

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Katie Winburn, Deputy Clerk

Attorneys for Plaintiff,
Shawn Canfield

Defendants.

1 Plaintiff Shawn Canfield (“Plaintiff”), by and through his attorneys, alleges the following
2 based upon information and belief, the investigation of counsel, and personal knowledge as to the
3 allegations pertaining to himself.

4 **INTRODUCTION**

5 1. On behalf of himself and other aggrieved employees, Plaintiff brings this
6 representative action under the California Private Attorneys General Act of 2004, as codified in Labor
7 Code §§ 2698, *et seq.* (“PAGA”) against Defendant Pacific Office Automation, Inc. (“Office
8 Automation”); and Does 1 through 25 inclusive (collectively “Defendants”) for civil penalties,
9 interest, costs of suit and attorneys’ fees, and all other appropriate relief, resulting from Defendants’
10 wage-and-hour violations and other unlawful conduct.

11 2. Defendants own and operate one of the largest office technology companies.
12 Defendants provide office management solutions which includes the service and repair of office
13 scanners, copiers, printers and fax machines. As part of this business, Defendants employ a fleet of
14 service technicians (“Technicians”) who drive to the various clients’ offices to service and repair
15 machines.

16 3. Defendants required Plaintiff and other aggrieved employees to work without pay for
17 hours or partial hours in several ways, including but not limited to:

- 18 i. Requiring Technicians to drive long distances to service locations without paying for
19 travel time;
- 20 ii. Requiring Technicians to transport tools and parts without paying travel time;
- 21 iii. Requiring Technicians to inventory, organize and order parts and supplies while off-
22 the-clock;
- 23 iv. Requiring Technicians to research solutions to clients’ problems while off-the-clock;
24 and
- 25 v. Requiring Technicians to clock-out for meal breaks and work through those breaks.

26 4. Further, Defendants regularly failed to provide Plaintiff and other aggrieved
27 employees with proper meal breaks, failed to authorize and permit legally compliant rest breaks, and
28 failed to provide meal and rest break premiums in lieu of such breaks.

5. Additionally, Defendants failed to provide paid sick leave and failed to provide aggrieved employees with sick leave accruals.

6. When other aggrieved employees' employment with Defendants ended, Defendants failed to pay them all wages due, and as such owe those aggrieved employees waiting time penalties.

7. Finally, Defendants failed to provide accurate wage statements and maintain adequate records and failed to pay all wages owed upon termination of employment.

8. Upon information and belief, the above practices are uniform at all locations in the State of California and are still ongoing.

9. Plaintiff brings this action on behalf of himself and all other non-exempt employees who are or were employed by Defendants in the State of California during the period of July 19, 2022 through the time of trial of this action and who have experienced one or more of the violations alleged herein (“aggrieved employees”).

JURISDICTION AND VENUE

10. This Court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, §10, because this case is a cause not given by statute to other trial courts. The penalties sought by Plaintiff total more than this Court's jurisdictional minimum.

11. Plaintiff is a citizen of California because his domicile is in California.

12. This Court has jurisdiction over Defendants because they conduct substantial business in California, employ numerous individuals in California, and have intentionally availed themselves of the laws and markets of California through the operation of their business in California.

13. Venue is proper in this Court because Defendants transact business in San Diego County, and Defendants are otherwise within this Court's jurisdiction for purposes of service of process. On information and belief, Defendants employ numerous individuals throughout San Diego County. Furthermore, Defendants committed wage-and-hour violations in this County.

14. Venue is properly seated for a Private Attorneys General Action in any county in which violations of the law took place, and therefore civil penalties derive from. *Crestwood Behavioral Health, Inc. v. Superior Court*, (2021) 60 Cal.App.5th 1069.

15. There is no federal question at issue here for removal under 28 U.S.C. §1331, as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Orders, and Code of Civil Procedure. Further, as a representative action under PAGA, the matter is not subject for removal under 28 U.S.C. §1332(a)-(d). Plaintiff does not seek individual damages, but rather civil penalties, and as such, does not seek damages on his own behalf in an amount greater than \$75,000, or damages for a class in an amount greater than \$5 million.

PARTIES

A. PLAINTIFF

16. Plaintiff is an individual over the age of eighteen years, and at all times relevant herein was and is, a resident of the County of Riverside in the State of California.

17. Plaintiff works for Defendants from his home in Temecula and Defendants' office in Los Angeles and also does service and repair jobs for Defendants in San Diego. Plaintiff was employed by Defendants from in or around December 27, 2021 and is still currently employed.

B. DEFENDANTS

18. Defendant Office Automation is an Oregon corporation.

19. Upon information and belief, Defendant Office Automation owns and operates one of the largest office technology companies in the country. Office Automation operates across the country including in California. Office Automation provides office management solutions which includes the service and repair of office scanners, copiers, printers and fax machines. As part of this business, Office Automation employs a fleet of service technicians (“Technicians”) who drive to the various clients’ offices to service and repair machines.

20. On information and belief, Defendants are doing business in the State of California, including but not limited to the County of San Diego.

21. Based on information and belief, Defendants had the authority to, directly or indirectly, or through an agent or other person, employ or exercise control over Plaintiff's and other aggrieved employees' wages, hours, and working conditions.

22. Based on information and belief, Defendants had knowledge of the wage-and-hour violations alleged herein and each defendant had the power to prevent the violations from occurring.

1 Having knowledge of the wage-and-hour violations set forth in this Complaint, Defendants could
2 have but failed to prevent the violations from occurring.

3 23. Plaintiff does not know the true names and capacities of defendants sued herein as
4 DOES 1 through 25, and therefore sues these defendants by such fictitious names. Plaintiff will amend
5 his Complaint to allege the true names and capacities when they are ascertained.

6 24. Plaintiff believes and thereon alleges that each “Doe” Defendant is responsible in some
7 manner for the occurrences herein alleged, and Plaintiff’s injuries and damages as herein alleged are
8 directly, proximately and/or legally caused by Defendants and their acts.

9 25. Plaintiff is informed and believes and thereon alleges that the aforementioned DOES
10 are somehow responsible for the acts alleged herein as the agents, employers, representatives or
11 employees of other named Defendants, and in doing the acts herein alleged were acting within the
12 scope of their agency, employment or representative capacity of said named Defendants.

13 26. The tortious acts and omissions alleged herein were performed by Defendants’
14 management level employees. Defendants allowed and/or condoned a continuing pattern of unlawful
15 practices in violation of the California Labor Code, and have caused, and will continue to cause,
16 Plaintiff’s economic damage in an amount to be proven at trial.

17 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

18 **Failure to Pay for all Hours Worked (Unpaid Minimum, Regular, and Overtime Wages):**

19 27. Defendants failed to pay Plaintiff and other aggrieved employees for all hours worked
20 by failing to pay for various categories of work, including but not limited to:

- 21 i. Requiring Technicians to drive long distances to service locations without paying for
22 travel time;
- 23 ii. Requiring Technicians to transport tools and parts without paying travel time;
- 24 iii. Requiring Technicians to inventory, organize and order parts and supplies while off-
25 the-clock;
- 26 iv. Requiring Technicians to research solutions to clients’ problems while off-the-clock;
27 and
- 28 v. Requiring Technicians to clock-out for meal breaks and work through those breaks.

1 28. Because Plaintiff and other aggrieved employees regularly worked 8 hours a day and
2 40 hours a week, the unpaid hours described above were overtime hours. Because Defendants failed
3 to pay wages for those hours, overtime wages are also owed.

4 **Meal Breaks:**

5 29. Defendants scheduled Plaintiff's and other aggrieved employees' appointments to
6 service and repair clients' office equipment in a manner that did not allow them to take meal breaks.

7 30. Defendants required Plaintiff and other aggrieved employees to be available to
8 answer management and client phone calls at all times, regardless of nominal breaks being taken,
9 and therefore did not allow Plaintiff and other aggrieved employees to be relieved of all duty for
10 breaks.

11 31. Plaintiff and other aggrieved employees are owed premiums for all of these missed
12 meal periods.

13 **Rest Breaks:**

14 32. Defendants scheduled Plaintiff's and other aggrieved employees' appointments to
15 service and repair clients' office equipment in a manner that did not allow them to take rest breaks.

16 33. Defendants required Plaintiff and other aggrieved employees to be available to
17 answer management and client phone calls at all times, regardless of nominal breaks being taken,
18 and therefore did not allow Plaintiff and other aggrieved employees to be relieved of all duty for
19 breaks.

20 34. Plaintiff and other aggrieved employees are owed premiums for those missed rest
21 periods.

22 **Paid Sick Leave and COVID-19 Supplemental Paid Sick Leave:**

23 35. California Healthy Workplaces Healthy Families Act, ARTICLE 1.5. 'Paid Sick
24 Days' [sections §§ 245-249] requires employers to provide paid sick leave and COVID-19
25 supplemental paid sick leave to employees.

26 36. Defendants failed to provide paid sick leave to Plaintiff and other aggrieved
27 employees in accordance with California law.

28 37. In failing to provide paid sick leave and COVID-19 supplemental paid sick leave,

Defendants also violated the requirement under Labor Code § 246(i) to provide with the employee wage statements the number of hours earned and used at the appropriate and accurate rates.

Wage Statements:

38. Because of Defendants' failure to record all hours worked and failure to pay all wages and premiums owed, the wage statements they issued to employees are incorrect.

39. Additionally, the wage statements failed to state the name and address of an individual or legal entity employer.

40. Plaintiff is informed and believes that the above practices he experienced were not unique to him but rather were companywide policies and practices at all locations in the State of California and were suffered by all non-exempt employees.

41. Plaintiff is informed and believes that the unlawful wage and hour policies described in this action are set centrally and are applicable throughout California.

42. Plaintiff is informed and believes that the unlawful wage and hour policies described in this action are still ongoing.

PRIVATE ATTORNEYS GENERAL ACT ALLEGATIONS

43. Plaintiff was employed by Defendants during the statutory PAGA period and was aggrieved by one or more of the violations of the California Labor Code described in this complaint.

44. Plaintiff was employed by Defendants when Defendants' policies violated California wage and hour law during the statutory period.

45. Plaintiff, as an aggrieved employee, brings this action on his own behalf and on behalf of other aggrieved current, former, and future employees of Defendants who work(ed) for Defendants in the state of California, and who are/were subjected to the policies of the Defendants.

46. Defendants' systematic pattern of wage and hour violations toward Plaintiff and other aggrieved employees in California include, *inter alia*:

- i. Failure to Pay Minimum Wages;
- ii. Failure to Pay Overtime and Double Time Wages;
- iii. Failure to Authorize and Permit Legally Sufficient Rest Breaks;
- iv. Failure to Provide Legally Sufficient Meal Periods;

- v. Failure to Provide Paid Sick Leave and Report Sick Leave Accruals;
- vi. Failure to Timely Pay Wages;
- vii. Failure to Provide Accurate Wage Statements; and
- viii. Failure to Pay all Wages due upon Termination of Employment.

Failure to Provide Paid Sick Leave and Failure to Provide Sick Leave Accruals:

47. California Healthy Workplaces Healthy Families Act, ARTICLE 1.5. ‘Paid Sick Days’ [sections §§ 245-249] requires employers to provide paid sick leave and COVID-19 supplemental paid sick leave to employees. Labor Code § 246(l)(1)-(2) mandates that sick leave be calculated in the same fashion that overtime base rates are calculated for the pay period sick leave is used, or in a 90-day period in which the sick leave is used. In either case, the rate should be calculated by dividing the sum of all wages by total hours. Labor Code § 248.6 mandates the same calculations for COVID-19 supplemental paid sick leave.

48. Defendants failed to provide aggrieved employees with paid sick leave in accordance with California law, rendering Defendants liable for an associated civil penalty with respect to every employee and every pay period during the PAGA period.

49. In failing to provide paid sick leave, Defendants also violated the requirement under Labor Code § 246(i) to provide with the employee wage statements the number of hours earned and used at the appropriate and accurate rates.

Failure to Pay Minimum Wages:

50. Labor Code section 1194(a) states “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit.” Liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

51. Labor Code section 1197 states “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

1 52. Labor Code section 1197.1 (a) states "Any employer or other person acting either
2 individually or as an officer, agent, or employee of another person, who pays or causes to be paid to
3 any employee a wage less than the minimum fixed by an applicable state or local law, or by an order
4 of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable
5 to the employee, and any applicable penalties imposed pursuant to Labor Code §203..."

6 53. As provided for in Section 1197.1(a)(1), for any initial violation that is intentionally
7 committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which
8 the employee is underpaid. For each subsequent violation for the same specific offense, two hundred
9 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
10 underpaid regardless of whether the initial violation is intentionally committed.

11 54. Section (B) of the "Minimum Wages" provision of the applicable IWC Wage Order
12 states "Every employer shall pay to each employee, on the established payday for the period involved,
13 not less than the applicable minimum wage for all hours worked in the payroll period, whether the
14 remuneration is measured by time, piece, commission or otherwise."

15 55. As set forth above, Defendants required Plaintiff and other aggrieved employees to
16 work off-the-clock. Plaintiff and other aggrieved employees regularly worked more than eight hours
17 a day and more than 40 hours a week, however, Defendants did not compensate Plaintiff and other
18 aggrieved employees for the time spent working for Defendants before and after they clocked out.

19 56. As such, Plaintiff and other aggrieved employees are owed wages for those unpaid
20 hours.

21 **Failure to Pay Overtime and Double Time Wages:**

22 57. Labor Code section 510 states "Any work in excess of eight hours in one workday and
23 any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh
24 day of work in any one workweek shall be compensated at the rate of no less than one and one-half
25 times the regular rate of pay for an employee. Any work in excess of 12- hours in one day shall be
26 compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any
27 work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of
28 no less than twice the regular rate of pay of an employee."

1 58. Labor Code section 1194(a) states "Notwithstanding any agreement to work for a
2 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
3 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of
4 the full amount of this minimum wage or overtime compensation, including interest thereon,
5 reasonable attorney's fees and costs of suit."

6 59. Labor Code section 1198 states "The maximum hours of work and the standard
7 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
8 conditions of labor for employees. The employment of any employee for longer hours than those
9 fixed by the order or under conditions of labor prohibited by the order is unlawful."

10 60. Labor Code section 200(a) states "Wages includes all amounts for labor performed by
11 employees of every description, whether the amount is fixed or ascertained by the standard of time,
12 task, piece, commission basis, or other method of calculation."

13 61. Plaintiff alleges that he and other current and former aggrieved employees were not
14 compensated all minimum, regular and overtime wages for all hours or fraction of hours worked.

15 62. Plaintiff regularly worked off the clock as discussed above. Plaintiff and other
16 aggrieved employees regularly worked more than eight hours a day and more than 40 hours a week.

17 63. Plaintiff and similarly situated employees are owed overtime and double time
18 premium wages.

19 **Failure to Authorize and Permit Legally Sufficient Rest Breaks**

20 64. Section (A) of the "Rest Periods" provision of the applicable IWC Wage Order states,
21 "Every employer shall authorize and permit all employees to take rest periods, which insofar as
22 practicable shall be in the middle of each work period. The authorized rest period time shall be based
23 on the total hours worked daily at the rate of ten (10) minute net rest, time per four (4) hours or major
24 fraction thereof. However, a rest period need not be authorized for employees whose total daily work
25 time is less than three and one-half (3½) hours. Authorized rest period time shall be counted, as hours
26 worked, for which there shall be no deduction from wages."

27 65. Labor Code section 226.7 states: "(b) An employer shall not require an employee to
28 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable

1 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
2 Health Standards Board, or the Division of Occupational Safety and Health.”

3 66. Labor Code section 558 states: “(a) Any employer or other person acting on behalf of
4 an employer who violates, or causes to be violated, a section of this chapter or any provision
5 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
6 to a civil penalty as follows:

7 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
8 period for which the employee was underpaid in addition to an amount sufficient to recover
9 underpaid wages.

10 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
11 for each pay period for which the employee was underpaid in addition to an amount sufficient
12 to recover underpaid wages.”

13 67. As set forth above, Defendants consistently provided employees with rest periods that
14 were less than 10 minutes.

15 68. Specifically, Defendants scheduled Plaintiff and other aggrieved employees in a
16 manner which made taking rest breaks impossible. Additionally, Plaintiff and other aggrieved
17 employees were required to be available to clients and management at all times.

18 69. For these reasons, Plaintiff and similarly situated employees of Defendants have and
19 are being denied legally sufficient rest breaks.

20 **Failure to Provide Legally Sufficient Meal Periods**

21 70. Labor Code section 512(a) states, “An employer may not employ an employee for a
22 work period of more than five hours per day without providing the employee with a meal period of
23 not less than 30 minutes, except that if the total work period per day of the employee is no more than
24 six hours, the meal period may be waived by mutual consent of both the employer and employee. An
25 employer may not employ an employee for a work period of more than 10 hours per day without
26 providing the employee with a second meal period of not less than 30 minutes except that if the total
27 hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of
28 the employer and the employee only if the first meal period was not waived.”

1 71. Section (A) of the "Meal Period" provision of the applicable IWC Wage Order states,
2 "No employer shall employ any person for a work period of more than five (5) hours without a meal
3 period of not less than 30 minutes, except that when a work period of not more than six (6) hours will
4 complete the day's work the meal period may be waived by mutual consent of the employer and the
5 employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period
6 shall be considered "on duty" meal period and counted as time worked." Section (8) states "'If an
7 employer fails to provide an employee a meal period in accordance with the applicable provisions of
8 this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
9 compensation for each work day that the meal period is not provided."

10 72. Labor Code section 1198 states "The maximum hours of work and the standard
11 conditions of labor fixed by the commission shall be the maximum hours of work and the standard
12 conditions of labor for employees. The employment of any employee for longer hours than those
13 fixed by the order or under conditions of labor prohibited by the order is unlawful."

14 73. Labor Code section 226.7 states: "(b) An employer shall not require an employee to
15 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable
16 regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and
17 Health Standards Board, or the Division of Occupational Safety and Health."

18 74. Labor Code section 558 states: "(a) Any employer or other person acting on behalf of
19 an employer who violates, or causes to be violated, a section of this chapter or any provision
20 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
21 to a civil penalty as follows:

22 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
23 period for which the employee was underpaid in addition to an amount sufficient to recover
24 underpaid wages.

25 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
26 for each pay period for which the employee was underpaid in addition to an amount sufficient
27 to recover underpaid wages."
28

1 75. Defendants scheduled Plaintiff and other aggrieved employees in a manner which
2 made taking meal breaks impossible. Additionally, Plaintiff and other aggrieved employees were
3 required to be available to clients and management at all times.

4 76. Furthermore, when meal periods were provided, they were often after the end of the
5 fifth hour of work. As such, Plaintiff and similarly situated employees were not relieved of duty and
6 not provided legally adequate meal breaks.

7 **Failure to Timely Pay Wages**

8 77. Labor Code § 204 subsection (a) states in relevant part “All wages, other than those
9 mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are
10 due and payable twice during each calendar month, on days designated in advance by the employer
11 as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar
12 month shall be paid for between the 16th and the 26th day of the month during which the labor was
13 performed, and labor performed between the 16th and the last day, inclusive, of any calendar month,
14 shall be paid for between the 1st and 10th day of the following month.”

15 78. Labor Code § 204 subsection (b)(1) states: “Notwithstanding any other provision of
16 this section, all wages earned for labor in excess of the normal work period shall be paid no later than
17 the payday for the next regular payroll period.”

18 79. The “Minimum Wages” section of the applicable IWC Wage Order provides every
19 employer shall pay to each employee, on the established payday for the period involved, not less than
20 the applicable minimum wage for all hours worked in the payroll period.

21 80. Labor Code § 210(a) imposes a civil penalty for violation of Labor Code § 204 of one
22 hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred
23 dollars (\$200) for each subsequent violation, or willful and intentional violation, plus 25 percent of
24 the amount unlawfully withheld.

25 81. Due to Defendants not paying for all time worked as alleged above, Defendants do not
26 pay all wages. In addition, Defendants fail to pay meal and rest break premiums. Defendants failed
27 to pay Plaintiff all minimum, regular, overtime, and meal and rest period wages due and owing either
28 on the regular paydays or the payday for the next payroll period. Defendants willfully failed to pay

1 all wages when required by § 204 of the Labor Code. Therefore, Defendants owe penalties to all
2 affected employees including Plaintiff.

3 **Failure to Provide Accurate Wage Statements:**

4 82. Labor Code § 226(a) states in pertinent part that every employer shall provide an
5 accurate itemized statement in writing with respect to each one of its employees showing: 1) gross
6 wages earned; 2) total hours worked by an employee, except for any employee whose compensation
7 is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of
8 Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece
9 rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
10 deductions, provided that all deductions made on written orders of the employee may be aggregated
11 and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the
12 employee is paid; (7) the name of the employee and the last four digits of his or her social security
13 number or an employee identification number other than a social security number; (8) the name and
14 address of the legal entity that is the employer...; and (9) all applicable hourly rates in effect during
15 the pay period and the corresponding number of hours worked at each hourly rate by the employee.

16 83. Labor Code § 226.3 provides that “Any employer who violates subdivision (a) of
17 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
18 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
19 violation in a subsequent citation for which the employer fails to provide the employee a wage
20 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

21 84. In addition, Labor Code § 226(e) imposes a penalty of the greater of all actual damages
22 or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation
23 in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and Plaintiff is entitled to
24 an award of costs and reasonable attorney's fees.

25 85. Section (B) of the “Records” provision of the applicable IWC Wage Order states that
26 “Every employer shall semimonthly or at the time of each payment of wages furnish each employee,
27 either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately,
28 an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for

1 which the employee is paid; (3) the name of the employee or the employee's social security number;
2 and (4) the name of the employer, provided all deductions made on written orders of the employee
3 may be aggregated and shown as one item."

4 86. Labor Code § 1174(d) provides that an employer must keep, at a central location in
5 the state or at the plants or establishments at which employees are employed, payroll records showing
6 the hours worked daily by and the wages paid to, employees employed at the respective
7 establishments. These records shall be kept on file for not less than three years. Labor Code § 1174.5
8 provides for a civil penalty of five hundred dollars (\$500) for an employer who willfully fails to
9 maintain the records pursuant to Labor Code section 1174(d).

10 87. Sections (7)(A)(4) and (5) of the "Records" provision of the applicable IWC Wage
11 Order provides that employers shall keep accurate information with respect to each employee,
12 including total wages paid each payroll period, total hours worked during the payroll period, and
13 applicable rates of pay, as well as time records showing when each employee begins and ends each
14 work period. The time records must also show meal periods, split shift intervals, and total daily hours
15 worked.

16 88. Defendants failed to maintain records as set forth in § 1174 of the Labor Code and
17 the "Records" section of the applicable IWC Wage Order including but not limited to, accurately
18 recording total hours worked, total wages paid and applicable rates of pay. Due to Defendants not
19 paying minimum wages for all hours worked or overtime, double time, sick leave, and meal and rest
20 period premiums, Defendants do not record proper hours and wages, and do not provide wage
21 statements accurately accounting of hours, wages, deductions, etc., Further, as stated above, the
22 wage statements do not properly state the name and address of the legal entity that is the employer.

23 89. Labor Code §§226(e) and (h) provide for the remedy for wage statement violations:
24 (e) An employee suffering injury as a result of a knowing and intentional failure by
25 an employer to comply with subdivision (a) is entitled to recover the greater of all
26 actual damages or fifty dollars (\$50) for the initial pay period in which a violation
27 occurs and one hundred dollars (\$100) per employee for each violation in a
28 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars

1 (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.

2 (h) An employee may also bring an action for injunctive relief to ensure compliance
3 with this section, and is entitled to an award of costs and reasonable attorney’s fees.

4 90. By knowingly and intentionally failing to keep accurate time records as required by
5 Labor Code §§226, 1174(d), and the applicable IWC Wage Order, ¶7, Defendants have injured
6 Plaintiff and the other aggrieved employees and made it difficult to calculate the unpaid wages
7 owed, and losses and expenditures not indemnified by Defendants (including wages, interest and
8 penalties thereon) due Plaintiff and the other aggrieved employees.

9 **Failure to Pay All Wages due upon Termination of Employment:**

10 91. Labor Code § 201 states “If an employer discharges an employee, the wages earned
11 and unpaid at the time of discharge are due and payable immediately.”

12 92. Labor Code § 202 states “If an employee not having a written contract for a definite
13 period quits his or her employment, his or her wages shall become due and payable not later than 72
14 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to
15 quit, in which case the employee is entitled to his or her wages at the time of quitting.”

16 93. Labor Code § 203(a) states, in relevant part; “If an employer willfully fails to pay,
17 without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any
18 wages of an employee who is discharged or who quits, the wages of the employee shall continue as a
19 penalty from the due date thereof at the same rate until paid or until an action therefore is commenced;
20 but the wages shall not continue for more than 30 days.”

21 94. Labor Code § 204(a) states in pertinent part “All wages... earned by any person in any
22 employment are due and payable twice during each calendar month, on days designated in advance
23 by the employer as the regular paydays.”

24 95. Labor Code § 210(a) imposes a civil penalty for violation of Labor Code § 204 of one
25 hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred
26 dollars (\$200) for each subsequent violation, plus 25 percent of the amount unlawfully withheld.

27 96. The “Minimum Wages” section of the applicable IWC Wage Order provides every
28 employer shall pay to each employee, on the established payday for the period involved, not less than

1 the applicable minimum wage for all hours worked in the payroll period.

2 97. Defendants failed to pay Plaintiff and other aggrieved employees all minimum,
3 regular, overtime, double time, sick leave and meal and rest period wages due and owing during and
4 upon termination of employment. Defendants willfully failed to pay all wages when required by §§
5 201 and 202 of the Labor Code. Therefore, Defendants owe waiting time penalties to all affected
6 employees.

7 98. Defendants failed to pay earned wages to other aggrieved employees upon their
8 termination and/or within 72 hours of the last day of their employment with Defendants. More than
9 30 days have passed since other aggrieved employees have been terminated and/or quit Defendants'
10 employ.

11 **FIRST CAUSE OF ACTION**

12 **PRIVATE ATTORNEYS GENERAL ACT**

13 **(Against All Defendants)**

14 **[Cal. Labor Code §§ 2698-2699.5]**

15 99. Plaintiff re-alleges and incorporates by reference each and every allegation contained
16 in the preceding and subsequent paragraphs as though fully set forth herein.

17 100. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code §
18 2699(c), and a proper representative to bring a civil action on behalf of himself and other current and
19 former employees of Defendants pursuant to the procedures specified in California Labor Code
20 §2699.3, because Plaintiff was employed by Defendants and the alleged violations of the California
21 Labor Code were committed against Plaintiff.

22 101. Pursuant to the PAGA, Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
23 penalties, including but not limited to penalties under California Labor Code §§ 2699, 203, 210,
24 248.5, 558, 1197.1 and the applicable IWC Wage Order, from Defendant for the violations set forth
25 above, including but not limited to violations of California Labor Code §§ 200, 201, 202, 203, 204,
26 210, 226, 226.3, 226.7, 227.3, 245-249, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1
27 and 1198.

28 102. Plaintiff seeks civil penalties pursuant to the PAGA for violations of the Labor Code,

1 including:

- 2 i. Failure to pay regular and overtime wages for all hours worked (Labor Code §§ 200,
3 204, 210, 510, 558, 1194, 1194.2, 1197, 1197.1 and 1198, and the applicable IWC
4 Wage Order);
- 5 ii. Failure to pay sick leave and COVID-19 supplemental sick leave and failure to
6 provide notice of accrued sick leave available (Labor Code §§ 246(l)(1)-(2) and
7 248.5);
- 8 iii. Failure to provide meal breaks (Labor Code §§ 226.7, 512, 558 and the applicable
9 IWC Wage Order);
- 10 iv. Failure to authorize and permit rest breaks (Labor Code §§ 226.7, 558 and the
11 applicable IWC Wage Order);
- 12 v. Failure to pay wages in a timely fashion (Labor Code §§ 204, and 210);
- 13 vi. Failure to provide accurate wage statements (Labor Code §§ 226(a), 226(e)(1),
14 226.3, 1174, 1174.5, and the applicable IWC Wage Order); and
- 15 vii. Failure to pay all wages due upon termination of the employment relationship (Labor
16 Code §§ 201, 202, 203, 204, 1198, 2699 et seq., and the “Minimum Wages” Section
17 of the applicable IWC Wage Order).

18 103. Plaintiff is also entitled to an award of reasonable attorneys’ fees and costs pursuant
19 to California Labor Code § 2699(g)(1).

20 104. Plaintiff has satisfied the requirements of Labor Code § 2699.3. On July 19, 2023,
21 Plaintiff sent notice to the California Labor and Workforce Development Agency (LWDA) notifying
22 them of the specific violations and the facts and theories supporting those violations. Plaintiff also
23 provided Defendants notice of this “PAGA Letter” by certified mail. Sixty-five days have elapsed
24 since Plaintiff notified the LWDA, and the LWDA has not provided notice that it intends to
25 investigate the claims.

26 105. Further, for certain violations, Labor Code § 2699.3 provides that “the employer may
27 cure the alleged violation within 33 calendar days of the postmark date of the notice sent by the
28 aggrieved employee or representative. The employer shall give written notice within that period of

1 time by certified mail to the aggrieved employee or representative and by online filing with the
2 agency if the alleged violation is cured, including a description of actions taken, and no civil action
3 pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day
4 period, the employee may commence a civil action pursuant to Section 2699.” Lab. Code, §
5 2699.3(c)(2)(A). Labor Code § 2699(d) states that “[f]or purposes of this part, ‘cure’ means that the
6 employer abates each violation alleged by any aggrieved employee, the employer is in compliance
7 with the underlying statutes as specified in the notice required by this part, and any aggrieved
8 employee is made whole. A violation of paragraph (6) or (8) of subdivision (a) of Section 226 shall
9 only be considered cured upon a showing that the employer has provided a fully compliant,
10 itemized wage statement to each aggrieved employee for each pay period for the three-year period
11 prior to the date of the written notice sent pursuant to paragraph (1) of subdivision (c) of Section
12 2699.3.” Lab. Code, § 2699(d). Plaintiff has not received notice from Defendants that any of the
13 alleged violations were cured within the statutory period. Plaintiff has, therefore, exhausted his
14 administrative remedies as required by Labor Code §2699.3.

15 106. Attached as Exhibit 1 to this Complaint is Plaintiff’s PAGA Letter.

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WHEREFORE Plaintiff prays for the following relief:

1. For civil penalties pursuant to the PAGA (Labor Code 2698 et seq.);
2. For costs of suit and attorneys' fees as permitted by law, including those available pursuant to Labor Code section 2699(g);
3. For an award of interest, including prejudgment interest, at the legal rate as permitted by law;
4. For such other and further relief as the Court deems proper and just under all the circumstances.

DATED: September 25, 2023

BEN TRAVIS LAW, APC

HEWGILL COBB & LOCKARD, APC



Justin Hewgill, Esq.
Attorneys for Plaintiff

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EXHIBIT 1



Ben Travis Law, APC
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1620 FIFTH AVENUE, SUITE 325
SAN DIEGO, CA 92101
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HCL-LAWFIRM.COM

July 19, 2023

Via LWDA Website:

Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

***Re: Shawn Canfield v Pacific Office Automation Inc.; and Does 1-25.
Written Notice Under Labor Code § 2699.3***

Dear PAGA Administrator:

We represent Shawn Canfield (“Claimant”), who is a current non-exempt employee of Pacific Office Automation Inc. and Does 1-25 (“Defendants”).

This letter shall serve as our client’s written notice to the Labor and Workforce Development Agency of the Labor Code violations he claims Defendants committed against him and all other current and former non-exempt employees of Defendants who worked at locations in California. Our client provides this written notice in accordance with the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, et seq. Our client desires to file a civil action to enforce his rights under the Labor Code and seek compensation accordingly. Pursuant to Labor Code § 2699, and by way of this letter, our client also intends to represent all other current and former non-exempt employees of Defendants in California who have suffered at least one of the violations described herein during the relevant period.

A copy of this letter, along with the \$75.00 filing fee is being uploaded on the LWDA’s website for this purpose contemporaneously with the certified mailing of this letter to Defendants.

FACTUAL BACKGROUND

Defendant, Pacific Office Automation Inc. (“Office Automation” or “Defendant”) owns and operates one of the largest office technology companies in the country. Office Automation operates across the country, including in California. Office Automation provides office management solutions which includes the service and repair of office scanners, copiers, printers and fax machines. As part of this business, Office Automation employs a fleet of service technicians (“Technicians”) who drive to the various clients’ offices to service and repair machines.

Claimant worked for Defendants from his home in Temecula and Defendants’ office in Los Angeles. Claimant was employed by Defendants from in or around December 27, 2021 and is still currently employed, and worked as a technician providing service to clients’ office equipment.

Failure to Pay for all Hours Worked (Unpaid Minimum, Regular, and Overtime Wages):

Defendants failed to pay Claimant and similarly situated employees for all hours worked by failing to pay for various categories of work, including but not limited to:

- i. Requiring Technicians to drive long distances to service locations without paying for travel time;
- ii. Requiring Technicians to transport tools and parts without paying travel time;
- iii. Requiring Technicians to inventory, organize and order parts and supplies while off-the-clock;
- iv. Requiring Technicians to research solutions to clients’ problems while off-the-clock; and
- v. Requiring Technicians to clock-out for meal breaks and work through those breaks.

Because Claimant and similarly situated employees regularly worked 8 hours a day and 40 hours a week, the unpaid hours described above were overtime hours.

Because Defendants failed to pay wages for those hours, overtime wages are also owed.

Meal Breaks:

Defendants scheduled Claimant and similarly situated employees' appointments to service and repair clients' office equipment in a manner that did not allow them to take meal breaks.

Defendants required Claimant and similarly situated employees to be available to answer management and client phone calls at all times, regardless of nominal breaks being taken, and therefore did not allow Claimant and other similarly situated employees to be relieved of all duty for breaks.

Claimant and similarly situated employees are owed premiums for all of these missed meal periods.

Rest Breaks:

Defendants scheduled Claimant and similarly situated employees' appointments to service and repair clients' office equipment in a manner that did not allow them to take rest breaks.

Defendants required Claimant and similarly situated employees to be available to answer management and client phone calls at all times, regardless of nominal breaks being taken, and therefore did not allow Claimant and similarly situated employees to be relieved of all duty for breaks.

Claimant and similarly situated employees are owed premiums for those missed rest periods.

Unreimbursed Expenses:

Defendants required Claimant and similarly situated employees to incur costs in the course of discharging their duties, but failed to reimburse all those costs. For example, Defendants required Claimant and similarly situated employees to incur costs for their mandatory uniforms. Additionally, Defendants charged Claimant and similarly situated employees for use of their company vehicles which Claimant and similarly situated employees used for business purposes.

Wage Statements:

Because of Defendants' failure to record all hours worked and failure to pay all wages and premiums owed, the wage statements they issued to employees are incorrect.

Additionally, the wage statements failed to state the name and address of an individual or legal entity employer.

Violations are Widespread and Ongoing

Claimant is informed and believes that the above practices he experienced were not unique to him but rather were state-wide policies and practices at all locations in the State of California and were suffered by all non-exempt employees.

Claimant is informed and believes that the unlawful wage and hour policies described herein are set centrally and are applicable throughout California.

Claimant is informed and believes that the unlawful wage and hour policies described herein are still ongoing.

FACTUAL BASES & LEGAL THEORIES

SUPPORTING ALLEGED VIOLATIONS OF THE LABOR CODE

Claimant alleges that Defendants' policies, procedures and workplace culture caused various and wide-ranging labor code provision violations, including but not limited to Labor Code §§ 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245-249, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198 and 2802.

- 1. Defendants failed to pay Claimant and similarly situated employees paid sick leave and COVID-19 supplemental paid sick leave; failed to pay Claimant and similarly situated employees sick leave and COVID-19 supplemental paid sick leave at the correct legal rate; and failed to properly notice Claimant and similarly situated employees of the sick leave they had and have accrued. (Violation of Labor Code §§ 246 through 248.6).**

a. Defendants had and have no policy of providing Sick Leave.

California Healthy Workplaces Healthy Families Act, ARTICLE 1.5. 'Paid Sick Days' [sections §§ 245-249] requires employers to provide paid sick leave and COVID-19 supplemental paid sick leave to employees.

Defendants failed to provide paid sick leave to Claimant and other aggrieved employees in accordance with California law.

In failing to pay sick leave, Defendants also violated the requirement under Labor Code § 246(i) to provide with the employee wage statements the number of hours earned and used at the appropriate and accurate rates.

b. Alternatively, Defendants failed and fail to pay Sick Leave at a legally sufficient rate.

California Healthy Workplaces Healthy Families Act, ARTICLE 1.5. ‘Paid Sick Days’ [sections §§ 245-249] requires employers to provide paid sick leave and COVID-19 supplemental paid sick leave to employees. Labor Code § 246(l)(1)-(2) mandates that sick leave be calculated in the same fashion that overtime base rates are calculated for the pay period sick leave is used, or in a 90-day period in which the sick leave is used. In either case, the rate should be calculated by dividing the sum of all wages by total hours. Labor Code § 248.6 mandates the same calculations for COVID-19 supplemental paid sick leave.

As an initial matter, Claimant is informed and believes that Defendants failed to provide paid sick leave in accordance with California law, rendering Defendants liable for an associated civil penalty with respect to every employee and every pay period during the PAGA period.

Further, even if and when Defendants provided paid sick leave, Defendants refused to include all wages earned (including bonuses) in the calculations, and instead paid sick leave at the employees’ simple hourly rates. Claimant and similarly situated employees are therefore owed compensation for these improperly paid sick time hours.

In failing to pay the proper sick leave rate, Defendants also violated the requirement under Labor Code § 246(i) to provide with the employee wage statements the number of hours earned and used at the appropriate and accurate rates.

c. Defendants fail to provide accurate notice of accrued Sick Leave.

Finally, Defendants are in violation of Labor Code § 246(i) because the wage statements provided to Claimant and similarly situated employees do not accurately reflect the sick leave accruals.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

2. Defendants failed to pay all Regular, Minimum, and Overtime Wages (Off-the-Clock Work). (Labor Code §§ 200, 204, 510, 1194 & 1198)

Labor Code section 1194(a) states “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit.” Liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

Labor Code section 1197 states “The minimum wage for employees fixed by the commission or by any applicable state or local law, 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 1197.1 (a) states “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Labor Code §203...”

Labor Code section 510 requires all hours over eight hours in a day or 40 hours in a week to be paid at one and half times the applicable rate.

As provided for in Section 1197.1(a)(1), for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

Labor Code section 1198 states "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is

unlawful."

Section (B) of the "Minimum Wages" provision of the applicable IWC Wage Order states "Every 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."

As set forth above, Defendants required Claimant and other aggrieved employees to work off of the clock. Claimant and similarly situated employees regularly worked more than 8 hours in a day and 40 hours in a week. For these hours, Claimant and similarly situated employees were not paid minimum, regular or overtime wages.

As such, Claimant and other aggrieved employees are owed unpaid hours. Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

3. Defendants refused and failed to provide legally compliant meal periods or compensation in lieu thereof (Violation of Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order).

Pursuant to Labor Code § 512, no employer shall employ any person for a work period in excess of five (5) hours without providing a meal period of at least thirty (30) minutes. *See also* the applicable IWC Wage Order, item 11. During this meal period of no less than thirty (30) minutes, the employer must completely relinquish any and all control over the employee and the employee must not engage in any work-related activity for the employer. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040. If the employee performs any work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. *Id.* Additionally, California law does not permit an employer to employ an individual for a work period in excess of ten (10) hours without providing a second meal period of at least thirty (30) minutes. Labor Code § 512; the applicable IWC Wage Order, item 11. If the employer fails to provide an employee with a legally compliant meal period, the employer shall pay the employee one additional hour of pay at the employee's

regular rate of compensation for each workday that the meal period was not provided. Labor Code § 226.7; the applicable IWC Wage Order, item 11.

Labor Code § 558 states: “(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

- (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
- (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Claimant contends that as a policy, practice, guideline and/or procedure, Defendants failed to provide meal breaks to its employees. Defendants failed to authorize meal breaks by scheduling the work and appointments of Claimant and similarly situated employees in a fashion that made taking meal breaks impossible. Additionally, Defendants made it impossible for employees to take meal breaks by requiring that they be available to clients and management at all times (by phone and otherwise), making it impossible for Claimant and similarly situated employees to be relieved of all duty. As such, Claimant and similarly situated employees were not relieved of duty and not provided legally adequate meal breaks. Consequently, Claimant is entitled to receive one additional hour of pay at his regular rate of compensation for each day a compliant rest or meal period was not provided.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

4. Defendants refused and failed to authorize and permit legally compliant rest periods or compensation in lieu thereof (Violation of Labor Code § 226.7 and the applicable IWC Wage Order).

The applicable IWC Wage Order, item 12 requires employers to authorize and permit off-duty rest periods during which an employee must be relieved of any and all work-related duties. *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269. Additionally, a lawful off-duty rest period is not provided where an employer fails to relinquish control over how employees spend their time. *Id.* Under Labor Code § 226.7, an employer is required to pay an employee one (1) additional hour of pay at the employee's regular rate of pay for each workday in which a lawful rest period was not provided. *See also* the applicable IWC Wage Order.

Labor Code section 558 states: “(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

- (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
- (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Claimant contends that as a policy, practice, guideline and/or procedure, Defendants failed to provide rest breaks to its employees. Defendants failed to authorize rest breaks by scheduling the work and appointments of Claimant and similarly situated employees in a fashion that made taking rest breaks impossible. Additionally, Defendants made it impossible for employees to take rest breaks by requiring that they be available to clients and management (by phone and otherwise) at all times, making it impossible for Claimant and similarly situated employees to be relieved of all duty. As such, Claimant and similarly situated employees were not relieved of duty and not provided legally

adequate rest breaks. Consequently, Claimant is entitled to receive one additional hour of pay at his regular rate of compensation for each day a compliant rest or meal period was not provided.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

5. Defendants failed to reimburse business expenses. (Labor Code § 2802)

Labor Code section 2802(a) provides in pertinent part, “[a]n employer shall 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.”

Labor Code section 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.”

Furthermore, Labor Code section 2802(c) states “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

Defendants required Claimant and other aggrieved employees to expend costs for their mandatory uniforms and pay for use of company vehicles, which were provided to Claimant and similarly situated employees to conduct business on behalf of Defendants.

Defendants did and do not compensate Claimant and other aggrieved employees for these costs incurred in the discharge of their duties and they are entitled to recover these expenses. Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

6. Defendants failed to timely pay wages. (Labor Code §§ 204 and 210 and the “Minimum Wages” section of the applicable IWC Wage Order)

Labor Code § 204 subsection (a) states in relevant part “All wages, other than

those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

Labor Code § 204 subsection (b)(1) states: “Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.”

The “Minimum Wages” section of the applicable IWC Wage Order provides every 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.

Labor Code § 210(a) imposes a civil penalty for violation of Labor Code § 204 of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred dollars (\$200) for each subsequent violation, or willful and intentional violation, plus 25 percent of the amount unlawfully withheld.

Due to Defendants not paying all hours and failing to pay missed break premiums as alleged above, Defendants do not pay all wages in a timely manner. In addition, Defendants failed to pay meal and rest break premiums, Defendants failed to pay Claimant all minimum, regular, overtime, and meal and rest period wages due and owing either on the regular paydays or the payday for the next payroll period. Defendants willfully failed to pay all wages when required by § 204 of the Labor Code. Therefore, Defendants owe penalties to all affected employees including Claimant. Claimant will pursue all remedies for Defendants’ failure to pay timely wages on behalf of himself and other current and former aggrieved employees, including recovery of wages, attorney's fees, costs, and penalties to the extent allowed by law.

7. Defendants failed to provide accurate wage statements and maintain accurate records. (Labor Code §§ 226(a), 226(e)(1), 226.3, 1174, 1174.5, and the "Records" Section of the applicable IWC Wage Order)

Labor Code § 226(a) states in pertinent part that every employer shall provide an accurate itemized statement in writing with respect to each one of its employees showing: 1) gross wages earned; 2) total hours worked by an employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (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 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 (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.

Labor Code § 226.3 provides that “Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

In addition, Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and Claimant is entitled to an award of costs and reasonable attorney's fees.

Section (B) of the “Records” provision of the applicable IWC Wage Order states that “Every employer shall semimonthly or at the time of each payment of wages furnish

each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item."

Labor Code § 1174(d) provides that an employer must keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, employees employed at the respective establishments. These records shall be kept on file for not less than three years. Labor Code § 1174.5 provides for a civil penalty of five hundred dollars (\$500) for an employer who willfully fails to maintain the records pursuant to Labor Code section 1174(d).

Sections (7)(A)(4) and (5) of the "Records" provision of the applicable IWC Wage Order provides that employers shall keep accurate information with respect to each employee, including total wages paid each payroll period, total hours worked during the payroll period, and applicable rates of pay, as well as time records showing when each employee begins and ends each work period. The time records must also show meal periods, split shift intervals, and total daily hours worked.

Defendants failed to maintain records as set forth in § 1174 of the Labor Code and the "Records" section of the applicable IWC Wage Order including but not limited to, accurately recording applicable rates of pay.

Defendants also failed to provide accurate itemized wage statements as required by Labor Code §226. Due to Defendants not paying for all hours worked and not paying meal and rest period premiums, Defendants do not record proper hours and wages, and do not provide legally compliant wage statements accurately accounting for hours, wages, deductions, etc.

Claimant will seek all available remedies, including PAGA penalties as provided for by California law.

8. Defendants failed to pay all wages due on termination. (Labor Code §§ 201, 202, 203, 204, 1198, 2699 et seq., and the "Minimum Wages" Section of the applicable IWC Wage Order)

Labor Code § 201 states “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

Labor Code § 202 states “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code § 203(a) states, in relevant part; “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.”

Labor Code § 204(a) states in pertinent part “All wages... earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”

Labor Code § 210(a) imposes a civil penalty for violation of Labor Code § 204 of one hundred dollars (\$100) for the initial violation for each failure to pay each employee and two hundred dollars (\$200) for each subsequent violation, plus 25 percent of the amount unlawfully withheld.

The “Minimum Wages” section of the applicable IWC Wage Order provides every 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.

Due to Defendants not paying all hours worked, and all overtime, Defendants did not and do not pay all wages. In addition, Defendants fail to pay meal and rest break premiums. In addition, Defendants failed to pay aggrieved employees all minimum,

regular, overtime, and meal and rest period wages due and owing during and upon termination of employment. Defendants willfully failed to pay all wages when required by §§ 201 and 202 of the Labor Code. Therefore, Defendants owe waiting time penalties to all affected employees.

CONCLUSION

The facts and claims contained herein are based on the information available at the time of this writing. If Claimant becomes aware of additional claims, additional compensation owed or other violations to him or any other current and former employee of Defendants, he reserves the right to revise these facts and/or add any new claims by amending this written notice.

If you have any questions or concerns regarding the above, do not hesitate to contact us.

Sincerely,



Ben Travis
Ben Travis Law, APC



Justin Hewgill
HEWGILL, COBB & LOCKARD, APC

cc (by certified mail):

Pacific Office Automation Inc.
14747 NW GREENBRIER PARKWAY
BEAVERTON, OR 97006

ANDREW R SALGADO
Agent for Service of Process
4464 WILLOW ROAD, SUITE 103
PLEASANTON, CA 94588