

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
KOUL LAW FIRM, APC
217 South Kenwood Street
Glendale, CA 91205
Telephone: (213) 325-3032
Facsimile: (818) 561-3938

Attorneys for Plaintiff,
MARIBEL RUBIO,
and all putative class members

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Superior Court of California,
County of Kern
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

MARIBEL RUBIO, an individual, on behalf of)
herself and all others similarly situated,)

Plaintiff,)

vs.)

BUILDING MAINTENANCE SERVICES,)
INC., a California corporation, ANNA)
FERNANDEZ, an individual, and DOES 1-50,)
inclusive,)

Defendants.)

Case No.: 26CUB00377

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- 1. Failure to Pay For All Hours Worked,
Including Overtime Hours Worked**
- 2. Failure to Pay All Wages Owed Twice
Per Month**
- 3. Failure to Pay Wages in the Form
Required by Labor Code Section 212**
- 4. Failure to Pay Minimum Wage**
- 5. Failure to Pay Wages Upon
Termination**
- 6. Failure to Provide Compliant Meal
Breaks**
- 7. Failure to Provide Rest Breaks**
- 8. Failure to Reimburse for Required
Business Expenses**
- 9. Failure to Provide Accurate Itemized
Wage Statements & Violation of
Record Keeping Requirements**
- 10. Unlawful Business Practices
Bus & Prof. Code §17200**
- 11. Private Attorneys General Act
Penalties (Lab. Code §2699)**

***FILED AS A MATTER OF RIGHT
PURSUANT TO LABOR CODE
2699.3(a)(2)(C)***

1 Plaintiff MARIBEL RUBIO, individually, and on behalf of all others similarly situated ,
2 all aggrieved employees, and as Private Attorney General for the State of California (collectively
3 “Plaintiff”), alleges as follows:

4 NATURE OF THE ACTION

5 1. This is an employment class and representative action on behalf of over 50 hourly, non-
6 exempt employees against their employer for violations of numerous wage and hour laws. Plaintiff
7 brings this employment class action complaint on behalf of himself, and all others similarly
8 situated, all aggrieved employees, and as a Private Attorney General for the State of California,
9 against BUILDING MAINTENANCE SERVICES, INC., ANNA FERNANDEZ, and DOES 1-
10 50, inclusive, (hereafter collectively “Defendant” or “Defendants”).

11 2. Defendants BUILDING MAINTENANCE SERVICES, INC. and ANNA
12 FERNANDEZ operate a building management company in Kern County, doing business in
13 California. Plaintiff worked for Defendant from June 9, 2021 to December 31, 2025 as a janitor.
14 Plaintiff and the proposed class earn at or near minimum wage.

15 3. As described further below, Defendant has violated the California Labor Code by (1)
16 failing to pay for all hours worked, including overtime hours worked (§200, 204, 206, 206.5, 207,
17 210, 216, 218, 218.6, 221, 223, 351, 510, 558, 1194, 1197, 1197.1, 1198, IWC Wage Orders); (2)
18 failing to pay all wages owed twice per month (§203.1, 204, 210); (3) failing to pay wages in the
19 form required by labor code section 212 (§§ 212, 213, 214, 215, 216, 558.1); (4) failing to pay
20 minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199); (5) failing to
21 pay all wages due upon termination (§201, 202, 203, 227.3, 256); (6) failing to permit compliant
22 meal breaks (§226 (a), 226.7, 512, 558, 1198, Wage Orders); (7) failing to provide rest breaks
23 (§226, 226.7, 512, 558, 1198, Wage Orders); (8) failing to reimburse for required business
24 expenses (§1198, 2802); (9) failing to provide accurate itemized wage statements and violating
25 record keeping requirements (§226, 1174); (10) unlawful and unfair business practices (Bus. &
26 Prof. Code §17200, *et. seq.*); and (11) penalties under the Private Attorneys General Act
27 (“PAGA”), Labor Code §2698 *et seq.*
28

4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”) §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and reasonable attorneys’ fees and costs. Pursuant to the class and representative action procedures provided for under California law, Plaintiff, on behalf of himself and proposed Class Members (also referred to as “Class”), also seeks injunctive relief and restitution of all benefits Defendant has received from their unlawful actions as alleged herein. Plaintiff has also provided notice of these claims pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”) and now brings this First Amended Complaint, including claims for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.* Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*

5. The “Class Period” is designated as the four-year period prior to the filing of this Complaint through the date of the final disposition of this action.

6. The “PAGA Period” is defined herein commences one year prior to the date of filing the PAGA Notice letter with the LWDA.

7. Defendant has treated all persons employed in California in such a way as to violate California's laws governing conditions of employment and payment of wages owed. Defendant has violated numerous Labor Code provisions, as set forth herein. Class Members and aggrieved employees are owed their back pay, plus interest and/or premiums and penalties under Business and Professions Code section 17203 to compensate Class Members and aggrieved employees for the delay in receiving wages due.

8. Defendant, by and through their actions, has engaged in unfair competition, requiring restitution to persons affected and disgorgement of profits so obtained.

THE PARTIES

9. Plaintiff MARIBEL RUBIO is an individual who resides in California and Plaintiff worked for Defendant from June 9, 2021 to December 31, 2025 as a janitor.

10. Defendant BUILDING MAINTENANCE SERVICES, INC. is a California corporation doing business in California with the capacity to sue and to be sued and doing business.

1 in Kern County, State of California. Defendant exercised control over the wages, hours, and/or
2 working conditions of Plaintiff and members of the proposed class throughout the liability period.

3 11. Defendant ANNA FERNANDEZ is an individual doing business in California with the
4 capacity to sue and to be sued and doing business, in Kern County, State of California. Defendant
5 exercised control over the wages, hours, and/or working conditions of Plaintiff and members of
6 the proposed class and aggrieved employees throughout the liability period.

7 12. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true
8 names and capacities are unknown to Plaintiff. When their true names and capacities are
9 ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein.
10 Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant
11 is responsible in some manner for the occurrences herein alleged, and that the damages sustained
12 by Plaintiff and the Class Members and aggrieved employees herein alleged were proximately
13 caused by such Doe Defendants.

14 13. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
15 indirectly, or through agents or other persons, employed Plaintiff and other members of the Class,
16 and exercised control over their wages, hours, and working conditions. Plaintiff is informed and
17 believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the
18 agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects
19 pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

20 **JURISDICTION AND VENUE**

21 14. Venue is proper in this judicial district because Defendant conducts business in this
22 County and Defendant has legal obligations to Plaintiff and many of the Class Members and
23 aggrieved employees in this case that arose in this county.

24 15. The monetary damages, restitution, and statutory penalties sought by Plaintiff exceed
25 the minimal jurisdictional limits of the Superior Court and will be established according to proof
26 at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in
27 controversy, including claims for monetary damages, penalties, and attorney's fees, is more than
28 thirty-five thousand dollars (\$35,000) and less than five million dollars (\$5,000,000).

1 16. The California Superior Court has jurisdiction in this matter because Plaintiff is a
2 resident of California and Defendant is incorporated in and/or qualified to do business in California
3 and regularly conduct business in California. Further, there is no federal question at issue as the
4 claims herein are based solely on California law.

5 **CLASS AND REPRESENTATIVE ACTION ALLEGATIONS**

6 17. During the Class Period and PAGA Period, Defendant committed various violations of
7 the California Labor Code, the UCL and the applicable IWC Wage Order, as alleged below in more
8 detail. Defendant enforces multiple policies that violate state law which are intended to increase its
9 own profits to the detriment of its employees.

10 18. Defendant failed to properly pay for all hours worked, including overtime
11 compensation. Plaintiff and class members frequently worked off the clock and were routinely
12 subjected to periods wherein they were under the Defendant's control but not compensated for their
13 time. The clock in procedure takes 3-5 minutes and employees are unpaid for this time.

14 19. Defendant from time to time failed to pay all wages owed twice per month.

15 20. Defendant from time to time failed to pay wages in the form required by Labor Code
16 Section 212.

17 21. Defendant from time to time failed to pay minimum wage.

18 22. Defendant from time to time failed to pay all wages due upon termination.

19 23. Defendant from time to time failed to maintain a policy and practice that provides its
20 employees with compliant meal breaks as required by California law.

21 24. Defendant from time to time failed to maintain a policy and practice that provides its
22 employees with rest periods as required by California law.

23 25. Defendant from time to time failed to reimburse required business expenses.

24 26. Defendant from time to time failed to consistently provide timely, accurate, itemized
25 wage statements to employees, as well as maintain accurate records, in accordance with Labor
26 Code §§ 226 and 1174.

27 27. Based upon the above allegations, Defendant from time to time engaged in unfair
28 competition.

1 28. Plaintiff brings this action on behalf of himself, and all other persons similarly situated,
2 all aggrieved employees, and the State of California to recover from Defendant for failure to
3 comply with California wage and hour laws, and for claims under Business and Professions Code
4 § 17200.

5 29. This action has been brought and may properly be maintained as a class action
6 pursuant to the provisions of Code of Civil Procedure § 382 because the proposed class is
7 ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 50
8 employees who have been similarly injured by Defendant's unlawful employment policies and
9 practices.

10 30. The "PAGA Period" is defined herein commences one year prior to the date of filing
11 the PAGA Notice letter with the LWDA.

12 31. The PAGA Class, also referred to herein as "aggrieved employees": "All current and
13 former hourly, non-exempt employees of Defendant in California, at any time from one year prior
14 to the filing of the PAGA Notice letter with the LWDA until the resolution of this matter." Plaintiff
15 reserves the right to amend or modify the definition of aggrieved employees with respect to the
16 issues or in any other way.

17 32. The "Relevant Class Period" or proposed "Class Period" as defined herein commences
18 four years prior to the date of filing the Complaint in this action.

19 33. Plaintiff brings this action on his behalf and as a class action under Cal. Code of Civil
20 Procedure §382 on behalf of the following defined groups:

21 34. Proposed Class: "All persons who are employed or have been employed by Defendant
22 in the State of California as hourly, non-exempt workers during the period of the relevant statute
23 of limitations."

24 35. Proposed Sub-classes are defined below and/or a representative action under Business
25 & Professions Code §§17200 et seq. and Labor Code §2699:

26 A. All persons who are employed or have been employed by Defendant in the State
27 of California as hourly, non-exempt workers during the period of the relevant
28 statute of limitations, who worked one or more shift in excess of five (5) hours.

- 1 B. All persons who are employed or have been employed by Defendant in the State
2 of California as hourly, non-exempt workers during the period of the relevant
3 statute of limitations, who worked one or more shifts in excess of six (6) hours.
- 4 C. All persons who are employed or have been employed by Defendant in the State
5 of California as hourly, non-exempt workers during the period of the relevant
6 statute of limitations, who worked one or more shifts in excess of eight (8)
7 hours.
- 8 D. All persons who are employed or have been employed by Defendant in the State
9 of California as hourly, non-exempt workers during the period of the relevant
10 statute of limitations, who worked one or more shifts in excess of three and one-
11 half hours (3 ½), but less than or equal to six (6) hours.
- 12 E. All persons who are employed or have been employed by Defendant in the State
13 of California as hourly, non-exempt workers during the period of the relevant
14 statute of limitations, who worked one or more shifts in excess of six (6) hours,
15 but less than or equal to ten (10) hours.
- 16 F. All persons who are employed or have been employed by Defendant in the State
17 of California as hourly, non-exempt workers during the period of the relevant
18 statute of limitations, who were paid sick pay.
- 19 G. All persons who are employed or have been employed by Defendant in the State
20 of California as hourly, non-exempt workers during the period of the relevant
21 statute of limitations, who separated their employment from Defendant.
- 22 H. All persons who are employed or have been employed by Defendant in the State
23 of California as hourly, non-exempt workers during the period of the relevant
24 statute of limitations, who received pay for one or more pay periods.

25 36. This action is brought, and may properly be maintained, as a class action under CCP
26 §382 and/or representative action under Business & Professions Code §§17200 et seq. and Labor
27 Code §2699 because there is a well-defined community of interest in the litigation, and the
28 proposed Class, PAGA Class and Subclasses (collectively “Class”) are easily ascertainable.

1 37. Numerosity: The Proposed Class is so numerous that joinder of all members is
2 impractical. Plaintiff is informed and believes, and on that basis alleges, that during the relevant
3 time period, Defendant employed over 50 putative Class Members who are geographically
4 dispersed and who satisfy the definition of the proposed Class. As such, a class action is the only
5 available method for the fair and efficient adjudication of this controversy. Membership in the
6 Proposed Class can be easily ascertained by an examination and analysis of employee and payroll
7 records, among other records within Defendant's possession and control.

8 38. Typicality: Plaintiff's claims are typical of the claims of the Class Members. Plaintiff,
9 like others similarly situated, was subjected to Defendant's common, unlawful policies, practices,
10 and procedures described above. The Plaintiff's positions at the company was typical of those of
11 other Class Members. Plaintiff's claims are typical of the claims of each Class Member because
12 each have sustained damages arising out of and caused by Defendant's common course of conduct,
13 as alleged herein. As such, Plaintiff has the same interests in this matter as all members of the
14 Class.

15 39. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
16 the Class. Plaintiff has retained counsel competent and experienced in complex class actions and
17 California labor and employment litigation.

18 40. Commonality: Common questions of law and fact exist, including but not limited to
19 the following:

- 20 i. Whether Defendant violated wage and hour laws by failing to pay overtime
21 wages;
- 22 ii. Whether Defendant violated wage and hour laws by failing to pay all wages
23 owed twice per month;
- 24 iii. Whether Defendant violated wage and hour laws by failing to pay wages in
25 the form required by Labor Code Section 212;
- 26 iv. Whether Defendant violated wage and hour laws by failing to pay minimum
27 wage;
- 28

- 1 v. Whether Defendant violated wage and hour laws by failing to pay all wages
2 due upon termination;
- 3 vi. Whether Defendant violated wage and hour laws by failing to provide timely
4 meal breaks;
- 5 vii. Whether Defendant's policy and practice concerning meal breaks was
6 unlawful;
- 7 viii. Whether Defendant violated wage and hour laws by failing to provide rest
8 breaks;
- 9 ix. Whether Defendant's policy and practice concerning rest breaks was
10 unlawful;
- 11 x. Whether Defendant violated wage and hour laws by failing to reimburse
12 required business expenses;
- 13 xi. Whether Defendant unlawfully failed to keep and furnish Class Members
14 with accurate, itemized records of hours worked, in violation of Labor Code
15 §§ 226 and 1174;
- 16 xii. The proper measure of damages sustained and the proper measure of
17 restitution recoverable by Plaintiff, the Class Members, and Subclass
18 Members;
- 19 xiii. Whether the Class Members are entitled to injunctive relief to enjoin any
20 further violations of wage and labor laws;
- 21 xiv. Whether Defendant, and each of them, are/were participants in the alleged
22 unlawful and/or tortious conduct;
- 23 xv. Whether Defendant's conduct was willful and reckless;
- 24 xvi. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff
25 Class and the appropriate amount of reimbursement, restitution, damages, or
26 other compensation; and
- 27 xvii. What is the extent of liability of each Defendant, including DOE defendants,
28 to each Class and Subclass member?

1 44. Plaintiff incorporates by reference in this cause of action each allegation of the
2 preceding paragraphs as though fully set forth herein.

3 45. Defendant's conduct described in this complaint from time to time violates the
4 provisions of Labor Code §§ 200, 204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 351, 510,
5 558, 1194, 1197, 1197.1, 1198, IWC Wage Orders.

6 46. The Wage Orders define "hours worked" as "the time during which an employee is
7 subject to the control of an employer, and including all the time the employee is suffered or
8 permitted to work, whether or not required to do so." Defendant has been engaged in many
9 unlawful employment practices which resulted in underpayment for hours worked each pay period,
10 including overtime hours worked, as more fully set forth below. Defendant has also failed to pay
11 the required minimum wage for all hours worked, and has failed to pay all wages owed twice per
12 month.

13 47. Plaintiff and class members have been employed under conditions prohibited by the
14 wage order, and thus Defendant has also violated §§1198 and 1199.

15 48. Off-the-Clock Hours Worked. Plaintiff and class members frequently worked off the
16 clock and were routinely subjected to periods wherein they were under the Defendant's control
17 but not compensated for their time.

18 49. For example, employees were required to notify management of their arrival by calling
19 or texting as soon as they reached the premises, before they could access the sign-in sheet located
20 inside the building entrance. After sending the required call or text, employees were still required
21 to walk approximately five minutes from the exterior gate to the entrance, during which time they
22 remained under Defendant's control but were off-the-clock. Further, because only one key to the
23 building entrance was shared amongst employees, Plaintiff and her coworkers were often forced
24 to wait outside until the key-holding employee arrived. When that employee was late, others were
25 unable to enter the building or sign in, resulting in additional uncompensated off-the-clock time.

26 **SECOND CAUSE OF ACTION**

27 **FAILURE TO PAY ALL WAGES OWED TWICE PER MONTH**

28 Cal. Lab. Code §§203.1, 204, 210

(Plaintiff Against All Defendants)

50. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

51. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 204, 210.

52. Defendant was required to pay Plaintiff and class members all wages earned twice during each calendar month pursuant to Labor Code §204(a).

53. Defendant failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

54. Due to these failures, Defendant is liable under Labor Code §204 and 210 for failure to pay wages as required by law.

THIRD CAUSE OF ACTION

FAILURE TO PAY WAGES IN THE FORM REQUIRED BY

LABOR CODE SECTION 212-216

Cal. Lab. Code § 203.1, 212, 213, 214, 215, 216, 558.1

(Plaintiff Against All Defendants)

55. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

56. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 203.1, 212, 213, 558.1.

57. Cal labor code section 212 states:

(a) No person, or agent or officer thereof, shall issue in payment of wages due, or to become due, or as an advance on wages to be earned:

(1) Any order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is negotiable and

1 payable in cash, on demand, without discount, at some
2 established place of business in the state, the name and address
3 of which must appear on the instrument, and at the time of its
4 issuance and for a reasonable time thereafter, which must be at
5 least 30 days, the maker or drawer has sufficient funds in, or
6 credit, arrangement, or understanding with the drawee for its
7 payment.

8 58. Plaintiff and her coworkers were repeatedly issued non-negotiable paychecks.
9 Employees frequently receive their wages 3-5 days after they are due. When their paychecks are
10 issued, they are frequently non-negotiable due to insufficient funds. When employees attempted
11 to contact owner Anna Hernandez (Defendant) or supervisor Nelida regarding these non-
12 negotiable checks, they failed to respond in a timely manner. When they did respond, they
13 instructed employees to cash the checks the following day, at which point the checks often
14 remained non-negotiable. Defendant's reasoning for the delayed paychecks was that they would
15 not issue paychecks until time records were received from all employees.

16 59. Pursuant to Labor Code section 214, Plaintiff may prosecute a violation of Labor Code
17 section 212 at the place where the alleged illegal order, check, draft, note, memorandum was issued
18 or the place where it is made payable.

19 60. Pursuant to Labor Code section 215, "[a]ny person, or the agent, manager,
20 superintendent or officer thereof, who violates any provision of Section 201.3, 204, 204b, 205,
21 207, 208, 209, or 212 is guilty of a misdemeanor." **Section 216 imposes further liability in**
22 **addition to any other penalty imposed by this article, any person, or an agent, manager,**
23 **superintendent, or officer thereof.** Accordingly, defendants, including ANNA FERNANDEZ
24 individually and does 1-50, are liable for the violations alleged herein.

25 61. By failing to provide payment in checks or other negotiable instruments, Employers
26 have violated Labor Code sections 212 and 213.

1 62. Defendants' issuance of non-negotiable checks, checks drawn on insufficient funds,
2 and delayed wage payments constitutes an unlawful failure to pay wages in the form and manner
3 required by California law, including but not limited to Labor Code sections 212, 213, and 214.

4 63. Defendants knowingly and willfully issued wage payments without maintaining
5 sufficient funds or credit arrangements to ensure that the checks were negotiable and payable in
6 cash on demand, and required employees to repeatedly attempt to cash checks that were not
7 honored, in direct violation of Labor Code section 212.

8 64. Defendants' practice of withholding wages until time records were received from all
9 employees does not excuse or justify their failure to timely and properly pay wages earned, and
10 does not constitute a lawful basis for issuing non-negotiable or delayed wage payments.

11 65. Defendants' conduct was systematic, willful, and knowing, and affected Plaintiff and
12 other similarly situated employees during the applicable statutory period.

13 66. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff and her
14 coworkers suffered damages, including but not limited to unpaid wages, delayed wages, bank fees,
15 financial hardship, and loss of use of earned compensation.

16 67. Pursuant to Labor Code sections 215 and 216, Defendants are subject to civil and
17 criminal penalties for their violations of Labor Code section 212, and Plaintiff is entitled to recover
18 all statutory penalties available under the Labor Code.

19 68. Defendants, including ANNA FERNANDEZ, are further liable under Labor Code
20 section 558.1 as owners, officers, directors, or managing agents who caused, permitted, or failed
21 to prevent the violations alleged herein.

22 69. Plaintiff seeks all statutory penalties available under Labor Code sections 215, 216, and
23 558.1, together with interest and costs of suit, and seeks to hold Defendants, including ANNA
24 FERNANDEZ, individually liable for causing and permitting the violations alleged herein.

25 **FOURTH CAUSE OF ACTION**

26 **FAILURE TO PAY MINIMUM WAGE**

27 Cal. Lab. Code §§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199

28 **(Plaintiff Against All Defendants)**

1 70. Plaintiff incorporates by reference in this cause of action each allegation of the
2 preceding paragraphs as though fully set forth herein.

3 71. Defendant's conduct described in this complaint violates the provisions of Labor Code
4 §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199.

5 72. Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer
6 to suffer or permit a California employee to work without paying wages at the proper minimum
7 wage for all time worked as required by the applicable IWC Wage Order.

8 73. Defendant failed to pay Plaintiff and class members for all hours worked as a result of
9 Defendant's practices described above. Based on Defendant's unlawful conduct described herein,
10 and because Plaintiff and the class members were paid at or near minimum wage, employer's
11 failure to pay for all hours worked, including overtime, resulted in a payment of less than the
12 minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the
13 Wage Orders.

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16 **FIFTH CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES DUE UPON TERMINATION**

18 Cal. Lab. Code §§201, 202, 203, 203.1, 227.3, 256

19 (Plaintiff Against All Defendants)

20 74. Plaintiff incorporates by reference in this cause of action each allegation of the
21 preceding paragraphs as though fully set forth herein.

22 75. Defendant's conduct described in this complaint violates the provisions of Labor Code
23 §§ 201, 202, 203, 227.3, 256.

24 76. An employee who is discharged must be paid all of his or her wages, including accrued
25 vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set
26 forth above, Defendant knowingly and willfully failed to pay all compensation due and owing to
27 Plaintiff at the time employment terminated.

1 77. Defendant willfully failed to pay employees who are no longer employed by it all
2 compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.
3 Plaintiff and similarly situated individuals are now entitled to recover up to thirty (30) days pay as
4 waiting time under the terms of §203.

5 78. Defendants paid Plaintiff and other class members their final wages, and in some
6 instances regular wages, by checks that were dishonored due to insufficient funds or lack of a valid
7 account.

8 79. Pursuant to Labor Code section 203.1, when an employer issues a check for wages that
9 is refused for insufficient funds and is presented within thirty (30) days, the wages are deemed
10 unpaid, and waiting time penalties continue to accrue at the employee's regular rate of pay from
11 the due date until payment is made or an action therefor is commenced.

12 80. As a result of Defendants' issuance of non-negotiable and dishonored checks, Plaintiff
13 and other separated employees are entitled to waiting time penalties under Labor Code section
14 203, as extended by section 203.1.

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17 **SIXTH CAUSE OF ACTION**

18 **FAILURE TO PERMIT COMPLIANT MEAL BREAKS**

19 Cal. Labor Code §§ 226 (a), 226.7, 512, 558, 1198, Wage Order

20 **(Plaintiff Against All Defendants)**

21 81. Plaintiff incorporates by reference in this cause of action each allegation of the
22 preceding paragraphs as though fully set forth herein.

23 82. Defendant's conduct described in this complaint from time to time violates the
24 provisions of Labor Code §§ 226 (a), 226.7, 512, 558, 1198, Wage Order.

25 83. Labor Code §512 provides, "[a]n employer may not employ an employee for a work
26 period of more than five hours per day without providing the employee with a meal period of not
27 less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee
28 to work during any meal... period mandated by an applicable order of the Industrial Welfare

Commission.” Paragraph 11 of the Wage Order provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.”

84. Defendant failed to permit Plaintiff and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Defendant failed to pay all penalty pay to Plaintiff or class members for noncompliant meal periods. As a derivative claim, Plaintiff alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a).

85. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Defendant did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy; and/or (6) because Defendant unlawfully shaved and/or rounded clock in and clock out times for meal periods. Plaintiff and class members were not paid a premium payment, paid as an hour’s wage when meal periods were not given to them in compliance with California law.

SEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE REST BREAKS

Cal. Labor Code §§ 226, 226.7, 512, 558, 1198, Wage Orders

(Plaintiff Against All Defendants)

86. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

87. Defendant’s conduct described in this complaint from time to time violates the provisions of Labor Code §§ 226, 226.7, 512, 558, 1198, Wage Orders.

1 88. Defendant failed to maintain a compliant rest period policy and practice that provides
2 its employees with off-duty rest periods as required by California law.

3 89. Further, Defendant does not consistently provide suitable resting facilities or potable
4 drinking water.

5 90. Rest periods were either less than ten minutes, not provided, interrupted or late, “on
6 duty,” or not scheduled before and after a meal period for shifts greater than six hours, as
7 prescribed by California law because Defendant: (1) did not account for all hours worked that were
8 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
9 rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately
10 inform and train employees about when, where and how to take timely and uninterrupted ten-
11 minute rest breaks; (4) because Defendant did not staff enough people to schedule all timely and
12 uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting
13 all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest
14 break policy.

15 91. The rest period requirement obligates employers to permit and authorize employees to
16 take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish
17 control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5
18 Cal.5th 257, 269. Defendant must pay employees an additional hour of wages at the employee’s
19 regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted
20 rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC
21 Wage Order, §12(B) (“If an employer fails to provide an employee a rest period in accordance
22 with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of
23 pay at the employee’s regular rate of compensation for each work day that the rest period is not
24 provided”). Moreover, under California law rest periods must be a “net” ten minutes in a suitable
25 rest area. (*Id.* at 268) (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein
26 the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a
27 rest area and cannot include time it takes to get to and from the rest area). The employer must show
28 that it clearly articulates the right to a net ten minutes, which means it must clearly communicate

1 what “net” ten minutes means (i.e., regardless of what happens along the way to and from a rest
2 area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; *see also*, *Bufile v.*
3 *Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to
4 clearly communicate the authorization and permission [to take rest periods] to their employees.”).

5 92. Defendant did not authorize or permit all of its hourly employees to take at least a ten
6 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
7 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks
8 were missed Defendant failed to pay the 1-hour penalty, as required. Because Defendant violated
9 the Wage Order, Defendant is liable under Labor Code §1198.

10 **EIGHTH CAUSE OF ACTION**

11 **FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES**

12 Cal. Labor Code §§ 1198, 2802

13 (Plaintiff Against All Defendants)

14 93. Plaintiff incorporates by reference in this cause of action each allegation of the
15 preceding paragraphs as though fully set forth herein.

16 94. Defendant’s conduct described in this complaint from time to time violates the
17 provisions of Labor Code §§ 1198, 2802.

18 95. Labor Code §2802 requires employers to indemnify employees for necessary
19 expenditures or losses incurred by employees in direct consequence of the discharge of duties.

20 96. Plaintiff and class members are required to use their personal vehicles for work related
21 purposes. Employees are also required to use their personal cell phones for work related
22 communications, including to notify management when they arrive on the premises. However,
23 Defendant did not reimburse them for these work-related expenses as required by the Labor Code.

24 **NINTH CAUSE OF ACTION**

25 **PAYSTUB AND RECORD KEEPING VIOLATIONS**

26 Cal. Labor Code §§ 226, 1174

27 (Plaintiff Against All Defendants)

1 97. Plaintiff incorporates by reference in this cause of action each allegation of the
2 preceding paragraphs as though fully set forth herein.

3 98. Defendant's conduct described in this complaint from time to time violates the
4 provisions of Labor Code §§ 226, 1174.

5 99. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
6 wage statements to Plaintiff and the class members in accordance with Labor Code §§ 226 and
7 keep accurate records as required by §1174(d).

8 100. Wage statements contain incorrect math related to the stated earnings. For example,
9 the math on Plaintiff's wage statements dated 8/30/24 and 2/2/24 is incorrect. Moreover, the total
10 hours calculation includes sick pay, meal premiums, and holiday pay.

11 101. Derivative of the claims above, the statements provided to Plaintiff and class
12 members, and the records maintained by Defendant, have not accurately reflected actual gross
13 wages earned, including pay for all hours worked and the accurate rate of pay for all hours worked,
14 and overtime pay, sick pay at the correct rate, and pay for meal and rest period premium wages.

15 102. §226 (a) requires:

- 16 i. An employer, semimonthly or at the time of each payment of wages, shall
17 furnish to his or her employee, either as a detachable part of the check, draft, or
18 voucher paying the employee's wages, or separately if wages are paid by
19 personal check or cash, an accurate itemized statement in writing showing (1)
20 gross wages earned, (2) total hours worked by the employee, except as provided
21 in subdivision (j), (3) the number of piece-rate units earned and any applicable
22 piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
23 provided that all deductions made on written orders of the employee may be
24 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates
25 of the period for which the employee is paid, (7) the name of the employee and
26 only the last four digits of his or her social security number or an employee
27 identification number other than a social security number, (8) the name and
28 address of the legal entity that is the employer and, if the employer is a farm

labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

103. Such failures caused injury to Plaintiff and others, by, among other things, impeding them from knowing the total hours worked, and the amount of wages to which they are and were entitled. Defendant knowingly and intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours worked.

104. Finally, Defendant has violated Labor Code §432.5 for forcing Plaintiff and class members to sign employment related contracts and documents that contained unlawful terms of employment.

TENTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES IN VIOLATION OF

California Business and Professions Code section 17200, et seq.

(Plaintiff Against All Defendants)

105. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

106. Defendant from time to time knowingly committed, and upon information and belief continue to commit, ongoing unlawful business practices within the meaning of the UCL, including, but not limited to unlawful practices as described in the causes of action articulated above, and hereby incorporated herein.

107. Plaintiff lost money and property as a result of Defendant's unlawful business practices described above.

108. Pursuant to the UCL, Plaintiff and all Class Members are entitled to restitution of money or property acquired by Defendant by means of such unlawful business practices, in amounts not yet known, but to be ascertained at trial.

1 109. Pursuant to the UCL, Plaintiff and Class Members are entitled to injunctive relief
2 against Defendant's ongoing unlawful business practices. If an injunction does not issue enjoining
3 Defendant from engaging in the unlawful business practices described above, Plaintiff and the
4 general public will be irreparably injured.

5 110. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined
6 by this Court, will continue to engage in the unlawful business practices described above in
7 violation of the UCL, in derogation of the rights of Plaintiff and Class Members and of the general
8 public.

9 111. Plaintiff's success in this action will result in the enforcement of important rights
10 affecting the public interest by conferring a significant benefit upon the general public.

11 112. Defendant's numerous violations of local and California law, as well as the other
12 statutory and regulatory violations alleged herein, constitute unlawful business actions and
13 practices in violation of Business and Professions Code § 17200, et seq.

14 113. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff and the Class
15 Members are entitled to restitution of unpaid wages, including overtime, sick pay, and premium
16 wages, among other relief alleged herein, that were withheld and retained by Defendant during a
17 period that commences four years prior to the filing of this action. Plaintiff is further entitled to a
18 permanent injunction requiring Defendant to comply with all provisions of California labor law,
19 including properly paying the lawful rate of pay for all hours worked, properly paying sick pay,
20 providing rest periods to all workers as defined herein, timely paying due wages upon termination,
21 maintaining accurate wages statements and payroll records, in addition to an award of attorneys'
22 fees and costs pursuant to Code of Civil Procedure § 1021.5 and other applicable law, and costs.

23 **ELEVENTH CAUSE OF ACTION**

24 **STATUTORY PENALTIES PURSUANT TO PRIVATE ATTORNEYS GENERAL ACT,**

25 **LABOR CODE §2698 et seq. AGAINST ALL DEFENDANTS**

26 114. Plaintiff incorporates by reference in this cause of action each allegation of the preceding
27 paragraphs as though fully set forth herein.
28

1 115. Under Private Attorneys General Act of 2006, Labor Code §§2698-2699.5, an
2 aggrieved employee, on behalf of herself and other current or former employees, may recover
3 penalties under any provision of the Labor Code that provides for civil penalties. These penalties
4 are in addition to any other relief available under the Labor Code. Plaintiff is an aggrieved
5 employee under PAGA.

6 116. As set forth above, Defendants have committed numerous violations for which the
7 Labor Code provides for penalties, including violations of all applicable Labor Code provisions
8 set forth in the foregoing causes of action. Labor Code §2699.5 identifies the aforementioned
9 Labor Code provisions as statutes to which §2699.3's procedural requirements must be met before
10 a penalty may be assessed under §2699(f). Plaintiff has complied with the procedural requirements
11 specified in §2699.3 by providing written notice to the Defendants and the Labor & Workforce
12 Development Agency ("LWDA"). See Exhibit 1 attached hereto, which is a true and correct copy
13 of the Notice correspondence showing compliance with §2699.3. No notice of intent to investigate
14 the alleged violations was provided within the statutory period. Consequently, Plaintiff has
15 exhausted administrative remedies, and on behalf of themselves and all other aggrieved current
16 and former employees of Defendants. Plaintiff, therefore, now pursues this cause of action as
17 permitted by §2698, et seq.

18 117. Enforcement of statutory provisions enacted to protect workers and to ensure proper
19 and prompt payment of wages due to employees is a fundamental public interest in California.
20 Consequently, Plaintiff's success in this action will result in the enforcement of important rights
21 affecting the public interest and will confer a significant benefit upon the general public. Private
22 enforcement of the rights enumerated herein is necessary, as no public agency has pursued
23 enforcement. Plaintiff is incurring a financial burden in pursuing this action and it would be against
24 the interests of justice to require payment of attorneys' fees and costs from any recover that might
25 be obtained herein, pursuant to, inter alia, Labor Code §§2698, et seq., and Code of Civil Procedure
26 §1021.5
27
28

- 1 B. That the Court determine that this action may be maintained as a PAGA
2 representative action under Cal. Labor Code. §2698 *et seq.*
- 3 C. Provision of class notice to all members of the Class;
- 4 D. That Defendant is found to have violated the above-referenced provisions of the
5 Labor Code, CCR and the IWC Wage Order as to Plaintiff, Class Members
6 relevant subclass Members, and aggrieved employees;
- 7 E. For compensatory damages, in an amount according to proof at trial, with
8 interest thereon;
- 9 F. For compensation for not being paid overtime;
- 10 G. For compensation for not being paid all wages owed twice per month;
- 11 H. For statutory penalties available under Labor Code section 212 and related
12 provisions;
- 13 I. For compensation for not being paid minimum wage;
- 14 J. For compensation for not being paid all wages due upon termination;
- 15 K. For compensation for not being provided compliant meal breaks;
- 16 L. For compensation for not being provided rest breaks;
- 17 M. For compensation for not being reimbursed for required business expenses;
- 18 N. For compensation for not being paid premium and penalty wages;
- 19 O. For waiting time penalties under Labor Code section 203, as extended by
20 section 203.1, for wages paid by dishonored or non-negotiable checks;
- 21 P. That Defendant's actions are found to be willful and/or in bad faith to the extent
22 necessary under §§ 201, 202, 203, and 558 of the California Labor Code for
23 willful failure to pay all compensation owed at the time of separation to Plaintiff
24 Class Members, and aggrieved employees no longer employed by Defendant;
- 25 Q. That Plaintiff Class Members, and aggrieved employees receive penalties for
26 Defendant's violation of §226 and 1174 of the California Labor Code for willful
27 failure to provide and maintain the required accurate and itemized wage
28 statements;

- 1 R. That Plaintiff Class Members, and aggrieved employees receive an award in the
2 amount of unpaid wages owed, including interest thereon, and penalties as
3 provided in the Labor Code, CCR and Wage Order, including under Labor Code
4 §§ 203, 510, 558, and 2698 et seq., subject to proof at trial;
- 5 S. That Defendant be ordered to pay restitution to Plaintiff Class Members, and
6 aggrieved employees for amounts acquired through Defendant's unlawful
7 activities pursuant to Business and Professions Code §§ 17200-05 and enjoined
8 to cease and desist from unlawful and unfair activities in violation of California
9 Business and Professions Code § 17200 et. seq.;
- 10 T. That Plaintiff Class Members, and aggrieved employees receive an award of
11 reasonable attorneys' fees and costs pursuant to Code of Civil Procedure
12 §1021.5, Labor Code sections 218.5, 226, and 1194, and any other statutes that
13 expressly authorize recovery of attorneys' fees;
- 14 U. That the Court award penalties pursuant to Labor Code §2698 et seq.
- 15 V. That the Court issue declaratory relief that Defendant's challenged policies are
16 unlawful; and
- 17 W. That the Court order further relief, in law and equity, as it deems appropriate
18 and just.

19
20 DATED: April 6, 2026

21
22 **KOUL LAW FIRM, APC**

23 

24 BY: Nazo Koulloukian, Esq.
25 Attorneys for Plaintiff MARIBEL RUBIO
26 and putative class members
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EXHIBIT 1



Nazo@Koullaw.com

P (213) 325 - 3032

F (818) 561 - 3938

217 SOUTH KENWOOD ST.

GLENDALE, CA 91205

www.koullaw.com

January 21, 2026

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Building Maintenance Services, Inc.
4270 S. K Street
Tulare, CA 93274

Re: PAGA Notice Pursuant to California Labor Code §2698 *et seq.*

Claimant(s): Maribel Rubio

Employer(s): Building Maintenance Services, Inc., Anna Fernandez

Dear Sir or Madam:

Maribel Rubio ("Claimant") has retained Nazo Koulloukian, Esq. of Koul Law Firm, APC, to represent Claimant, and all other aggrieved employees, for conditions of employment and wage and hour claims against former employers, Building Maintenance Services, Inc. and Anna Fernandez (hereafter "Employer").

Employer operates a building management company. Claimant worked for Employer from June 9, 2021 to December 31, 2025 as a janitor primarily at Employer's Taft location. Claimant worked as an hourly, nonexempt employee earning approximately \$16.50 per hour at the time of separation.

Claimant alleges herein the specific provisions of California law that Employer has violated, requiring this Notice, including but not limited to: California Labor Code sections 201-203, 203.1, 204, 208, 216, 221-223, 226, 226.2, 226.7, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

During Claimant's employment, Claimant personally experienced the Labor Code violations described below. We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act on behalf of the Labor and Workforce and development Agency and the State of California in a representative

action. This letter will serve as notice of these allegations pursuant to Labor Code § 2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§200, 204, 206, 206.5, 207, 210, 216, 218, 218.6, 221, 223, 351, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, IWC Wage Orders)

The Wage Orders define “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked based on the employees regular rate of pay, as more fully set forth below. Employer has also failed to pay the required minimum wage for all hours worked, and has failed to pay all wages owed twice per month.

Claimant and aggrieved employees have been employed under conditions prohibited by the wage order, and thus Employer has also violated §§1198 and 1199. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2698 *et seq.*

Off-the-Clock Hours Worked

Claimant and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employer’s control but not compensated for their time.

For example, employees were required to notify management of their arrival by calling or texting as soon as they reached the premises, before they could access the sign-in sheet located inside the building entrance. After sending the required call or text, employees were still required to walk approximately five minutes from the exterior gate to the entrance, during which time they remained under Defendant’s control but were off-the-clock. Further, because only one key to the building entrance was shared amongst employees, Claimant and her coworkers were often forced to wait outside until the key-holding employee arrived. When that employee was late, others were unable to enter the building or sign in, resulting in additional uncompensated off-the-clock time.

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§203.1, 204, 210, and 2698 *et seq.*)

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a).

Employees frequently receive their wages 3-5 days after they are due. When their paychecks are issued, they are frequently non-negotiable due to insufficient funds. When employees attempted to contact owner Anna Hernandez or supervisor Nelida regarding these non-negotiable checks, they failed to respond in a timely manner. When they did respond, they instructed employees to cash the checks the following day, at which point the checks often

remained non-negotiable. Employer's reasoning for the delayed paychecks was that they would not issue paychecks until time records were received from all employees.

Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime and premium wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Due to these failures, Employer is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

Failure to Pay Wages in the Form Required by Labor Code Section 212
(Cal. Labor Code §§ 203.1, 212, 213, 558.1, 2698 *et seq.*)

Cal labor code section 212 states:

(a) No person, or agent or officer thereof, shall issue in payment of wages due, or to become due, or as an advance on wages to be earned:

(1) Any order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the maker or drawer has sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment.

Claimant and her coworkers were repeatedly issued non-negotiable paychecks. Employees frequently receive their wages 3-5 days after they are due. When their paychecks are issued, they are frequently non-negotiable due to insufficient funds. When employees attempted to contact owner Anna Hernandez or supervisor Nelida regarding these non-negotiable checks, they failed to respond in a timely manner. When they did respond, they instructed employees to cash the checks the following day, at which point the checks often remained non-negotiable. Employer's reasoning for the delayed paychecks was that they would not issue paychecks until time records were received from all employees. By failing to provide payment in checks or other negotiable instruments, Employers have violated Labor Code sections 212 and 213, and are further liable for civil penalties pursuant to §2698 *et. seq.*

Failure to Pay Wages in the Form Required by Labor Code Section 203
(Cal. Labor Code § 203.1, 2698 *et seq.*)

Cal labor code section 203.1 states:

If an employer pays an employee in the regular course of employment or in accordance with Section 201, 201.3, 201.5, 201.6, 201.7, 201.8, or 202 any wages or fringe benefits, or both, by check, draft or voucher, which check, draft or

voucher is subsequently refused payment because the employer or maker has no account with the bank, institution, or person on which the instrument is drawn, or has insufficient funds in the account upon which the instrument is drawn at the time of its presentation, so long as the same is presented within 30 days of receipt by the employee of the check, draft or voucher, those wages or fringe benefits, or both, shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced.

Claimant and her coworkers were repeatedly issued paychecks that were rejected by the bank due to Employer's insufficient funds. For example, on June 21, 2023, Employer issued non-negotiable check number 0003175. Wages were not paid until July 19, 2023. On December 15, 2023, Employer issued non-negotiable check number 003175.

Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 et seq.)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practices described above. Based on Employer's unlawful conduct described herein, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Orders. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2698 *et seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 227.3 and 2698 et seq.)

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated.

Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimant and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Permit Compliant Meal Periods

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 et seq., Wage Order)

Employer violated Labor Code sections 226.7 and 512 and the applicable IWC Wage Order by failing to provide Claimant and other aggrieved employees with timely, uninterrupted, off-duty meal periods of not less than 30 minutes for each work period exceeding five hours.

As the California Supreme Court held in *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, employers have an affirmative duty to keep accurate meal period records, and the absence of such records gives rise to a rebuttable presumption that compliant meal periods were not provided. Employer's failure to maintain these records both facilitated and concealed its meal period violations. When meal periods were noncompliant, Employer failed to pay the required one-hour premium at the employee's regular rate of pay. As a derivative violation, Employer issued inaccurate itemized wage statements that failed to reflect meal period premium pay, in violation of Labor Code section 226(a).

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 et seq., Wage Orders)

Employer failed to maintain a compliant rest period policy and practice that provided employees with off-duty, uninterrupted rest periods in a suitable rest area, as required by California law. Claimant reports that Employer did not provide a designated or suitable break room or rest area, and as a result, employees were unable to take lawful rest breaks. Instead, employees were required to remain at or near their workstations, remain on call, remain under Employer's control, or otherwise lacked any location where they could meaningfully rest. Consequently, rest periods were effectively "on duty," interrupted, shortened, delayed, or not provided at all.

Rest periods were noncompliant because they were less than ten minutes, not provided, interrupted, taken while remaining on duty, or not scheduled at appropriate times during shifts exceeding six hours. These violations occurred because Employer: (1) failed to provide a suitable rest area or break room where employees could be relieved of all duties; (2) failed to adequately inform and train employees regarding their right to off-duty, uninterrupted ten-minute rest breaks and premium pay for noncompliant breaks; (3) failed to inform employees when, where, and how to take lawful rest periods; (4) failed to staff sufficient personnel to permit lawful rest breaks; and/or (5) maintained and enforced policies and practices that discouraged, obstructed, or prevented employees from taking compliant rest breaks.

The rest period requirement obligates employers to authorize and permit employees to take off-duty rest periods, meaning the employer must relieve employees of all duties and relinquish control over how they spend their time. *Augustus v. ABM Security Services, Inc.* (2016) 5 Cal.5th 257, 269. Under California law, rest periods must be a "net" ten minutes in a suitable rest area. *Id.*

at 268 (relying on DLSE Opinion Letters dated Jan. 3, 1986 and Feb. 22, 2002, which clarify that rest periods must consist of ten minutes of actual rest time and cannot include the time it takes to walk to and from a rest area). Where no suitable rest area is provided, employees cannot take a lawful “net” ten-minute rest break. The burden is on the employer to clearly communicate and meaningfully authorize employees’ right to compliant rest periods. *Bufile v. Dollar Fin. Grp., Inc.* (2008) 162 Cal.App.4th 1193, 1199.

Employer failed to authorize and permit Claimant and other hourly, non-exempt employees to take a lawful, off-duty, uninterrupted ten-minute rest period for every four hours worked or major fraction thereof, as required by Labor Code section 226.7 and the applicable Wage Orders. When rest periods were not provided in a compliant manner, Employer failed to pay the required one-hour premium at the employee’s regular rate of pay. As a derivative violation, Employer issued inaccurate wage statements that failed to reflect rest period premium pay, in violation of Labor Code section 226(a).

Failure to Provide Suitable Resting Facilities/Breakroom

(Cal. Labor Code §§ 226.7, 1198, 2698 *et seq*)

Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

Employer’s locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. Employer could have provided employees with a resting facility within the facilities/locations with reasonable or no modification, but instead denied and continue to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, employees were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of Employer’s premises which are not designated or reserved for rest, such as their personal vehicles.

Employer did not provide employees with suitable resting facilities during their hours of work, particularly during meal and/or rest periods. Employer’s failure to provide suitable resting facilities to aggrieved employees violated and continues to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Failure to Reimburse for Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2698 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of the discharge of duties. Accordingly, Employers are liable for civil penalties under PAGA §2698 *et seq.*

Claimant and aggrieved employees are required to use their personal vehicles for work related purposes. Employees are also required to use their personal cell phones for work related communications, including to notify management when they arrive on the premises. However, Employer did not reimburse them for these work-related expenses as required by the Labor Code.

Failure to Provide Potable Drinking Water

(Cal. Labor Code §2441)

California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. 8 CCR §3395 requires the provision of “potable drinking water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.” 8 CCR § 3457(c) further requires the provision of potable drinking water and single-use cups.

Pursuant to §2441, “Any violation of this section is punishable for each offense by a fine of not less than fifty dollars (\$50), nor more than two hundred dollars (\$200), or by imprisonment for not more than 30 days, or by both the fine and imprisonment.” Pursuant to Cal. Labor Code §6712, “any employer who fails to provide the facilities required by the field sanitation standard shall be assessed a civil penalty...of not less than seven hundred fifty dollars (\$750) for each violation.”

Failure to Provide Accurate Itemized Wage Statements

(Cal. Labor Code §§ 226, 1174, 2698 *et seq.*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d).

Derivative of the claims above, the statements provided to Claimant and aggrieved employees, and the records maintained by Employer, have not accurately reflected actual gross wages earned, including pay for all hours worked and the accurate rate of pay for all hours worked, and overtime pay, sick pay at the correct rate, and pay for meal and rest period premium wages.

§226 (a) requires:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages,

or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Such failures called injury to Claimant and others, by, among other things, impeding them from knowing, the total hours worked, and the amount of wages to which they are and were entitled. Employer knowingly and intentionally failed to accurately itemize the gross wages earned, net wages earned, and total hours worked.

Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Finally, Employer has violated Labor Code §432.5 for forcing Claimant and aggrieved employees to sign employment-related contracts and documents that contained unlawful terms of employment, including invalid meal period waivers resulting from a noncompliant meal period policy and/or practice.

Conclusion

Employer has violated a number of California wage and hour laws and is therefore liable for civil penalties pursuant to Cal. Labor Code §2698 *et seq.* Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform Claimant if it does not intend to investigate these violations so that Claimant may pursue these claims as a representative action in civil court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', with a long horizontal flourish extending to the right.

Nazo Koulloukian, Esq.
Attorney for Claimant