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Clerk of the Superior Court
By G. Rodriguez ,Deputy Clerk

Dorota James (State Bar No. 309933)
Nicolas Ahadzadeh (State Bar No. 365386)
Nicholas J. Ferraro (State Bar No. 306528)
Ferraro Vega Employment Lawyers, Inc.
3333 Camino del Rio South, Suite 300
San Diego, California 92108
(619) 693-7727 main / (619) 350-6855 fax
dorota@ferrarovega.com
npa@ferrarovega.com
nick@ferrarovega.com

Attorneys for Plaintiff Michael Leal

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

MICHAEL LEAL, on behalf of others similarly
situated and the State of California under the
Private Attorneys General Act,

Plaintiffs,

vs.

DE LA FUENTE CONSTRUCTION, INC. and
DOES 1 through 50, inclusive,

Defendants.

Case No. 26CU010550C

Judge: Hon. Michael D. Washington
Department: C-73

CLASS ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

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

Action Filed: February 25, 2026

1 Plaintiff MICHAEL LEAL, on behalf of all others similarly situated and the State of California
2 under the Private Attorneys General Act (“Plaintiff”) brings this FIRST AMENDED CLASS AND
3 REPRESENTATIVE ACTION COMPLAINT against Defendants DE LA FUENTE
4 CONSTRUCTION, INC. and DOES 1 through 50, inclusive (collectively “Defendants”), alleging as
5 follows:

6 **INTRODUCTION**

7 1. This is a class action brought under the California Code of Civil Procedure section 382
8 got Defendants’ violations of the California Labor and Business Professions Code.

9 2. Defendants failed to compensate Plaintiff and the class members for all minimum and
10 overtime hours suffered or permitted to work in violations of the applicable IWC Wage Order.

11 3. Plaintiff and the class members were not always given adequate opportunity to take
12 compliant meal and rest breaks, yet Defendants failed to pay Plaintiff and the class members for meal
13 or rest period premiums.

14 4. Defendants engaged in an unlawful policy and practice of editing Plaintiff’s and the
15 class members’ time records, resulting in the failure to record all hours worked and the subsequent
16 underpayment of wages.

17 5. Defendants’ employment policies, practices, and payroll administration systems
18 enabled and facilitated these violations on a company-wide basis with respect to the class members.

19 6. Defendants are further liable for derivative claims for wage statements, untimely
20 payment, and other associated violations.

21 7. Plaintiff seeks to recover the unpaid damages, plus associated penalties, interests,
22 attorney’s fees and costs.

23 **JURISDICTION & VENUE**

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

26 9. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
27 the Superior Court.
28

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

11. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conducted business and committed some of the alleged violations in this County.

PARTIES

A. Plaintiff Michael Leal

12. Plaintiff Leal is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about December 2024 to present. Plaintiff worked as a Heavy Equipment Operator.

13. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])). To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal. App. 5th 533 and *Rodriguez v. Packers Sanitation Services Ltd., LLC* (2025) 109 Cal.App.5th 69, the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

B. Defendants

14. Defendant De La Fuente Construction, Inc. is a California Corporation that maintains operations and conducts business throughout the State of California, including in this county.

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

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

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

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

CLASS ALLEGATIONS

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

a. All current and former non-exempt employees who worked for Defendants in California at any time from four years prior to the filing of this action through date of class certification.

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

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

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

1 24. First, Defendants often required Plaintiff and the class members to complete work off-
2 the-clock. Specifically, Defendants required Plaintiff and the class members to arrange the
3 surrounding area prior to operating the heavy equipment, including, but not limited to, setting up
4 cones, opening gates/trailers, and loading trucks before clocking in and clean up after clocking out.

5 25. Second, Defendants engaged in an unlawful policy and practice of editing Plaintiff's
6 and the class members' time records. For example, Plaintiff recalls days where he worked more than
7 eight (8) hours only for his timesheets to reflect an eight (8) hour maximum. Plaintiff is informed and
8 believes that the shortage of hours on his timesheets is a result of Defendant's time-editing practice.

9 26. On these occasions, Defendants failed to record all hours Plaintiff worked, resulting in
10 an underpayment of wages.

11 27. Defendants failed to pay Plaintiff and the class members overtime wages and the lawful
12 rate of pay for overtime hours worked, resulting in unpaid overtime wages. As discussed in the above
13 section, Defendants often required Plaintiff to complete work-related tasks off the clock and made
14 unauthorized edits to Plaintiff's time records to reduce his hours. When this time worked off-the-clock
15 resulted in more than 8 hours worked in a day or more than 40 hours worked in a week, Defendants
16 failed to pay all overtime wages earned.

17 28. Plaintiff and the class members experienced late, short, missed, and interrupted meal
18 periods. Specifically, Defendants failed to ensure or provide thirty-minute, uninterrupted meal periods
19 to Plaintiff and the class members. For example, Plaintiff worked as a Heavy Equipment Operator and
20 his duties included operating oversized equipment on various job sites. Each day, Plaintiff and the
21 class members filled between fifteen to twenty large trucks with about 100 tons of dirt. When one
22 truck was filled, Defendants required Plaintiff and the class members to move right onto the next truck.
23 Defendants compelled Plaintiff and the other class members to work without a meal period during
24 their shifts, as Defendants deemed it unacceptable for them to take breaks while trucks were awaiting
25 loading.

26 29. Further, Defendants did not provide adequate staffing for Plaintiff and the class
27 members to receive coverage during their meal periods and due to the high volume of work, they were
28 regularly not authorized or allowed to take a compliant meal period. Plaintiff recalls once working for

1 several weeks without taking a meal period. On these occasions, Defendants failed to pay Plaintiff and
2 the class members meal period premiums.

3 30. Plaintiff and the class members experienced non-compliant rest periods. Specifically,
4 Defendants failed to ensure or provide rest periods. As a result of Plaintiff and the class members'
5 consistent high volume of work and inadequate staffing job duties discussed in the above section,
6 Defendants expected Plaintiff and the class members to work through their shifts without any rest
7 periods. Defendants compelled Plaintiff and the other class members to work without a rest period
8 during their shifts, as Defendants deemed it unacceptable for them to take breaks while trucks were
9 awaiting loading. These policies resulted in Plaintiff and the class members missing several rest
10 periods throughout their employment. Each time Plaintiff and the class members experienced a non-
11 compliant rest period, they were owed a rest period premium. However, Defendants failed to pay all
12 rest period premiums owed.

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

20 32. Defendants failed to pay all wages and premiums owed to class members during their
21 employment as set forth in this notice, and also failed to timely pay those amounts to departing
22 employees upon separation of employment. Defendants did not pay waiting time penalties for the late
23 payments.

24 33. In or around August 2025, Plaintiff reported wage and hour violations to a San Diego
25 City Inspector at a job site, including, but not limited to, unpaid overtime, failure to pay all wages
26 owed, and meal/rest period violations.

27 34. Upon information and belief, the City Inspector filed a formal report with the
28 appropriate governmental agency, and submitted a report to Defendants.

1 35. Shortly after his complaint to the Inspector, Defendants contacted Plaintiff to confront
2 him about his claims and attempted to force Plaintiff to sign away his rights for unpaid wages.
3 Defendants calculated \$1,539.10 to be unpaid wages for “straight time & overtime hours worked”
4 between December 23, 2024, through September 8, 2025, which would be paid to Plaintiff on the
5 condition that he sign a waiver of rights in violation of Labor Code section 206.5. Plaintiff refused to
6 sign the above mentioned waiver and disputed the amount of unpaid wages owed.

7 36. Plaintiff complained of Defendants’ unlawful practice of failing to pay for all overtime
8 hours, time-editing, and other wage and hour concerns to Defendants’ Human Resources and
9 Executive Leadership in or around August and September 2025.

10 37. Shortly after Plaintiff complained to the City Inspector and to Defendants’ leadership,
11 Defendants began cutting Plaintiff’s hours significantly. Plaintiff would generally 32-40 hours per
12 week prior to his complaints of unlawful wage and hour violations. Between September 21, 2025, and
13 the present (over four months), Plaintiff was only assigned approximately 69.58 hours of work in total.

14 38. Upon information and belief, employees of Defendants are terrified of filing complaints
15 for wage violations against Defendants because of their retaliatory practices. Indeed, numerous
16 coworkers warned Plaintiff not to bring the complaints against Defendant and told him “I told you so,”
17 or words to that effect, after Defendants began its wrongful constructive termination of Plaintiff.

18 39. As a further result of Defendants’ wrongful conduct, Plaintiff and his family were
19 severely deprived of their financial security throughout the entire winter season, including the holidays
20 therein, as Plaintiff was their sole source of income.

21 40. Plaintiff and other class members cannot promptly and easily determine from the wage
22 statement alone the wages paid or earned without reference to other documents or information. Indeed,
23 these wage statement violations are significant because they sow confusion among Plaintiff and other
24 class members with respect to what amounts were owed and paid, at what rates, the number of hours
25 worked, and how those amounts were or should be calculated. The wage statements reflect a false
26 statement of earnings and concealed the underlying problems and underpayments of employee wages.

27 41. Defendants required Plaintiff and the class members to incur costs for work-related
28 purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the class

1 members unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of
2 policy and practice. Specifically, Defendant required Plaintiff and the class members to use their own
3 tools for their job duties. Plaintiff and the class members' duties included operating heavy machinery
4 including Caterpillar Trucks. These machines required specific keys which Plaintiff and the class
5 members purchased on their own. Defendants failed to compensate Plaintiff and the class members
6 for these additional purchases made in direct consequence of their job duties.

7 42. Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to
8 maintain accurate employee payroll records with respect to Plaintiff and other class members.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY ALL WAGES OWED**

11 **Violation of Labor Code §§ 200, 218, 1194, 1194.2 and 1197**

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

13 43. All outside paragraphs of this Complaint are incorporated into this section.

14 44. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
15 §§ 200, 218, 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours
16 and Days of Work" and "Minimum Wages" sections of the applicable orders), which require non-
17 exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of
18 work, and further provide a private right of action for an employer's failure to pay all minimum wages
19 (plus liquidated damages). In addition to minimum wages, Labor Code § 200 states that "'wages'
20 includes all amounts for labor performed by employees of every description, whether the amount is
21 fixed or ascertained by the standard of time, task, piece, commission basis, or other method of
22 calculation."

23 45. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class
24 members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
25 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the "Hours and Days of
26 Work" and "Minimum Wages" sections of the applicable orders), including payment at the lawful
27 local and county minimum wage ordinances in effect. As a result, Defendants are liable for all
28

1 associated damages, including liquidated damages for the minimum wage violations pursuant to Labor
2 Code § 1194.2.

3 46. Defendants' unlawful acts and omissions deprived Plaintiff and class members of
4 minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and class
5 members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an
6 amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys'
7 fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2,
8 218.6 and any other applicable statutes.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PAY ALL OVERTIME WAGES**

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

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

13 48. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§
14 204, 510, 558, 1194, and 1198, which require non-exempt employees be timely paid overtime wages
15 all overtime hours worked, and which further provide a private right of action for an employer's failure
16 to pay all overtime compensation for overtime hours worked.

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

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

1 **THIRD CAUSE OF ACTION**

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

3 **Violation of Labor Code §§ 246 through 248.7**

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

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

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

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

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

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

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

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

22 49. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick
23 leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19
24 Supplemental Sick Leave wages to the Paid Sick Leave Class at the correct rate in violation of Labor
25 Code sections 246, 248.1, 248.2, and 248 *et seq.*

26 50. Pursuant to Labor Code section 248.1, Defendants were required to provide up to 80
27 hours of Covid-19 Supplemental Paid Sick Leave to employees for the period of April 20, 2020 to
28 December 31, 2020. Labor Code section 248.2 required Defendants to provide up to 80 hours of

Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2021 through at least September 30, 2021. Labor Code section 248.6 extended Covid sick leave protections and requires employers to provide up to 80 hours of Covid-19 Supplemental Paid Sick Leave for the period of January 1, 2022 to September 30, 2022, and may be extended thereafter.

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

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

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

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

(III) The state minimum wage.

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

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

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

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

FOURTH CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

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

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

58. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiff and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

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

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

FIFTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 516

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

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

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

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

SIXTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

Violation of Labor Code §§ 204, 210, 218

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

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

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

68. Plaintiff and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each employee and \$200 for all subsequent violations and for all willful or intentional violations for

each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

SEVENTH CAUSE OF ACTION

RETALIATION

Violation of Labor Code §§ 98.6 and 1102.5

(Alleged by Plaintiff Individually)

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

70. At all times herein mentioned, Labor Code §§ 98.6 and 1102.5 were in full force and effect and were binding upon Defendants. Said sections prohibit employers from discriminating and retaliating against employees who make complaints regarding unlawful workplace practices.

71. Plaintiff made complaints regarding wage and hour violations and workplace safety concerns to Defendants and/or to a government agency.

72. During Plaintiff's employment, Defendants, through their supervisors, human resources personnel, and agents, engaged in a course or pattern of conduct that, takes as a whole, materially and adversely affected the terms, conditions, or privileges of Plaintiff's employment.

73. As a direct or proximate result of the aforesaid conduct by the aforementioned Defendants, Plaintiff has suffered in that he was wrongfully and/or tortiously deprived of past and future wages, bonuses, benefits, and/or other compensation to which he was and remains entitled to, and suffered great mental anguish, including fear for his financial security, stress, humiliation, sleeplessness, marital discord, and other emotional distress, all to his general and special damages in an amount according to proof at trial.

74. As a result of Defendant's wrongful conduct, Plaintiff is entitled to all damages and penalties allowed by law in amounts to be determined at trial according to proof. Plaintiff also seeks all interest, attorney's fees, and costs allowed by law, including but not limited to, common law and Labor Code §§ 98.6 and 1102.5.

1 **EIGHTH CAUSE OF ACTION**

2 **WAGE STATEMENT VIOLATIONS**

3 **Violation of Labor Code § 226**

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

5 76. This cause of action is brought by a wage statement subclass pursuant to Labor Code
6 § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each
7 pay period, and which further provide a private right of action for an employer's failure to comply
8 with this obligation.

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

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

16 79. As a result, Plaintiff and class members are entitled to recover the statutory penalty of
17 \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for
18 each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in
19 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
20 Code section 226(e).

21 **NINTH CAUSE OF ACTION**

22 **WAITING TIME PENALTIES**

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

24 80. All outside paragraphs of this Complaint are incorporated into this section.

25 81. This cause of action is brought by a waiting time subclass pursuant to Labor Code
26 §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of
27 employment, and which further provide a private right of action to recover statutory waiting time
28

penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days wages.

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

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

TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

Violation of Labor Code § 2802

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

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

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

ELEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

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

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

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

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

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

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

92. Plaintiff and class members are entitled to injunctive relief against Defendants, restitution, and other equitable relief to return all funds over which Plaintiff and class members have an ownership interest and to prevent future damage and the public interest under Business and Professions Code § 17200 *et seq.* Plaintiff and class members are further entitled to recover interest, attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

TWELFTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

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

(By Plaintiff on Behalf of the State and the Class members Against All Defendants)

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

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

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

4 95. Plaintiff reserves the right to amend, supplement, or add to this description of the class
5 members, according to proof.

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

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

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

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

22 100. On or about **January 30, 2026**, Plaintiff paid the requisite PAGA filing fee and
23 provided written notice (by online electronic filing with the LWDA and by certified mail to
24 Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support
25 the alleged violations.

26 101. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor
27 Code Violations” is attached hereto as Exhibit 1 (the “PAGA notice”).

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

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

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

10 105. As set forth in the PAGA notice attached as Exhibit 1, Defendants committed the
11 following violations and are liable for all corresponding civil penalties:

- 12 a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197,
13 1198; IWC Wage Orders;
- 14 b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders;
- 15 c. ***Unpaid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7;
- 16 d. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198;
17 IWC Wage Orders;
- 18 e. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198;
19 IWC Wage Orders;
- 20 f. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204,
21 204b, 210;
- 22 g. ***Untimely Payment of Wages Upon Separation of Employment.*** Violation of Labor
23 Code §§ 201, 202, 203, 256;
- 24 h. ***Retaliation.*** Violation of Labor Code § 1102.5
- 25 i. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3;
- 26 j. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804;
- 27 k. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage
28 Orders.

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

PRAAYER

Plaintiff prays for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the class representative;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
- d. For division of class members into appropriate classes and/or subclasses according to proof;
- e. For recovery of all statutory penalties and liquidated damages;
- f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;
- g. For restitution and injunctive relief;
- h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2802, 98.6, 1102.5 and Code of Civil Procedure § 1021.5.
- i. For recovery of damages in amount according to proof;
- j. For all recoverable pre- and post-judgment interest;
- k. For this action to be maintained as a representative action under the PAGA;
- l. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- m. For recovery of all civil penalties and other recoverable amounts under the PAGA;

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- 1 n. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
2 permitted by law, associated with the PAGA claims pursuant to Labor Code § 2699,
3 and Code of Civil Procedure section 1021.5 and any other applicable sections; and
4 o. For such other relief the Court deems just and proper.

5
6 Dated: April 24, 2026

Ferraro Vega Employment Lawyers, Inc.

7
8 

9 _____
Nicolas Ahadzadeh
Attorney for Plaintiff Michael Leal

EXHIBIT 1

Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

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

ATTORNEYS AT LAW
3333 Camino del Rio South, Suite 300
San Diego, California 92108

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

January 30, 2026

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

VIA CERTIFIED U.S. MAIL

- *Electronic Return Receipt* -

De La Fuente Construction, Inc.
3025 Beyer Blvd, Suite 101
San Diego, CA 92154

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

Dear LWDA Officer and Company Representatives:

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

DE LA FUENTE CONSTRUCTION, INC.

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

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

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith

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

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Heavy Equipment Operator from about December 2024 to present. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

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

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

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

- PAGA CLAIMS -

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

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

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

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

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

First, Defendants often required Plaintiff and the aggrieved employees to complete work off-the-clock. Specifically, Defendants required Plaintiff and the aggrieved employees to set up cones, open gates/trailers, and load trucks before clocking in and clean up after clocking out.

Second, Defendants engaged in an unlawful policy and practice of editing Plaintiff’s and the aggrieved employees’ time records. For example, Plaintiff recalls days where he worked more than 8 hours only for his timesheets to reflect an 8 hour maximum. Plaintiff is informed and believes that the shortage of hours on his timesheets is a result of Defendant’s time-editing practice.

On these occasions, Defendants failed to record all hours Plaintiff worked, resulting in an underpayment of wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than

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

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages. As discussed in the above section, Defendants often required Plaintiff to complete work-related tasks off the clock and made unauthorized edits to Plaintiff’s time records to reduce his hours. When this time worked off-the-clock resulted in more than 8 hours worked in a day or more than 40 hours worked in a week, Defendants failed to pay all overtime wages earned.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 40 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other

forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

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

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. As discussed in the above sections, Defendants often required Plaintiff and the aggrieved employees to work off-the-clock and made unauthorized edits to their time records. Due to these unlawful policies, Plaintiff and the aggrieved employees did not earn all sick pay hours that were actually accrued, resulting in unpaid sick leave.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee’s “regular rate” of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 862 (“We hold that the terms are synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a), encompasses all nondiscretionary payments, not just hourly wages”). “[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage.” *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 61. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee’s regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is “exceedingly narrow” and applies

only when (1) “the nature of the work prevents the employee from being relieved of all duty” and (2) *both* “the employer and employee have agreed, in writing, to the on-duty meal period.” *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal.5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal.5th 444, 459.

Plaintiff and the aggrieved employees experienced late, short, missed, and interrupted meal periods. Specifically, Defendants failed to ensure or provide thirty-minute, uninterrupted meal periods to Plaintiff and the aggrieved employees. For example, Plaintiff worked as a Heavy Equipment Operator and his duties included operating oversized equipment on various job sites. Each day, Plaintiff and the aggrieved employees filled between fifteen to twenty large trucks with about 100 tons of dirt. When one truck was filled, Defendants required Plaintiff and the aggrieved employees to move right onto the next truck. Defendants compelled Plaintiff and the other aggrieved employees to work without a meal period during their shifts, as Defendants deemed it unacceptable for them to take breaks while trucks were awaiting loading.

Further, Defendants did not provide adequate staffing for Plaintiff and the aggrieved employees to receive coverage during their meal periods and due to the high volume of work, they were regularly not authorized or allowed to take a compliant meal period. Plaintiff recalls once working for several weeks without taking a meal period. On these occasions, Defendants failed to pay Plaintiff and the aggrieved employees meal period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

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

Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Plaintiff and the aggrieved employees experienced non-compliant rest periods. Specifically, Defendants failed to ensure or provide rest periods. As a result of Plaintiff and the aggrieved employees' consistent high volume of work and inadequate staffing job duties discussed in the above section, Defendants expected Plaintiff and the aggrieved employees to work through their shifts without any rest periods. Defendants compelled Plaintiff and the other aggrieved employees to work without a rest period during their shifts, as Defendants deemed it unacceptable for them to take breaks while trucks were awaiting loading. These policies resulted in Plaintiff and the aggrieved employees missing several rest periods throughout their employment. Each time Plaintiff and the aggrieved employees experienced a non-compliant rest period, they were owed a rest period premium. However, Defendants failed to pay all rest period premiums owed.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

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

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

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

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

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

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Retaliation
Violation of Labor Code § 1102.5

Defendants violated Labor Code section 1102.5 by retaliating against Plaintiff and potentially others due to their protected complaints of Labor Code violations listed above.

Plaintiff raised the company's practice of failure to pay for all overtime hours, time-editing practices, and other wage and hour concerns to a San Diego Compliance representative in August 2025. Plaintiff also raised these concerns to Defendants' agents, Hiram and Elisa in August 2025. Shortly thereafter, Defendants began cutting Plaintiff's hours significantly. As a result of the reduction in hours, Plaintiff was effectively forced out of the company and forced to seek new employment. Plaintiff believes and thereon alleges that he and other employees were forced out of the company for opposing Defendants' unlawful practices.

Defendants are liable for a \$10,000 penalty with respect to Plaintiff and for each aggrieved employee who Defendants similarly retaliated against.

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

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

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

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

Additionally, Defendants violated Labor Code section 226(a)(2) by failing to accurately list employees’ “total hours worked,” as the wage statements did not accurately include the uncompensated time for off-the-clock work and unauthorized edits to time records.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

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

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

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice. Specifically, Defendant required Plaintiff and the aggrieved employees to use their own tools for their job duties. Plaintiff and the aggrieved employees’ duties included operating heavy machinery including Caterpillar Trucks. These machines required specific keys which Plaintiff and the aggrieved employees purchased on their own. Defendants failed to compensate Plaintiff and the aggrieved employees for these additional purchases made in direct consequence of their job duties.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

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

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

Labor Code section 1174 requires that employers maintain accurate “payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or

establishments.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

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

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Attorneys’ Fees and Costs
Labor Code § 2699(k)(1)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(k)(1).

- LITIGATION HOLD NOTICE -

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

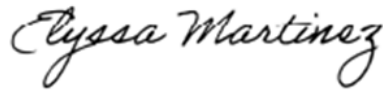
If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

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

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

Sincerely,



Elyssa Martinez

Cc Plaintiff Michael Leal
 Defense Counsel, Eric De Wames - edewames@sullivanattorneys.com
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