against Aggrieved Employees.

1 146. In addition, Plaintiff Ruiz seek to recover their reasonable attorneys' fees and
2 costs pursuant to Labor Code section 2699, subdivision (g)(1).
3

4 **VII. PRAYER FOR RELIEF**

5 Wherefore, Plaintiffs pray for relief as follows:

- 6 1. That the Court certify this action as a class action on behalf of the putative class
7 pursuant to Code of Civil Procedure section 382;
- 8 2. That the Court designate Plaintiff as representative of the putative class;
- 9 3. That the Court appoint the law firm Aiman-Smith & Marcy as class counsel;
- 10 4. That the Court order Defendant ARP, at its own expense, to provide full and
11 adequate notice as required in class actions to all members of the putative class;
- 12 5. That in addition to any constitutionally sufficient notice that may otherwise be
13 required, the Court further order Defendant ARP to pay for all necessary efforts
14 to actually locate putative class members;
- 15 6. That this Court issue a temporary injunction, on terms the Court may deem
16 appropriate and necessary, prohibiting Defendants from engaging in the practices
17 complained of herein pending trial of this action, and requiring Defendants to
18 make appropriate reports to the Court or its appointed agent or expert regarding
19 its compliance with said injunction, and requiring Defendants to pay all costs
20 associated with said monitoring said injunction;
- 21 7. That this Court issue a permanent injunction, on terms the Court may deem
22 appropriate and necessary, prohibiting Defendants from engaging in the practices
23 complained of herein, requiring Defendants to make appropriate reports to the
24 Court or its appointed agent or expert regarding its compliance with said
25 injunction, and requiring Defendants to pay all costs associated with monitoring
26 said injunction;
- 27 8. That the Court order Defendants to pay all amounts owed to the Plaintiffs arising
28 out of the actions complained of herein, including statutory penalties,

compensatory damages, punitive damages, interest, and costs;

9. That the Court order Defendants pay all amounts owed to the California Labor and Workforce Development Agency arising out of the actions complained of herein, including civil penalties;

10. That the Court order Defendants pay all amounts owed to Aggrieved Employees arising out of the actions complained of herein, including civil penalties;

11. That Defendant ARP be ordered to pay Plaintiffs' reasonable attorneys' fees pursuant to Labor Code sections 203, 218.5, 226, 2699, 1194, 1197, 2802, and 1102.5; California Code of Civil Procedure section 1021.5; and the common law doctrines of common fund, substantial benefit, private attorneys general, and the catalyst theory;

12. That Defendants be ordered to pay Plaintiffs' reasonable costs of suit incurred; and

13. That the Court order such other legal and equitable relief as the Court may deem just and proper.

Respectfully submitted,

September 8, 2023

AIMAN-SMITH & MARCY
A PROFESSIONAL CORPORATION

Brent A. Robinson

Brent A. Robinson
Attorneys for Plaintiff Ruiz *et al.*

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff Ruiz, both in his individual capacity and in all representative capacities, hereby
3 demands a jury trial on all causes of action, claims, and issues with respect to which Plaintiffs
4 have a right to jury trial.
5

6
7 September 8, 2023

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Brent A. Robinson

Brent A. Robinson
Attorneys for Plaintiff Ruiz *et al.*

EXHIBIT A

June 13, 2023

Via Online Filing

California Labor and Workforce Development Agency
California Division of Occupational Safety and Health

Via Certified Mail

Automotive Racing Products, Inc.
1863 Eastman Avenue
Ventura, CA 93003

Automotive Racing Products, Inc.
c/o Agent for Service, Robert Florine
1863 Eastman Avenue
Ventura, CA 93003

Re: LWDA ex rel. Alfonso Ruiz v. Automotive Racing Products, Inc.

Dear CalOSHA PAGA Administrator and PAGA Administrator:

Pursuant to California Labor Code¹ section 2699.3, subdivisions (a), (b), and (c), Alfonso Ruiz (Relator) hereby provides notice of violations under the California Private Attorneys General Act.

Pursuant to Labor Code section 2699, subdivisions (a), Relator requests the authority to prosecute a civil law enforcement action against Automotive Racing Products, Inc., d.b.a. "Automotive Racing Products," and d.b.a. "arp-bolts.com," and against as-yet unknown Defendants named here as Does 1 through 15, inclusive. Relator seeks to proceed against Defendants via a civil action brought on behalf of, and in the name of, the California Labor and Workforce Development Agency. Relator will seek to recover civil penalties on behalf of the State of California, both for purposes of punishing past violations of California law, and deterring future violations by Defendants and by other California employers. Relator will also seek to recover his attorneys' reasonable attorney fees and costs, as authorized by section 2699, subdivision (h).

Defendant Automotive Racing Products, Inc. is a California corporation, registered to and conducting business in California. The Defendants are believed to maintain a principal executive office within California located in Ventura, California, and operates what it describes as "seven operational entities in Southern California with a combined area in excess of 200,00 square feet. These include forging, heat treating, machining, quality control finishing and packaging/warehousing facilities in Santa Paula and Ventura, California." Defendants also operate a "unique racing-themed restaurant at the main Santa Paula facility." See, <https://arp-bolts.com/p/about.php> (as of May 16, 2023).

¹ Except where otherwise indicated, all subsequent section citations are to the California Labor Code.

Relator is ignorant of the true names or capacities of Defendants named herein as Does 1 through 15, inclusive, and therefore name these Defendants by these fictitious names. When the names and capacities of these Defendants are ascertained, Relator will amend this notice accordingly. Each of the Defendants named herein or designated as a Doe is liable or in some manner legally responsible under the Private Attorneys General Act for the violations alleged herein.

Relator herein refers to all these Defendants collectively as “Defendants.”

Relator seeks to recover for violations as alleged below occurring within the period commencing one year prior to the date of this Notice, and proceeding through the entry of final judgment (Claim Period). Relator seeks to recover such penalties via a lawsuit to be filed against Defendants in Ventura County Superior Court.

Such penalties are sought as to a group of aggrieved employees consisting of all employees of Defendants working within California at any time during the Claim Period (Aggrieved Employees). Defendants’ employment of the Aggrieved Employees is governed by Industrial Welfare Commission Wage Order No. 1 (8 C.C.R. 11010) (Wage Order).

Defendants primarily participate in the manufacturing industry by manufacturing automotive fasteners and parts. Defendants are each a person who directly or indirectly, or through an agent or any other person, employed or exercised control over the wages, hours, or working conditions of Relator. *See*, 8 C.C.R. 11010 § 2(E-F).

Defendants employed Relator as a machine operator at its facility in Santa Paula, California. Defendants employed Relator from approximately 2011 through May 2023.

The violations alleged, and the penalties sought, are as follows:

1. Defendants’ Conduct

Defendants require employees to wear uniforms as a condition of employment. Defendants provide and maintain the required uniforms, but deduct from employees’ wages each paycheck a fee for the provision and maintenance of required uniforms. Relator is currently charged a \$3.52 fee per weekly payperiod, and believes that same fee is charged to all other Aggrieved Employees and deducted from wages earned and due each payperiod.

Defendants thereby failed to provide and maintain uniforms required to be worn by Aggrieved Employees as a condition of employment, thereby failed to reimburse Aggrieved Employees for necessary business expenses, thereby pushed Aggrieved Employees’ wages below the applicable legal minimum, overtime, and contractual rates of pay, thereby forced Aggrieved Employees a portion of wages previously paid, and thereby paid Aggrieved Employees a lower, secret wage than was agreed or is statutorily required.

Defendants have also failed to provide Aggrieved Employees with accurate, itemized wage statements. The wage statements provided by Defendants fail to conform to California law because those wage statements do not display all wages earned by Aggrieved Employees, including by failing to include additional wages required to counteract the unlawful uniform

deductions. As a direct and proximate result of Defendants' failure to provide Aggrieved Employees with accurate, itemized wage statements, they have suffered injury and damage to their statutorily-protected rights, and have been injured because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements.

Defendants' failure to provide Aggrieved Employees with accurate, itemized wage statements is and was knowing and intentional.

Defendants have also failed to pay all wages to those Aggrieved Employees who separated from Defendants' employment within the Claim Period. Within the Claim Period, Aggrieved Employees have resigned from their employment or were terminated by Defendants. Defendants willfully failed to pay said Aggrieved Employees all wages due upon termination or within 72 hours of resignation. Defendants failed to pay said Aggrieved Employees all wages due because they are not provided with underpaid wages arising from unlawful uniform deductions and unreimbursed business expenses. Defendants' failure to pay all wages due to Aggrieved Employees at their separation or termination is willful.

Defendants also failed to furnish Aggrieved Employees with employments and places of employments that are safe and healthful for the employees therein, by retaining in employment the employee Richard Jackson, despite his repeatedly demonstrated propensity for violence, and despite having notice of his attempted and actual acts of violence against Aggrieved Employees. In or around 2015 or 2016, Mr. Jackson threatened to kill Relator in the presence of their then-supervisor Michael Thorson, yet on information and belief Mr. Thorson and Defendants did nothing to discipline, restrain, train, punish, or terminate Mr. Jackson. In 2021, and again in the presence and in full view of supervisor Joe Wheeler, Mr. Jackson picked up a wrench (approximately 2" in diameter and 2' long, weighing approximately 5lbs), brandished it at Relator while standing in close proximity to Relator, and said, "I'm going to kill this motherfucker right here." In response, Mr. Wheeler conducted a cursory investigation that demonstrated Mr. Jackson was the aggressor and acted without provocation, and directed Relator and Mr. Jackson to stay away from each other. The next day, Relator submitted to Mr. Wheeler and the facility manager a formal written complaint detailing the incident and the threat. After reviewing the written complaint, Mr. Wheeler and the manager told Relator that if he insisted on submitting the complaint, then they would suspend Relator for a week without pay, in addition to doing the same to the aggressor, Mr. Jackson. In response to Mr. Jackson's brandishing of a deadly weapon in connection with assaulting Relator, Defendants neither disciplined, restrained, trained, punished, nor terminated Mr. Jackson. Starting in December 2022, Mr. Jackson began to make regular threats of physical violence, including death threats, against Relator, which culminated on April 6, 2023, when—without provocation—Mr. Jackson followed Relator out of the facility and into the parking lot, where he first attempted and failed to sucker punch Relator, and then on the second attempt punched Relator in the temple, thereby causing Relator to suffer numerous symptoms of concussion. Mr. Wheeler came outside shortly after this punch, and despite learning of the assault and battery, permitted Mr. Jackson to return to the workplace. In response to this incident, Defendants placed Relator, but not Mr. Jackson, on unpaid leave, and ordered Relator, but not Mr. Jackson, to undergo a drug test. Mr. Jackson was permitted to continue working without interruption. Only once Relator's drug test came back negative for the suspected intoxicants was Relator permitted to return to work, and only then was Mr. Jackson suspended without leave for a period of three days (compared with the 5-day suspension his victim, Relator, received). Relator was never paid for the time he spent on leave in response to the unprovoked act of intentional workplace violence committed against him by a co-employee

on Defendants' premises. In response to Mr. Jackson's brandishing of a deadly weapon in connection with assaulting Relator, Defendants otherwise did not discipline, restrain, train, punish, or terminate Mr. Jackson.

On information and belief, Defendants failed to record that workplace assault and battery on their CalOSHA 200 Log, failed to prepare a supplemental record for that recordable case, failed to report that occupational injury to Defendants' workers' compensation insurer or with the DLSR. Despite having notice that Mr. Jackson had a propensity for workplace violence and exhibited belligerent, intimidating, or threatening behavior in the workplace, Defendants failed to establish and implement procedures to respond to incidents of workplace violence, and failed to provide training to employees, supervisors, and managers on how to prevent associated industrial injuries. Defendants also failed to engage in the monitoring of Mr. Jackson, or otherwise appropriately respond to his past incidents of belligerent, intimidating, or threatening behavior. Finally, Defendants failed to seek a temporary restraining order or injunction on behalf of Relator to protect him from further threats or acts of violence by Mr. Jackson, whether in response to his prior credible death threats and assault with the wrench, or in response to his subsequent assault and battery in the parking lot.

Defendants have also retaliated against Aggrieved Employees in violation of California Labor Code sections 1102.5, 6310, and 6311. In response to Relators repeated complaints of credible threats of workplace violence, and actual workplace violence, by Mr. Jackson, Defendants constructively discharged Relator by refusing to accept his written complaint regarding the first assault, by punishing Relator by placing him on unpaid leave for a week after the second assault, by retaining Mr. Jackson, by permitting Mr. Jackson to remain in Relator's workplace, by refusing Relator's reasonable requests to be assigned to a different work location, and by generally taking no actions whatsoever to remedy Relators' complaints or otherwise provide Relator with a safe working environment free from the threat of workplace violence. Defendants' thereby intentionally or knowingly created or permitted Relator's working conditions to become so intolerable that a reasonable person in Relator's position would have had no reasonable alternative except to resign, and Relator did so resign because of those working conditions, which were a substantial factor in causing Relator harm.

2. Applicable Penalties, Including Underpaid Wages and Waiting-Time-Penalties as Penalties

2.1. Failure to Reimburse Necessary Business Expenses

For each pay period in which an employee is not reimbursed for a necessary business expense, Defendants violated Labor Code section 2802 and the Wage Order.

Violations of section 2802 are subject to subject to penalties under Labor Code section 2699 in the amount of \$100 per violation.

As previously noted, total penalties of \$850 are available per violation of the Wage Order.

In total, penalties of \$950 are available for each pay period in which an employee is not reimbursed for necessary business expenses. In addition, Relator shall seek to recover subsequent

violation penalties for each violation occurring after the date Defendants received this Notice, and thereby received notice that its conduct was violating state law.

2.2. Receipt of Wages Previously Paid, and Secret Payment of Lower Wage, Labor Code §225.5

For each pay period in which an employee's purchase of necessary business expenses goes unreimbursed, that employee is effectively forced to pay to Defendant a portion of wages previously paid, and Defendants have violated Labor Code section 221. Defendants' payment of a lower, secret wage than was agreed or is statutorily required is a violation of Labor Code section 223.

For each violation of section 221, and for each violation of 223, Defendant is subject to penalties under section 225.5 of \$100 per violation. Because section 225.5's penalties are supplemental, each violation of section 221, and each violation of section 223 is also subject to penalties under section 2699 in the amount of \$100 per violation.

In total, penalties of \$400 are available for each pay period in which an employee made an unreimbursed purchase of a necessary business expense in violation of sections 221 and 223.

2.3. Failure to Pay Minimum, Overtime, and Contractual Wages

For each pay period in which an employee is not paid the required minimum or overtime wage for all hours worked (including pay periods in which necessary business expenses go unreimbursed, causing an unlawful deduction from wages), Defendants have violated Labor Code sections 1197 (minimum and overtime wages), 510 (overtime wages), 204/204b (regular payment of all wages due), 226 (accurate wage statements), and the Wage Order (minimum and overtime wages).

Violations of section 1197 are subject to penalties under Labor Code section 1197.1 of \$100 per violation. Section 1197.1's penalties are supplemental. *Id.* at subd. (i). Accordingly, violations of section 1197 are also subject to penalties under section 2699 in the amount of \$100 per violation. Thus, total penalties of \$200 are available per violation under section 1197.

Violations of section 510 are subject to penalties under Labor Code section 2699 in the amount of \$100 per violation.

Violations of sections 204 and 204b are subject to penalties under Labor Code section 2699 in the amount of \$100 per violation.

As previously noted, total penalties of \$350 are available per violation of section 226.

As previously noted, total penalties of \$850 are available per violation of the Wage Order.

In total, penalties of \$1,600 are available for each pay period in which an employee is not paid the required minimum, overtime, or contractual wage for all hours actually worked. In

addition, Relator shall seek to recover subsequent violation penalties for each violation occurring after the date Defendants received this Notice, and thereby received notice that its conduct was violating state law.

2.4. Failure to Pay All Wages Due at Separation

For each employee who separated from Defendants' employment without receiving payment of all wages owing and due, including premium rest and meal period wages, Defendants have violated sections 201 and 202, which require the payment of all wages due at the time of separation.

Violation of sections 201 and 202 are subject to penalties under section 2699 in the amount of \$100 per violation. In addition, Relator shall seek to recover subsequent violation penalties for each violation occurring after the date Defendants received this Notice, and thereby received notice that its conduct was violating state law.

2.5. Whistleblower Retaliation.

For each Aggrieved Employee against whom Defendants retaliated for opposing violations of California law, or disclosing information that employee had reasonable cause to believe disclosed a violation of law, including disclosure of the factual predicates for the CalOSHA violations alleged herein, Defendants have violated Labor Code section 1102.5.

Violations of Labor Code section 1102.5 are subject to civil penalties of \$10,000 per violation. *See*, Lab. Code § 1102.5(f).

2.6. Failure to Comply with CalOSHA Statutory Requirements, Standards, Rules, Regulations, and Orders.

For each day in which Defendants failed to furnish Aggrieved Employees with employments and places of employments that are safe and healthful, for each failure to record a serious injury arising from workplace violence, for each failure to report a serious injury arising from workplace violence, for each to establish and implement procedures to respond to incidents of workplace violence, for each failure to provide training to employees, supervisors, and managers on how to prevent associated industrial injuries, and for each failure to engage in monitoring of Mr. Jackson or otherwise appropriately respond to his past incidents of belligerent, intimidating, or threatening behavior, Defendants violated:

1. Labor Code § 6400 (requiring employers to “furnish employment and a place of employment that is safe and healthful for the employees therein”);
2. Labor Code § 6402 (prohibiting employers from “requir[ing], or permit[ing] any employee to go or be in any employment or place of employment which is not safe and healthful”);
3. Labor Code § 6403 (requiring employers to provide safety devices and safeguards; requiring employers to do things “reasonably necessary to protect the life, safety, and health of employees”); and
4. Labor Code § 6407 (requiring employers and employees to “comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules,

regulations, and orders pursuant to this division which are applicable to his own actions and conduct”).

In addition, Defendants’ constructive discharge of Relator and other Aggrieved Employees for conduct protected by Labor Code sections 6311 and 6310 violated the above sections in addition to Labor Code sections 6311 and 6310.

For non-serious general violations of these statutory provisions, the Division of Occupational Safety and Health (CalOSHA) is authorized to recover \$13,277 per violation. *See*, Lab. Code § 6427; 8 C.C.R. §§ 334, 336.

However, Defendants’ violations of these provisions are “serious” within the meaning of Labor Code sections 6428 insofar as exposure to COVID-19, and/or to unstable equipment weighing 1500-2000 pounds, involves “a realistic possibility that death or serious physical harm could result from the hazard created by the violation.” *See*, Lab. Code § 6432. For serious violations of the above statutory provisions, CalOSHA is authorized to recover up to \$25,000 per violation. *See*, Lab. Code § 6428, 8 C.C.R. § 336.

On information and belief, Defendants’ violations are also willful and repeated within the meaning of Labor Code section 6429. For such willful and repeated violations, CalOSHA is authorized to recover up to \$134,334 per violation.

Because CalOSHA is a “department[], division[], commission[], board[], agenc[y], or employee[]” of the Labor and Workforce Development Agency, the Court in any superior court action resulting from this charge would be vested with the same discretion as CalOSHA to award such penalties against Defendants. *See*, Lab. Code § 2699(e)(1).

In total, penalties of \$134,334 are available for each CalOSHA violation committed by Defendants within the Claim Period.

Relator reserves the right to file an amended or supplemental notice as additional violations come to light.

Please contact me with any questions or concerns regarding the allegations contained in this notice.

Very truly yours,

AIMAN-SMITH & MARCY
A PROFESSIONAL CORPORATION

/s/ Brent A. Robinson

Brent A. Robinson

bar@asmlawyers.com

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Automotive Racing Products, Inc.
90 ATS, Robert Florine
1863 Eastman Ave.
Ventura, CA 93003

9590 9402 6896 1104 6257 78

2. Article Number (Transfer from service label)

7020 3160 0000 0116 5253

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☒ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

- If YES, enter delivery address below: ☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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Automotive Racing Products, Inc.
1863 Eastman Ave.
Ventura, CA 93003

9590 9402 6896 1104 6257 61

2. Article Number (Transfer from service label)

7020 3160 0000 0116 5246

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☒ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

- If YES, enter delivery address below: ☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
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Automotive Racing Products, Inc.
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1863 Eastman Ave
City, State, ZIP+4®
Ventura, CA 93003

PS Form 3800, April 2015 PSN 7530-02-000-9047

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9425 9110 0000 091E 020L

EXHIBIT B

September 8, 2023

Via Online Filing

California Labor and Workforce Development Agency
California Division of Occupational Safety and Health

Via Certified Mail

Automotive Racing Products, Inc.
1863 Eastman Avenue
Ventura, CA 93003

Automotive Racing Products, Inc.
c/o Agent for Service, Robert Florine
1863 Eastman Avenue
Ventura, CA 93003

Re: LWDA ex rel. Alfonso Ruiz v. Automotive Racing Products, Inc.

Dear CalOSHA PAGA Administrator and PAGA Administrator:

On June 13, 2023, Relator Alfonso Ruiz gave notice to each of your agencies of violations under the California Private Attorneys General Act, and served the same notice on Respondent Automotive Racing Products, Inc. via certified mail. That notice of violations included violations falling within the jurisdiction of CalOSHA.

Relator notes that 65 days have now passed since that notice was given, and in that time CalOSHA gave no notice that it had conducted an inspection or investigation of the violations so noticed.

Accordingly, pursuant to Labor Code section 2699.3, Relator now gives notice to the LWDA, and to Respondent, that unless the LWDA issues a citation in response to this notice within 65 days, Relator will pursue the alleged violations within CalOSHA's jurisdiction through litigation in the action now pending in Ventura County Superior Court, Case Number 2023CUOE011192. To that end, the remainder of this notice repeats the allegations stated in the prior June 13, 2023 PAGA notice.

Pursuant to California Labor Code¹ section 2699.3, subdivisions (a), (b), and (c), Alfonso Ruiz (Relator) hereby provides notice of violations under the California Private Attorneys General Act.

¹ Except where otherwise indicated, all subsequent section citations are to the California Labor Code.

Pursuant to Labor Code section 2699, subdivisions (a), Relator requests the authority to prosecute a civil law enforcement action against Automotive Racing Products, Inc., d.b.a. “Automotive Racing Products,” and d.b.a. “arp-bolts.com,” and against as-yet unknown Defendants named here as Does 1 through 15, inclusive. Relator seeks to proceed against Defendants via a civil action brought on behalf of, and in the name of, the California Labor and Workforce Development Agency. Relator will seek to recover civil penalties on behalf of the State of California, both for purposes of punishing past violations of California law, and deterring future violations by Defendants and by other California employers. Relator will also seek to recover his attorneys’ reasonable attorney fees and costs, as authorized by section 2699, subdivision (h).

Defendant Automotive Racing Products, Inc. is a California corporation, registered to and conducting business in California. The Defendants are believed to maintain a principal executive office within California located in Ventura, California, and operates what it describes as “seven operational entities in Southern California with a combined area in excess of 200,00 square feet. These include forging, heat treating, machining, quality control finishing and packaging/warehousing facilities in Santa Paula and Ventura, California.” Defendants also operate a “unique racing-themed restaurant at the main Santa Paula facility.” See, <https://arp-bolts.com/p/about.php> (as of May 16, 2023).

Relator is ignorant of the true names or capacities of Defendants named herein as Does 1 through 15, inclusive, and therefore name these Defendants by these fictitious names. When the names and capacities of these Defendants are ascertained, Relator will amend this notice accordingly. Each of the Defendants named herein or designated as a Doe is liable or in some manner legally responsible under the Private Attorneys General Act for the violations alleged herein.

Relator herein refers to all these Defendants collectively as “Defendants.”

Relator seeks to recover for violations as alleged below occurring within the period commencing one year prior to the date of this Notice, and proceeding through the entry of final judgment (Claim Period). Relator seeks to recover such penalties via a lawsuit to be filed against Defendants in Ventura County Superior Court.

Such penalties are sought as to a group of aggrieved employees consisting of all employees of Defendants working within California at any time during the Claim Period (Aggrieved Employees). Defendants’ employment of the Aggrieved Employees is governed by Industrial Welfare Commission Wage Order No. 1 (8 C.C.R. 11010) (Wage Order).

Defendants primarily participate in the manufacturing industry by manufacturing automotive fasteners and parts. Defendants are each a person who directly or indirectly, or through an agent or any other person, employed or exercised control over the wages, hours, or working conditions of Relator. See, 8 C.C.R. 11010 § 2(E-F).

Defendants employed Relator as a machine operator at its facility in Santa Paula, California. Defendants employed Relator from approximately 2011 through May 2023.

The violations alleged, and the penalties sought, are as follows:

1. Defendants' Conduct

Defendants require employees to wear uniforms as a condition of employment. Defendants provide and maintain the required uniforms, but deduct from employees' wages each paycheck a fee for the provision and maintenance of required uniforms. Relator is currently charged a \$3.52 fee per weekly payperiod, and believes that same fee is charged to all other Aggrieved Employees and deducted from wages earned and due each payperiod.

Defendants thereby failed to provide and maintain uniforms required to be worn by Aggrieved Employees as a condition of employment, thereby failed to reimburse Aggrieved Employees for necessary business expenses, thereby pushed Aggrieved Employees' wages below the applicable legal minimum, overtime, and contractual rates of pay, thereby forced Aggrieved Employees a portion of wages previously paid, and thereby paid Aggrieved Employees a lower, secret wage than was agreed or is statutorily required.

Defendants have also failed to provide Aggrieved Employees with accurate, itemized wage statements. The wage statements provided by Defendants fail to conform to California law because those wage statements do not display all wages earned by Aggrieved Employees, including by failing to include additional wages required to counteract the unlawful uniform deductions. As a direct and proximate result of Defendants' failure to provide Aggrieved Employees with accurate, itemized wage statements, they have suffered injury and damage to their statutorily-protected rights, and have been injured because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage statements.

Defendants' failure to provide Aggrieved Employees with accurate, itemized wage statements is and was knowing and intentional.

Defendants have also failed to pay all wages to those Aggrieved Employees who separated from Defendants' employment within the Claim Period. Within the Claim Period, Aggrieved Employees have resigned from their employment or were terminated by Defendants. Defendants willfully failed to pay said Aggrieved Employees all wages due upon termination or within 72 hours of resignation. Defendants failed to pay said Aggrieved Employees all wages due because they are not provided with underpaid wages arising from unlawful uniform deductions and unreimbursed business expenses. Defendants' failure to pay all wages due to Aggrieved Employees at their separation or termination is willful.

Defendants also failed to furnish Aggrieved Employees with employments and places of employments that are safe and healthful for the employees therein, by retaining in employment the employee Richard Jackson, despite his repeatedly demonstrated propensity for violence, and despite having notice of his attempted and actual acts of violence against Aggrieved Employees. In or around 2015 or 2016, Mr. Jackson threatened to kill Relator in the presence of their then-supervisor Michael Thorson, yet on information and belief Mr. Thorson and Defendants did nothing to discipline, restrain, train, punish, or terminate Mr. Jackson. In 2021, and again in the presence and in full view of supervisor Joe Wheeler, Mr. Jackson picked up a wrench (approximately 2" in diameter and 2' long, weighing approximately 5lbs), brandished it at Relator while standing in close proximity to Relator, and said, "I'm going to kill this motherfucker right here." In response, Mr. Wheeler conducted a cursory investigation that demonstrated Mr. Jackson was the aggressor and acted without provocation, and directed Relator

and Mr. Jackson to stay away from each other. The next day, Relator submitted to Mr. Wheeler and the facility manager a formal written complaint detailing the incident and the threat. After reviewing the written complaint, Mr. Wheeler and the manager told Relator that if he insisted on submitting the complaint, then they would suspend Relator for a week without pay, in addition to doing the same to the aggressor, Mr. Jackson. In response to Mr. Jackson's brandishing of a deadly weapon in connection with assaulting Relator, Defendants neither disciplined, restrained, trained, punished, nor terminated Mr. Jackson. Starting in December 2022, Mr. Jackson began to make regular threats of physical violence, including death threats, against Relator, which culminated on April 6, 2023, when—without provocation—Mr. Jackson followed Relator out of the facility and into the parking lot, where he first attempted and failed to sucker punch Relator, and then on the second attempt punched Relator in the temple, thereby causing Relator to suffer numerous symptoms of concussion. Mr. Wheeler came outside shortly after this punch, and despite learning of the assault and battery, permitted Mr. Jackson to return to the workplace. In response to this incident, Defendants placed Relator, but not Mr. Jackson, on unpaid leave, and ordered Relator, but not Mr. Jackson, to undergo a drug test. Mr. Jackson was permitted to continue working without interruption. Only once Relator's drug test came back negative for the suspected intoxicants was Relator permitted to return to work, and only then was Mr. Jackson suspended without leave for a period of three days (compared with the 5-day suspension his victim, Relator, received). Relator was never paid for the time he spent on leave in response to the unprovoked act of intentional workplace violence committed against him by a co-employee on Defendants' premises. In response to Mr. Jackson's brandishing of a deadly weapon in connection with assaulting Relator, Defendants otherwise did not discipline, restrain, train, punish, or terminate Mr. Jackson.

On information and belief, Defendants failed to record that workplace assault and battery on their CalOSHA 200 Log, failed to prepare a supplemental record for that recordable case, failed to report that occupational injury to Defendants' workers' compensation insurer or with the DLSR. Despite having notice that Mr. Jackson had a propensity for workplace violence and exhibited belligerent, intimidating, or threatening behavior in the workplace, Defendants failed to establish and implement procedures to respond to incidents of workplace violence, and failed to provide training to employees, supervisors, and managers on how to prevent associated industrial injuries. Defendants also failed to engage in the monitoring of Mr. Jackson, or otherwise appropriately respond to his past incidents of belligerent, intimidating, or threatening behavior. Finally, Defendants failed to seek a temporary restraining order or injunction on behalf of Relator to protect him from further threats or acts of violence by Mr. Jackson, whether in response to his prior credible death threats and assault with the wrench, or in response to his subsequent assault and battery in the parking lot.

Defendants have also retaliated against Aggrieved Employees in violation of California Labor Code sections 1102.5, 6310, and 6311. In response to Relators repeated complaints of credible threats of workplace violence, and actual workplace violence, by Mr. Jackson, Defendants constructively discharged Relator by refusing to accept his written complaint regarding the first assault, by punishing Relator by placing him on unpaid leave for a week after the second assault, by retaining Mr. Jackson, by permitting Mr. Jackson to remain in Relator's workplace, by refusing Relator's reasonable requests to be assigned to a different work location, and by generally taking no actions whatsoever to remedy Relators' complaints or otherwise provide Relator with a safe working environment free from the threat of workplace violence. Defendants' thereby intentionally or knowingly created or permitted Relator's working conditions to become so intolerable that a reasonable person in Relator's position would have

had no reasonable alternative except to resign, and Relator did so resign because of those working conditions, which were a substantial factor in causing Relator harm.

2. Applicable Penalties, Including Underpaid Wages and Waiting-Time-Penalties as Penalties

2.1. Failure to Reimburse Necessary Business Expenses

For each pay period in which an employee is not reimbursed for a necessary business expense, Defendants violated Labor Code section 2802 and the Wage Order.

Violations of section 2802 are subject to subject to penalties under Labor Code section 2699 in the amount of \$100 per violation.

As previously noted, total penalties of \$850 are available per violation of the Wage Order.

In total, penalties of \$950 are available for each pay period in which an employee is not reimbursed for necessary business expenses. In addition, Relator shall seek to recover subsequent violation penalties for each violation occurring after the date Defendants received this Notice, and thereby received notice that its conduct was violating state law.

2.2. Receipt of Wages Previously Paid, and Secret Payment of Lower Wage, Labor Code §225.5

For each pay period in which an employee's purchase of necessary business expenses goes unreimbursed, that employee is effectively forced to pay to Defendant a portion of wages previously paid, and Defendants have violated Labor Code section 221. Defendants' payment of a lower, secret wage than was agreed or is statutorily required is a violation of Labor Code section 223.

For each violation of section 221, and for each violation of 223, Defendant is subject to penalties under section 225.5 of \$100 per violation. Because section 225.5's penalties are supplemental, each violation of section 221, and each violation of section 223 is also subject to penalties under section 2699 in the amount of \$100 per violation.

In total, penalties of \$400 are available for each pay period in which an employee made an unreimbursed purchase of a necessary business expense in violation of sections 221 and 223.

2.3. Failure to Pay Minimum, Overtime, and Contractual Wages

For each pay period in which an employee is not paid the required minimum or overtime wage for all hours worked (including pay periods in which necessary business expenses go unreimbursed, causing an unlawful deduction from wages), Defendants have violated Labor Code sections 1197 (minimum and overtime wages), 510 (overtime wages), 204/204b (regular payment of all wages due), 226 (accurate wage statements), and the Wage Order (minimum and overtime wages).

Violations of section 1197 are subject to penalties under Labor Code section 1197.1 of \$100 per violation. Section 1197.1's penalties are supplemental. *Id.* at subd. (i). Accordingly, violations of section 1197 are also subject to penalties under section 2699 in the amount of \$100 per violation. Thus, total penalties of \$200 are available per violation under section 1197.

Violations of section 510 are subject to penalties under Labor Code section 2699 in the amount of \$100 per violation.

Violations of sections 204 and 204b are subject to penalties under Labor Code section 2699 in the amount of \$100 per violation.

As previously noted, total penalties of \$350 are available per violation of section 226.

As previously noted, total penalties of \$850 are available per violation of the Wage Order.

In total, penalties of \$1,600 are available for each pay period in which an employee is not paid the required minimum, overtime, or contractual wage for all hours actually worked. In addition, Relator shall seek to recover subsequent violation penalties for each violation occurring after the date Defendants received this Notice, and thereby received notice that its conduct was violating state law.

2.4. Failure to Pay All Wages Due at Separation

For each employee who separated from Defendants' employment without receiving payment of all wages owing and due, including premium rest and meal period wages, Defendants have violated sections 201 and 202, which require the payment of all wages due at the time of separation.

Violation of sections 201 and 202 are subject to penalties under section 2699 in the amount of \$100 per violation. In addition, Relator shall seek to recover subsequent violation penalties for each violation occurring after the date Defendants received this Notice, and thereby received notice that its conduct was violating state law.

2.5. Whistleblower Retaliation.

For each Aggrieved Employee against whom Defendants retaliated for opposing violations of California law, or disclosing information that employee had reasonable cause to believe disclosed a violation of law, including disclosure of the factual predicates for the CalOSHA violations alleged herein, Defendants have violated Labor Code section 1102.5.

Violations of Labor Code section 1102.5 are subject to civil penalties of \$10,000 per violation. *See*, Lab. Code § 1102.5(f).

2.6. Failure to Comply with CalOSHA Statutory Requirements, Standards, Rules, Regulations, and Orders.

For each day in which Defendants failed to furnish Aggrieved Employees with employments and places of employments that are safe and healthful, for each failure to record a serious injury arising from workplace violence, for each failure to report a serious injury arising from workplace violence, for each to establish and implement procedures to respond to incidents of workplace violence, for each failure to provide training to employees, supervisors, and managers on how to prevent associated industrial injuries, and for each failure to engage in monitoring of Mr. Jackson or otherwise appropriately respond to his past incidents of belligerent, intimidating, or threatening behavior, Defendants violated:

1. Labor Code § 6400 (requiring employers to “furnish employment and a place of employment that is safe and healthful for the employees therein”);
2. Labor Code § 6402 (prohibiting employers from “requir[ing], or permit[ing] any employee to go or be in any employment or place of employment which is not safe and healthful”);
3. Labor Code § 6403 (requiring employers to provide safety devices and safeguards; requiring employers to do things “reasonably necessary to protect the life, safety, and health of employees”); and
4. Labor Code § 6407 (requiring employers and employees to “comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct”).

In addition, Defendants’ constructive discharge of Relator and other Aggrieved Employees for conduct protected by Labor Code sections 6311 and 6310 violated the above sections in addition to Labor Code sections 6311 and 6310.

For non-serious general violations of these statutory provisions, the Division of Occupational Safety and Health (CalOSHA) is authorized to recover \$13,277 per violation. *See*, Lab. Code § 6427; 8 C.C.R. §§ 334, 336.

However, Defendants’ violations of these provisions are “serious” within the meaning of Labor Code sections 6428 insofar as exposure to COVID-19, and/or to unstable equipment weighing 1500-2000 pounds, involves “a realistic possibility that death or serious physical harm could result from the hazard created by the violation.” *See*, Lab. Code § 6432. For serious violations of the above statutory provisions, CalOSHA is authorized to recover up to \$25,000 per violation. *See*, Lab. Code § 6428, 8 C.C.R. § 336.

On information and belief, Defendants’ violations are also willful and repeated within the meaning of Labor Code section 6429. For such willful and repeated violations, CalOSHA is authorized to recover up to \$134,334 per violation.

Because CalOSHA is a “department[], division[], commission[], board[], agenc[y], or employee[]” of the Labor and Workforce Development Agency, the Court in any superior court action resulting from this charge would be vested with the same discretion as CalOSHA to award such penalties against Defendants. *See*, Lab. Code § 2699(e)(1).

In total, penalties of \$134,334 are available for each CalOSHA violation committed by Defendants within the Claim Period.

Relator reserves the right to file an amended or supplemental notice as additional violations come to light.

Please contact me with any questions or concerns regarding the allegations contained in this notice.

Very truly yours,
AIMAN-SMITH & MARCY
A PROFESSIONAL CORPORATION

/s/ Brent A. Robinson

Brent A. Robinson
bar@asmlawyers.com